

OFFICE LEASE

by and between

**BOREL ESTATE COMPANY,
a California limited partnership,
as Landlord**

and

**SAN MATEO COUNTY FLOOD AND SEA LEVEL RISE RISILENCY DISTRICT,
an independent District
as Tenant**

**Lease Dated:
January 1, 2020**

Property Address:

Borel Estate Building

1700 S El Camino Real, Suite 502, San Mateo, CA 94402

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OFFICE LEASE AGREEMENT

ARTICLE 1. BASIC LEASE PROVISIONS

Words in **bold** have the meanings set forth below. In the event of a discrepancy between the definitions of such terms in this Article I and the balance of the Lease, these definitions shall prevail.

Landlord (" Landlord ")	Borel Estate Company, a California Limited Partnership
Landlord's Address for Notice Purposes	1700 S. El Camino Real, Penthouse Suite, San Mateo, CA 94402
Landlord's Address for Remittance of Rent	1700 S. El Camino Real, Penthouse Suite, San Mateo, CA 94402
Tenant (" Tenant ")	San Mateo County Flood and Sea Level Rise Resiliency District, an independent District.
Tenant Contact and Phone Number	Larry Patterson (650) 898-2585; larrypatterson601@gmail.com
Tenant's Address for Notice Purposes	1700 S. El Camino Real, Suite 502, San Mateo, CA 94402
Premises	<p>That certain portion of the Project (as defined below), known as Suite Number(s) 502, on the fifth floor(s), consisting of approximately 2,166 rentable square feet, located at 1700 S El Camino Real, in the City of San Mateo, County of San Mateo, State of California, with zip code 94402, as outlined on Exhibit A attached hereto ("Premises").</p> <p>In addition to Tenant's rights to use and occupy the Premises as hereinafter specified, Tenant shall have non-exclusive rights to the Common Areas (as defined in Section 2.7 below) as hereinafter specified, but shall not have any rights to the roof, the exterior walls, the area above the dropped ceilings, or utility raceways of the building containing the Premises (the "Building") or to any other buildings in the Project.</p>
Project (" Project ")	The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings located there and owned by Landlord, consisting of approximately 77,373 rentable square feet.
Unreserved Parking	1 stall per 335 rentable square feet
Lease Commencement Date (" Commencement Date ")	The anticipated Commencement Date shall be January 1, 2020; provided, however, that the actual Commencement Date shall be subject to determination pursuant to the provisions of Section 3.1.
Rent Commencement Date (" Rent Commencement Date ")	Two (2) months after the Lease Commencement Date
Expiration Date (" Expiration Date ")	February 28, 2023
Original Term (" Term ")	Three (3) years and two (2) months
Initial Monthly Base Rent (" Base Rent ")	\$8,122.50, full-service gross
Base Rent Adjustment Schedule	One year after the Rent Commencement Date, and on each year thereafter during the Original Term, the Base Rent for the following twelve-month period shall be adjusted to equal 103% of the Base Rent for

the lease year preceding such adjustment date.

Lease Year 1	\$8,122.50
Lease Year 2	\$8,366.18
Lease Year 3	\$8,617.60
Portion of Lease Year 4	\$8,875.68

Tenant's Proportionate Share of Operating Expense Increases ("Tenant's Share")

This lease is considered "full-service gross," where operating expenses are built in to the Base Rent; however, are subject to actual costs. Should the operating expenses for the Building exceed the costs provided by the Base Rent, Tenants Share of Operating Expense Increases shall be 2.80% of the balance.

Tenant's Share has been calculated by dividing the approximate 2,166 rentable square footage of the Premises by the total approximate square footage of the rentable space contained in the Project (77,373) and shall not be subject to revision except in connection with an actual change in the size of the Premises or a change in the space available for lease in the Project.

Monies Paid Upon Execution

a. Base Rent	\$ 8,122.50
b. Security Deposit	\$ 0.00
c. Parking	\$ 0.00
d. Other:	\$ 0.00

Total Due upon Execution \$ 8,122.50

Base Year ("Base Year") 2020

Option to Extend or Renew ("Option") (see also Error! Reference source not found.Error! Reference source not found.Error! Reference source not found.Error! Reference source not found.Error! Reference source not found.) None

Real Estate Brokers ("Brokers") Berube Company Inc., Michael Berube

Tenant Improvement Allowance ("Tenant Improvement Allowance") Landlord shall provide tenant improvements at Landlord's sole cost and expense with no contribution from Tenant, which shall be defined in a Work Letter attached as Exhibit C. Tenant shall remain responsible for the installation of any furniture, personal property, trade fixtures, and any computer, phone/internet and communication service cabling

Permitted Use ("Permitted Use") General office use

Guarantor ("Guarantor") None

Business Hours for the Building 8:00 AM to 6:00 PM, times Mondays through Fridays (except Building Holidays). "Building Holidays" shall mean the dates of observation of New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Martin Luther King Day.

Landlord Supplied Services Landlord shall provide janitorial services, utilities such as water, sewer, gas, and electricity, and the operating expenses as defined in Section

4.4.

Exhibit A	Diagram of Premises Location
Exhibit B	Rules and Regulations
Exhibit C	Work Letter
Exhibit D	Confirmation of Lease Term

ARTICLE 2. PREMISES, PARKING AND COMMON AREAS.

2.1 Letting

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises, for the Term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of square footage set forth in this Lease, or that may have been used in calculating Rent, is an approximation which Landlord and Tenant agree is reasonable and any payments based thereon are not subject to revision whether or not the actual square footage is more or less.

2.2 Condition

Landlord shall deliver the Premises to Tenant with Landlord's Work completed upon delivery of possession, and warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), if any, other than those constructed by Tenant, if any, shall be in good operating condition on said date.

2.3 Compliance

Landlord warrants that the Common Areas comply with the building codes laws, statutes, codes, covenants or restrictions of record ("CC&R's"), regulations, and ordinances ("Applicable Requirements") that were in effect at the time that each such improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Tenant will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Tenant's use or to any Alterations or Utility Installations (as hereinafter defined) made or to be made by Tenant. Tenant assumes all responsibility for determining whether or not the zoning and other Applicable Requirements are suitable for Tenant's intended use, and acknowledges that past uses of the Premises may no longer be allowed. If the Premises do not comply with said warranty, Landlord shall, except as otherwise provided, promptly after receipt of written notice from Tenant given within three (3) months following the Commencement Date and setting forth with specificity the nature and extent of such non-compliance, take such action, at Landlord's expense, as may be reasonable or appropriate to rectify the same. If the Applicable Requirements are hereafter changed so as to require during the Term of this Lease the construction of an addition to or an alteration of the Premises ("Capital Expenditure"), such work shall be undertaken by Landlord, and Landlord and Tenant shall allocate the cost of such work as follows:

(a) If the requirement for such Capital Expenditure is not triggered by Tenant's specific and unique use of the Premises, or alterations or improvements installed by or on behalf of Tenant, then Landlord shall pay the cost thereof, and Tenant shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Rent is due, an amount equal to the product of multiplying the cost of such Capital Expenditure by a fraction, the numerator of which is one, and the denominator of which is the number of months of the useful life of such Capital Expenditure as such useful life is specified pursuant to federal income tax regulations or guidelines for depreciation thereof (including interest on the unamortized balance as is then commercially reasonable), with Tenant reserving the right to prepay its obligation at any time.

(b) If such Capital Expenditure is required as a result of the specific and unique use of the Premises by Tenant as compared with uses by tenants in general, Tenant shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last two (2) years of this Lease and the cost thereof exceeds six (6) months' Base Rent, Tenant may instead

terminate this Lease unless Landlord notifies Tenant, in writing, within ten (10) days after receipt of Tenant's termination notice that Landlord has elected to pay the difference between the actual cost thereof and the amount equal to six (6) months Base Rent. If Tenant elects termination, Tenant shall deliver to Landlord written notice specifying a termination date at least ninety (90) days thereafter. Such termination date shall, however, in no event be earlier than the last day that Tenant could legally utilize the Premises without commencing such Capital Expenditures.

(c) Notwithstanding the foregoing, the above subsections (a) and (b) are intended to apply only to unexpected, nonvoluntary and new Applicable Requirements. If the Capital Expenditure is instead triggered by Tenant as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, in that event, Tenant shall be fully responsible for the cost thereof and shall not have any right to terminate this Lease.

2.4 Acknowledgements

Subject to Sections 2.2, 2.3 and 8.2, and without waiving the same, Tenant hereby acknowledges that it has been advised to satisfy itself with respect to the condition of the Premises (including but not limited to the HVAC, electrical and fire sprinkler systems, security, environmental aspects, seismic and earthquake requirements, and compliance with Applicable Requirements) and their suitability for Tenant's intended use, and that Tenant has made such investigation as it deems necessary with reference to such matters, is satisfied with reference thereto, and assumes all responsibility therefor as the same relate to Tenant's occupancy of the Premises and/or the terms of this Lease. Tenant acknowledges that neither Landlord, nor any of Landlord's agents, has made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease.

2.5 Prior Tenant

The warranties made by Landlord in this Section 2 shall be of no force or effect if immediately prior to the Commencement Date Tenant was the owner or occupant of the Premises. In such event, Tenant shall, at Tenant's sole cost and expense, correct any non-compliance of the Premises with said warranties.

2.6 Parking

So long as Tenant is occupying the Premises, Tenant and Tenant's Parties shall have the right to use up to the number of parking spaces, if any, specified in the Basic Lease Provisions on an unreserved, nonexclusive, first come, first served basis, for passenger-size automobiles, in the parking areas in the Project designated from time to time by Landlord for use in common by tenants of the Building.

Tenant may request additional parking spaces from time to time and if Landlord in its sole discretion agrees to make such additional spaces available for use by Tenant, such spaces shall be provided on a month-to-month unreserved and nonexclusive basis (unless otherwise agreed in writing by Landlord), and subject to such parking charges as Landlord shall determine, and shall otherwise be subject to such terms and conditions as Landlord may require.

Tenant shall at all times comply and shall use reasonable efforts to cause all Tenant's Parties and visitors to comply with all Applicable Requirements and any Rules established from time to time by Landlord relating to parking at the Project, including any keycard, sticker or other identification or entrance system, and hours of operation, as applicable. If Tenant commits, permits or allows any of the prohibited activities described in the Lease or the Rules then in effect, Landlord shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost thereof to Tenant, which cost shall be immediately payable to Landlord upon demand.

Landlord shall have no liability for any damage to property or other items located in the parking areas of the Project, nor for any personal injuries or deaths arising out of the use of parking areas in the Project by Tenant or any Tenant's Parties to the extent that those personal injuries or deaths were not caused, in whole or in part, by Landlord's gross negligence or willful misconduct. Without limiting the foregoing, if Landlord arranges for the parking areas to be operated by an independent contractor not affiliated with Landlord, Tenant acknowledges that Landlord shall have no liability for claims arising through acts or omissions of such independent contractor. In all events, Tenant agrees to look first to its insurance

carrier and to require that Tenant's Parties look first to their respective insurance carriers for payment of any losses sustained in connection with any use of the parking areas.

Landlord reserves the right to assign specific spaces, and to reserve spaces for visitors, small cars, disabled persons or for other tenants or guests, and Tenant shall not park and shall not allow Tenant's Parties to park in any such assigned or reserved spaces, provided at all times Tenant has available to it not less than the amount of parking set forth in the Basic Lease Provisions on an unreserved, nonexclusive, first come, first served basis. Tenant may validate visitor parking by such method as Landlord may approve, at the validation rate from time to time generally applicable to visitor parking. Landlord also reserves the right to alter, modify, relocate or close all or any portion of the parking areas in order to make repairs or perform maintenance service, or to restripe or renovate the parking areas, or if required by Casualty, Condemnation, act of God, or Applicable Requirements, provided at all times Tenant has available to it not less than the amount of parking set forth in the Basic Lease Provisions on an unreserved, nonexclusive, first come, first served basis.

If Landlord reasonably determines that the parking available to the occupants of the Building is insufficient or Landlord is legally required to charge for parking, Landlord may, upon not less than 180 days' prior written notice to Tenant describing such circumstances, charge for parking as provided in this paragraph. If Landlord so charges for parking, Tenant shall pay to Landlord (or Landlord's parking contractor, if so directed in writing by Landlord), as additional Rent hereunder, the monthly charges established from time to time by Landlord for parking in such parking areas (which shall initially be the charge specified in the Basic Lease Provisions, as applicable); but in any event such parking charge shall not exceed 1% of Tenant's monthly Base Rent per month. Such parking charges shall be payable in advance with Tenant's payment of Base Rent. No deductions from the monthly parking charge shall be made for days on which the Tenant does not use any of the parking spaces entitled to be used by Tenant.

2.7 Common Areas

(a) Definition

The term "**Common Areas**" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways within the Premises that are provided and designated by the Landlord from time to time for the general non-exclusive use of Landlord, Tenant and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including but not limited to common entrances, lobbies, corridors, stairwells, public restrooms, elevators, parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, parkways, driveways and landscaped areas. Common Areas also include the Miller Ream Hall located off the main building, which Tenant may reserve free of charge pursuant to the same reservation rights and procedure shared by all tenants in the Building.

(b) Tenant's Rights

Landlord hereby grants to Tenant, for the benefit of Tenant and its employees, suppliers, shippers, contractors, customers and invitees, during the Term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Landlord under the terms hereof or under the terms of any Rules or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only with the prior written consent of Landlord or Landlord's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur then Landlord shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Tenant, which cost shall be immediately payable upon demand by Landlord.

(c) Tenant Compliance; Rules and Regulations;

Landlord or such other person(s) as Landlord may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable Rules and Regulations ("**Rules**"), attached hereto as Exhibit B, for the

management, safety, care and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees; provided that such Rules do not materially interfere with Tenant's reasonable use and occupancy of the Premises or the operation of Tenant's business therein. Subject to the foregoing, Tenant agrees to abide by and conform to all Applicable Requirements, all such Rules affecting its use or occupancy of the Common Area, and to use reasonable efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Landlord shall not be responsible to Tenant for the non-compliance with the same by other tenants of the Project.

(d) *Changes*

Provided that the following do not materially interfere with Tenant's reasonable use and occupancy of the Premises or the operation of Tenant's business therein, Landlord shall have the right, in Landlord's sole discretion, from time to time:

- (i) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of corridors, stairwells, driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;
- (ii) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;
- (iii) To designate other land outside the boundaries of the Project to be a part of the Common Areas;
- (iv) To add additional buildings and improvements to the Common Areas;
- (v) To use the Common Areas while engaged in making additional improvements, repair or alterations to the Project, or any portion thereof; and
- (vi) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Landlord may, in the exercise of sound business judgment, deem to be appropriate.

ARTICLE 3. TERM.

3.1 Commencement

The Commencement Date shall be the date on which: the improvements to be constructed or performed in the Premises by Landlord ("Tenant Improvements") shall have been "**Substantially Completed**" as defined in **Exhibit C ("Work Letter")**. Upon Landlord's request, Tenant shall promptly execute and return to Landlord a Confirmation of Commencement Date, in the form attached hereto as **Exhibit D**.

3.2 Term, Expiration Date

The Expiration Date and Original Term of this Lease are as specified in the Basic Lease Provisions and will be acknowledged in the Confirmation of Lease Terms when known, as provided herein.

3.3 Early Possession

Landlord shall permit Tenant to have access to the Premises during the two (2) weeks prior to the Commencement Date for the purpose of installing wiring, cabling, furniture and equipment in the Premises; provided that such access shall not interfere with Landlord's Substantial Completion of the Tenant Improvements. If Tenant's early access interferes with Landlord's Substantial Completion of the Tenant Improvements, Landlord may terminate Tenant's early access by 24 hours' written notice to Tenant. Such early access shall be at no cost (neither Base Rent nor Operating Expenses), but shall be at Tenant's sole risk and subject to all the other provisions of this Lease, including without limitation prior delivery to Landlord of insurance certificates evidencing that Tenant has obtained the insurance required pursuant to this Lease. Tenant shall not conduct its business in the Premises at any time during this early access period. In addition to the foregoing, Landlord shall have the right to impose such reasonable additional conditions on Tenant's early access as Landlord shall deem appropriate.

3.4 Delay in Possession

Landlord shall use commercially reasonable efforts to deliver possession of the Premises to Tenant by the anticipated Lease Commencement Date. If, despite such efforts, Landlord is unable to deliver possession by such date, Landlord shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease. Tenant shall not, however, be obligated to pay Rent or perform any other obligation of Tenant under the terms of this Lease until Landlord delivers possession of the Premises to Tenant, and any period of rent abatement that Tenant would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Tenant would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Tenant. If possession is not delivered to Tenant within one hundred and eighty (180) days after the Commencement Date, Tenant may, at its option, by notice in writing to Landlord within ten (10) days after the end of said one hundred and eighty (180) day period, either (a) cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder or (b) extend the date for delivery to a date certain. If such notice is not received by Landlord within said ten (10) day period, Tenant's right to cancel or fix a later delivery date shall terminate.

3.5 Tenant Compliance

Landlord shall not be obligated to deliver possession of the Premises to Tenant until Tenant complies with its obligation to provide evidence of insurance as required hereunder, or perform any other conditions expressly required prior to or concurrent with the Commencement Date. Pending delivery of such evidence or performance, Tenant shall be required to perform all of its obligations under this Lease from and after the Commencement Date, including the payment of Rent, notwithstanding Landlord's withholding of possession pending receipt thereof.

ARTICLE 4. RENT

4.1 Rent Defined

All monetary obligations of Tenant to Landlord under the terms of this Lease (except the Security Deposit) are deemed to be rent ("Rent").

4.2 Payment

Tenant shall pay Base Rent as set forth in the Basic Lease Provisions and as adjusted from time to time pursuant thereto. Tenant shall cause Rent to be received by Landlord in lawful money of the United States, without notice, offset or deduction, on or before the day on which it is due under the terms of this Lease. Unless otherwise specified, Rent shall be due and payable in advance on the first day of each month of the Lease Term. Rent for any period during the Term hereof which is for less than one full month shall be prorated based upon the actual number of days of the month involved. Payment of Rent shall be made to Landlord at its address stated in the Basic Lease Provisions, or to such other persons or at such other addresses as Landlord may from time to time designate in writing to Tenant. Acceptance of a payment which is less than the amount then due shall not be a waiver of Landlord's rights to the balance of such Rent, regardless of Landlord's endorsement of any check so stating. In the event that any check, draft or other instrument of payment given by Tenant to Landlord is dishonored for any reason, Tenant shall pay to Landlord the sum of \$25.00 in addition to any Late Charge. Payments shall be applied first to accrued Late Charges and attorneys' fees, second to accrued interest, then to Base Rent and Operating Expense Increase, and any remaining amount to any other outstanding charge or cost.

4.3 Operating Expense Increase

Tenant shall pay to Landlord during the Term hereof, in addition to the Base Rent, Tenant's Share of the amount by which all Operating Expenses for each Comparison Year exceeds the amount of all Operating Expenses for the Base Year, such excess being hereinafter referred to as the "**Operating Expense Increase**," in accordance with the following provisions; provided, however, that Tenant shall have no obligation to pay a share of the Operating Expense Increase applicable to the first Lease Year (as hereinafter defined) (other than such as are mandated by a governmental authority, as to which

government mandated expenses Tenant shall pay Tenant's Share, notwithstanding they occur during the first Lease Year). Tenant's Share of the Operating Expense Increase for the first and last Comparison Years of the Lease Term shall be prorated according to that portion of such Comparison Year as to which Tenant is responsible for a share of such increase. "Base Year" is the year specified in the Basic Lease Provisions. A "Comparison Year" is each calendar year during the Term subsequent to the Base Year. The term "Expense Year" includes both Base Year and Comparison Year.

4.4 Operating Expense Inclusions

"Operating Expenses" are defined, for purposes of this Lease, as all costs incurred by Landlord relating to the ownership and operation of the Project, including, but not limited to, the following:

(a) *Taxes*

All real property taxes and assessments, possessory interest taxes, sales taxes, personal property taxes, business or license taxes or fees, gross receipts taxes, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, transit charges, and other impositions, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind (including fees "in-lieu" of any such tax or assessment) which are now or hereafter assessed, levied, charged, confirmed, or imposed by any public authority upon the Building or Project, its operations or the Rent (or any portion or component thereof), or any tax, assessment or fee imposed in substitution, partially or totally, of any of the above. Operating Expenses shall also include any taxes, assessments, reassessments, or other fees or impositions with respect to the development, leasing, management, maintenance, alteration, repair, use or occupancy of the Premises, Building or Project or any portion thereof, including, without limitation, by or for Tenant, and all increases therein or reassessments thereof whether the increases or reassessments result from increased rate and/or valuation (whether upon a transfer of the Building or Project or any portion thereof or any interest therein or for any other reason). Operating Expenses shall not include inheritance or estate taxes imposed upon or assessed against the interest of any person in the Project, taxes computed upon the basis of the net income of any owners of any interest in the Project, one time documentary or other transfer taxes or any franchise, gross receipts or other tax imposed based upon the type of entity constituting Landlord. If it shall not be lawful for Tenant to reimburse Landlord for all or any part of such taxes, the monthly rental payable to Landlord under this Lease shall be revised to net Landlord the same net rental after imposition of any such taxes by Landlord as would have been payable to Landlord prior to the payment of any such taxes.

(b) *Insurance*

All insurance premiums and costs, including, but not limited to, any deductible amounts, premiums and other costs of insurance incurred by Landlord, including for the insurance coverage set forth in Article 9 herein.

(c) *Common Area Maintenance.*

- (i) Repairs, replacements, and general maintenance of and for the Building and Project and public and common areas and facilities of and comprising the Building and Project, including, but not limited to, the roof and roof membrane, windows, elevators, restrooms, conference rooms, health club facilities, lobbies, mezzanines, balconies, mechanical rooms, building exteriors, alarm systems, pest extermination, landscaped areas, parking and service areas, driveways, sidewalks, loading areas, fire sprinkler systems, sanitary and storm sewer lines, utility services, heating/ventilation/air conditioning systems, electrical, mechanical or other systems, telephone equipment and wiring servicing, plumbing, lighting, and any other items or areas which affect the operation or appearance of the Building or Project, which determination shall be at Landlord's discretion, except for: those items expressly made the financial responsibility of Landlord pursuant to other provisions of this Lease; those items to the extent paid for by the proceeds of insurance; and those items attributable solely or jointly to specific tenants of the Building or Project.
- (ii) Repairs, replacements, and general maintenance shall include the cost of any capital improvements made to or capital assets acquired for the Project or Building that in

Landlord's discretion may reduce any other Operating Expenses, including present or future repair work, are reasonably necessary for the health and safety of the occupants of the Building or Project, or are required to comply with any Regulation, such costs or allocable portions thereof to be amortized over such reasonable period as Landlord shall determine, together with interest on the unamortized balance at the publicly announced "prime rate" charged by Wells Fargo Bank, N.A. (San Francisco) or its successor at the time such improvements or capital assets are constructed or acquired, plus two (2) percentage points, or in the absence of such prime rate, then at the U.S. Treasury six-month market note (or bond, if so designated) rate as published by any national financial publication selected by Landlord, plus four (4) percentage points, but in no event more than the maximum rate permitted by law, plus reasonable financing charges.

- (iii) Payment under or for any easement, license, permit, operating agreement, declaration, restrictive covenant or instrument relating to the Building or Project.
- (iv) All expenses and rental related to services and costs of supplies, materials and equipment used in operating, managing and maintaining the Premises, Building and Project, the equipment therein and the adjacent sidewalks, driveways, parking and service areas, including, without limitation, expenses related to service agreements regarding security, fire and other alarm systems, janitorial services, window cleaning, elevator maintenance, Building exterior maintenance, landscaping and expenses related to the administration, management and operation of the Project, including without limitation salaries, wages and benefits and management office rent.
- (v) The cost of supplying any services and utilities, which benefit all or a portion of the Premises, Building or Project, including without limitation services and utilities provided pursuant to Article 11 hereof.
- (vi) Legal expenses and the cost of audits by certified public accountants; provided, however, that legal expenses chargeable as Operating Expenses shall not include the cost of negotiating leases, collecting rents, evicting tenants nor shall it include costs incurred in legal proceedings with or against any tenant or to enforce the provisions of any lease.
- (vii) A management and accounting cost recovery fee equal to five percent (5%) of the sum of the Project's base rents and Operating Expenses (other than such management and accounting fee).

4.5 Allocation

Any item of Operating Expenses that is specifically and exclusively attributable to the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to the Building or to such other building. However, any item of Operating Expenses that is not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Landlord to all buildings in the Project.

4.6 No Obligation to Provide

The inclusion of the improvements, facilities and services set forth in this section shall not be deemed to impose an obligation upon Landlord either to have said improvements or facilities or to provide those services unless the Project already has the same, Landlord already provides the services, or Landlord has agreed elsewhere in this Lease to provide the same or some of them.

4.7 Payment

Tenant's Share of Operating Expense Increase shall be payable by Tenant within ten (10) days after a reasonably detailed statement of actual expenses is presented to Tenant by Landlord. At Landlord's option, however, an amount may be estimated by Landlord from time to time of Tenant's Share of Operating Expense Increase for any Comparison Year, and the same shall be payable monthly during each Comparison Year of the Lease Term, on the same day as the Base Rent is due hereunder. Landlord shall deliver to Tenant within ninety (90) days after the expiration of each Comparison Year a

reasonably detailed statement showing Tenant's Share of the actual Operating Expense Increase incurred during such year. If Tenant's payments under this section during said Comparison Year exceed Tenant's Share as indicated on said statement, Tenant shall be entitled to credit the amount of such overpayment against Tenant's Share of Operating Expense Increase next falling due. If Tenant's payments under this section during said Comparison Year were less than Tenant's Share as indicated on said statement, Tenant shall pay to Landlord the amount of the deficiency within ten (10) days after delivery to Tenant of said statement. Landlord and Tenant shall forthwith adjust between them by cash payment any balance determined to exist with respect to that portion of the last Comparison Year for which Tenant is responsible as to Operating Expense Increases, notwithstanding that the Lease Term may have terminated before the end of such Comparison Year.

4.8 Adjustment of Operating Expenses

Operating Expenses shall be adjusted as follows:

(a) *Gross Up Adjustment When Building Is Less Than Fully Occupied.*

If the occupancy of the Building during any part of any Expense Year (including the entire Base Year for purposes of determining the Base Year expenses) is less than one hundred (100%) percent, Landlord shall make an appropriate adjustment of the variable components of Operating Expenses for that Expense Year, as reasonably determined by Landlord using sound accounting and management principles, to determine the amount of Operating Expenses that would have been incurred had the Building been 100% occupied. This amount shall be considered to have been the amount of Operating Expenses for that Expense Year (or Base Year). For purposes of this subsection, "**Variable Components**" include only those component expenses that are affected by variations in occupancy levels and shall exclude taxes.

(b) *Adjustment When Landlord Does Not Furnish a Service to All Tenants.*

If, during any part of any Expense Year, Landlord is not furnishing a particular service or work (the cost of which, if furnished by Landlord, would be included in Operating Expenses) to a tenant (other than Tenant) that has undertaken to perform such service or work in lieu of receiving it from Landlord, Operating Expenses for that Expense Year shall be considered to be increased by an amount equal to the additional Operating Expenses that Landlord would reasonably have incurred during this period if Landlord had furnished such service or work to that tenant.

ARTICLE 5. SECURITY DEPOSIT

5.1 Deposit upon Execution; Application

Tenant shall deposit with Landlord upon Tenant's execution hereof the Security Deposit ("**Security Deposit**") set forth in the Basic Lease Provisions as security for Tenant's faithful performance of Tenant's obligations under this Lease. If Tenant fails to pay Rent or other charges due hereunder, or otherwise Defaults under this Lease, Landlord may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due Landlord or to reimburse or compensate Landlord for any liability, cost, expense, loss or damage (including attorneys' fees) which Landlord may suffer or incur by reason thereof.

5.2 Restoration If Used

If Landlord uses or applies all or any portion of the Security Deposit, Tenant shall within ten (10) days after written request therefor deposit monies with Landlord sufficient to restore said Security Deposit to the full amount required by this Lease.

5.3 Return to Tenant

Landlord shall not be required to keep all or any part of the Security Deposit separate from its general accounts. Landlord shall, at the expiration or earlier termination of the Term hereof and after Tenant has vacated the Premises, return to Tenant (or, at Landlord's option, to the last assignee, if any, of Tenant's interest herein), that portion of the Security Deposit not used or applied by Landlord. Unless otherwise expressly agreed in writing by Landlord, no part of the Security Deposit shall be considered to be held in

trust, to bear interest or other increment for its use, or to be prepayment for any monies to be paid by Tenant under this Lease.

ARTICLE 6. USE.

Tenant shall use and occupy the Premises only for the Permitted Use set forth in the Basic Lease Provisions, or any other legal use, which is reasonably comparable thereto, and for no other purpose. Tenant shall not use or permit the use of the Premises in a manner that is unlawful, creates waste or a nuisance, or that disturbs owners and/or occupants of, or causes damage to the Premises or neighboring premises or properties. Landlord shall not unreasonably withhold or delay its consent to any written request for a modification of said permitted Use, so long as the same will not impair the structural integrity of the improvements on the Premises or in the Building or the mechanical or electrical systems therein, does not conflict with uses by other tenants, is not significantly more burdensome to the Premises or the Building and the improvements thereon, will not affect the future legal use of the Premises, and is otherwise permissible pursuant to this section. If Landlord elects to withhold such consent, Landlord shall within ten (10) business days after such request give a written notification of same, which notice shall include an explanation of Landlord's reasonable objections to the change in use.

ARTICLE 7. HAZARDOUS SUBSTANCES.

7.1 Defined

The term "**Hazardous Substance**" as used in this Lease shall be defined as follows: Petroleum, asbestos, radioactive materials or substances defined as "hazardous substances," "hazardous materials" or "toxic substances" (or words of similar import) in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.), and those substances defined as "hazardous wastes" in Section 25117 of the California Health & Safety Code or as "hazardous substances" in Section 25316 of the California Health & Safety Code, and in the regulations adopted and publications promulgated pursuant to such laws, and any other substances or materials regulated by any similar or successor laws, codes, rules or regulations. Hazardous Substances will also include petroleum products, petroleum by-products and fractions thereof.

7.2 Use

Tenant shall not cause, or allow any of Tenant's Parties to cause, any Hazardous Substances to be handled, used, generated, stored, released or disposed of in, on, under or about the Premises, the Building or the Project or surrounding land or environment in violation of any Applicable Requirements. Tenant must obtain Landlord's written consent prior to the introduction of any Hazardous Substances onto the Project. Notwithstanding the foregoing, Tenant may handle, store, use and dispose of products containing small quantities of Hazardous Substances for "general office purposes" (such as toner for copiers) to the extent customary and necessary for the Permitted Use of the Premises; provided that Tenant shall always handle, store, use, and dispose of any such Hazardous Substances in a safe and lawful manner and never allow such Hazardous Substances to contaminate the Premises, Building, or Project or surrounding land or environment. Tenant shall immediately notify Landlord in writing of any Hazardous Substances' contamination of any portion of the Project of which Tenant becomes aware, whether or not caused by Tenant. Landlord shall have the right at all reasonable times to inspect the Premises and to conduct tests and investigations to determine whether Tenant is in compliance with the foregoing provisions, the costs of all such inspections, tests and investigations to be borne by Tenant. Tenant shall indemnify, defend (by counsel reasonably acceptable to Landlord), protect and hold Landlord, its agents, employees, lenders and ground lessor ("**Landlord's Parties**") harmless from and against any and all claims, liabilities, losses, costs, loss of rents, liens, damages, injuries or expenses (including attorneys' and consultants' fees and court costs), demands, causes of action, or judgments directly or indirectly arising out of or related to the use, generation, storage, release, or disposal of Hazardous Substances by Tenant or any of Tenant's officers, directors, agents, employees, contractors or lenders ("**Tenant's Parties**") in, on, under or about the Premises, the Building or the Project or surrounding land or environment, which indemnity shall include, without limitation, damages for personal

or bodily injury, property damage, damage to the environment or natural resources occurring on or off the Premises, losses attributable to diminution in value or adverse effects on marketability, the cost of any investigation, monitoring, government oversight, repair, removal, remediation, restoration, abatement, and disposal, and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following the expiration or earlier termination of this Lease. Neither the consent by Landlord to the use, generation, storage, release or disposal of Hazardous Substances nor the strict compliance by Tenant with all laws pertaining to Hazardous Substances shall excuse Tenant from Tenant's obligation of indemnification pursuant to this Section 7.2. Tenant's obligations pursuant to the foregoing indemnity shall survive the expiration or earlier termination of this Lease.

7.3 Landlord's Termination Option

In the event that Hazardous Substances are found in the Project (a "**Hazardous Substance Condition**") during the Term, unless Tenant is legally responsible therefor (in which Tenant shall make the investigation and remediation required and this Lease shall continue in full force and effect, but subject to Landlord's rights under Section 7.2), Landlord may, at Landlord's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Tenant, within 30 days after receipt by Landlord of knowledge of the occurrence of such Hazardous Substance Condition, of Landlord's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Landlord elects to give a termination notice, Tenant may, within 10 days thereafter, give written notice to Landlord of Tenant's commitment to pay the amount by which the cost of the remediation exceeds an amount equal to 12 times the monthly Base Rent or \$100,000 whichever is greater. Tenant shall provide Landlord with funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect and Landlord shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Tenant fails to give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Landlord's notice of termination.

ARTICLE 8. MAINTENANCE, REPAIRS, AND ALTERATIONS.

8.1 Tenant's Obligations.

Except for those obligations expressly made Landlord's responsibility hereunder, Tenant shall at all times during the Term at Tenant's expense maintain all parts of the Premises in a good, clean and secure condition and promptly make all necessary repairs and replacements, as determined by Landlord, with materials and workmanship of the same character, kind and quality as the original, ordinary wear and tear excepted. Notwithstanding anything to the contrary contained herein, Tenant shall, at its expense, promptly repair any damage to the Premises or the Building or Project resulting from or caused by any negligence or act of Tenant or Tenant's Parties.

Tenant shall be responsible for payment as additional Rent of the cost of repairs or maintenance for that portion of the cost of any maintenance and repair of the Premises, or any equipment (wherever located) that serves only Tenant or the Premises, to the extent such cost is attributable to causes beyond normal wear and tear. Tenant shall be responsible for the cost of painting, repairing or replacing wall coverings, and to repair or replace any improvements within the Premises, except those from ordinary wear and tear. Landlord may at its option upon reasonable notice, elect to have Tenant perform any particular such maintenance or repairs the cost of which is otherwise Tenant's responsibility hereunder.

8.2 Landlord's Obligations.

Landlord shall at Landlord's expense maintain in good repair, reasonable wear and tear excepted, the structural soundness of the roof, foundations, load bearing walls and exterior walls of the Building. Subject to inclusion as Common Area Maintenance pursuant to Section 4.5(c)) Landlord shall maintain all utility systems up to the point where the utility is stubbed into the Premises, and keep the same in compliance with all Applicable Requirements, including without limitation ASHRAE, seismic and

environmental requirements, and the Americans with Disabilities Act. The term "exterior walls" as used herein shall not include windows, glass or plate glass, doors, special store fronts or office entries. Any damage caused by or repairs necessitated by any negligence or act of Tenant or Tenant's Parties may be repaired by Landlord at Landlord's option and Tenant's expense. Tenant shall immediately give Landlord written notice of any defect or need of repairs in such components of the Building for which Landlord is responsible, after which Landlord shall have a reasonable opportunity and the right to enter the Premises at all reasonable times to repair same. Landlord's liability with respect to any defects, repairs, or maintenance for which Landlord is responsible under any of the provisions of this Lease shall be limited to the cost of such repairs or maintenance, and there shall be no abatement of rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of repairs, alterations or improvements in or to any portion of the Premises, the Building or the Project or to fixtures, appurtenances or equipment in the Building, except as provided in Article 10.

8.3 Alterations.

Tenant shall not make, or allow to be made, any alterations, physical additions, deletions, improvements or partitions, including without limitation the attachment or removal of any fixtures or equipment, in, about or to the Premises ("**Alterations**") without obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld with respect to proposed Alterations which: (a) comply with all Applicable Requirements; (b) are, in Landlord's opinion, compatible with the Building or the Project and its mechanical, plumbing, electrical, heating/ventilation/air conditioning systems, and will not cause the Building or Project or such systems to be required to be modified to comply with any Applicable Requirements (including, without limitation, the Americans With Disabilities Act); and (c) will not interfere with the use and occupancy of any other portion of the Building or Project by any other tenant or its invitees. Specifically, but without limiting the generality of the foregoing, Landlord shall have the right of written consent for all plans and specifications for the proposed Alterations, construction means and methods, all appropriate permits and licenses, any contractor or subcontractor to be employed on the work of Alterations, and the time for performance of such work, and may impose rules and regulations for contractors and subcontractors performing such work. Tenant shall also supply to Landlord any documents and information reasonably requested by Landlord in connection with Landlord's consideration of a request for approval hereunder. Tenant shall cause all Alterations to be accomplished in a good and workmanlike manner, and to comply with all Applicable Requirements and Section 8.4 hereof. Tenant shall at Tenant's sole expense, perform any additional work required under Applicable Requirements due to the Alterations hereunder. No review or consent by Landlord of or to any proposed Alteration or additional work shall constitute a waiver of Tenant's obligations under this Article 8, nor constitute any warranty or representation that the same complies with all Applicable Requirements, for which Tenant shall at all times be solely responsible. Tenant shall reimburse Landlord for all costs which Landlord may incur in connection with granting approval to Tenant for any such Alterations, including any costs or expenses which Landlord may incur in electing to have outside architects and engineers review said plans and specifications, and shall pay Landlord an administration fee of fifteen percent (15%) of the cost of the Alterations as Additional Rent hereunder. All such Alterations shall remain the property of Tenant until the expiration or earlier termination of this Lease, at which time they shall be and become the property of Landlord; provided, however, that Landlord may, at Landlord's option, require at the time that Tenant requests Landlord's consent that Tenant, at Tenant's expense, remove any or all Alterations made by Tenant and restore the Premises by the expiration or earlier termination of this Lease, to their condition existing prior to the construction of any such Alterations. All such removals and restoration shall be accomplished in a good and workmanlike manner so as not to cause any damage to the Premises or Project whatsoever. If Tenant fails to remove such Alterations or Tenant's trade fixtures or furniture or other personal property, Landlord may keep and use them or remove any of them and cause them to be stored or sold in accordance with applicable law, at Tenant's sole expense. In addition to and wholly apart from Tenant's obligation to pay Tenant's Share of Operating Expense Increases, Tenant shall be responsible for and shall pay prior to delinquency any taxes or governmental service fees, possessory interest taxes, fees or charges in lieu of any such taxes, capital levies, or other charges imposed upon, levied with respect to or assessed against its fixtures or personal property (collectively, "**Tenant's Property**"), on the value of Alterations within the Premises, and on Tenant's interest pursuant to this Lease, or any increase in any of the foregoing based on such Alterations. To the extent that any such

taxes are not separately assessed or billed to Tenant, Tenant shall pay the amount thereof as invoiced to Tenant by Landlord.

Notwithstanding the foregoing, at Landlord's option (but without obligation), all or any portion of the Alterations shall be performed by Landlord for Tenant's account and Tenant shall pay Landlord's estimate of the cost thereof (including a reasonable charge for Landlord's overhead and profit) prior to commencement of the work. In addition, at Landlord's election and notwithstanding the foregoing, however, Tenant shall pay to Landlord the cost of removing any such Alterations and restoring the Premises to their original condition such cost to include a reasonable charge for Landlord's overhead and profit as provided above, and such amount may be deducted from the Security Deposit or any other sums or amounts held by Landlord under this Lease.

In compliance with Section 8.4 hereof, at least ten (10) business days before beginning construction of any Alteration, Tenant shall give Landlord written notice of the expected commencement date of that construction to permit Landlord to post and record a notice of non-responsibility. Upon substantial completion of construction, if the law so provides, Tenant shall cause a timely notice of completion to be recorded in the office of the recorder of the county in which the Building is located.

8.4 Lien Protection

Tenant shall pay when due all claims for labor or materials furnished or alleged to have been furnished to or for Tenant at or for use on the Premises, which claims are or may be secured by any mechanic's or material men's lien against the Premises or any interest therein. Tenant shall give Landlord not less than ten (10) days' notice prior to the commencement of any work in, on, or about the Premises, and Landlord shall have the right to post notices of non-responsibility in or on the Premises as provided by law. If Tenant shall, in good faith, contest the validity of any such lien, claim or demand, then Tenant shall, at its sole expense, defend and protect itself, Landlord and the Premises against the same and shall pay and satisfy any such adverse judgments that may be rendered thereon before the enforcement thereof against the Landlord or the Premises. If Landlord shall require, Tenant shall furnish to Landlord a surety bond satisfactory to Landlord in an amount equal to 150% of the amount of such contested lien claim or demand, indemnifying Landlord against liability for the same, as required by law for the holding of the Premises free from the effect of such lien or claim. If Landlord elects to participate in any such action, Tenant shall pay Landlord's attorneys' fees and costs.

8.5 Surrender/Restoration.

Tenant shall surrender the Premises on the Expiration Date or any earlier termination date, with all improvements, parts and surfaces thereof clean and free of debris and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practices or by Tenant performing all of its obligations under this Lease. Notwithstanding the foregoing, if this Lease is for a term of 12 months or less, then Tenant shall surrender the Premises in the same condition as delivered to Tenant on the Commencement Date with no allowance for ordinary wear and tear. Tenant shall repair any damage occasioned by the installation, maintenance or removal of Tenant's Property or Alterations. Tenant shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Tenant or any third party (except Hazardous Substances coming onto the Premises through underground migration from areas outside the Project) even if such removal would require Tenant to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Tenant and shall be removed by Tenant. The failure of Tenant to vacate the Premises in a timely manner without the express written consent of Landlord shall constitute a holdover subject to the provisions of Article 23 below

ARTICLE 9. INSURANCE; INDEMNITY.

9.1 Payment of Premiums

The costs of the premiums for the insurance policies maintained by Landlord under this Lease are included as Operating Expenses pursuant to Section 4.3 hereof. Said costs shall include increases in the premiums resulting from additional coverage related to requirements of the holder of a mortgage or deed

of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. Said costs shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant in the Building. If the Project was not insured for the entirety of the Base Year, then the base premium shall be the lowest annual premium reasonably obtainable for the required insurance as of the Commencement Date, assuming the most nominal use possible of the Building and/or the Project. In no event, however, shall Tenant be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$3,000,000 procured under Section 8.2(b). Premiums for policy periods commencing prior to, or extending beyond, the Term of this Lease shall be prorated to coincide with the corresponding Commencement Date or Expiration Date.

9.2 Liability Insurance.

(a) Carried by Tenant

Tenant shall obtain and keep in force during the Term of this Lease a Commercial General Liability policy of insurance protecting Tenant, Landlord and any Lender(s) whose names have been provided to Tenant in writing (as additional insureds) against claims for bodily injury, personal injury and property damage based upon, involving or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto.

Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000 per location, an "Additional Insured-Managers or Landlords of Premises" endorsement and contain the "Amendment of the Pollution Exclusion" endorsement for damage caused by heat, smoke or fumes from a hostile fire. The limits of said insurance shall not limit the liability of Tenant nor relieve Tenant of any obligation hereunder. All insurance to be carried by Tenant shall be primary to and not contributory with any similar insurance carried by Landlord, whose insurance shall be considered excess insurance only.

(b) Carried by Landlord

Landlord shall also maintain liability insurance described in Section 9.2 (a) above, in addition to and not in lieu of, the insurance required to be maintained by Tenant. Tenant shall not be named as an additional insured therein.

9.3 Property Insurance-Building, Improvements and Rental Value.

(a) Building and Improvements.

Landlord shall obtain and keep in force during the term of this Lease a policy or policies in the name of Landlord, with loss payable to Landlord and to any Lender(s), insuring against loss or damage to the Premises. Such insurance shall be for full replacement cost, as the same shall exist from time to time, or the amount required by any Lender(s), but in no event more than the commercially reasonable and available insurable value thereof if, by reason of the unique nature or age of the improvements involved, such latter amount is less than full replacement cost. Tenant owned Alterations, Trade Fixtures and Tenant's Property shall be insured by Tenant pursuant to Section 9.4. If the coverage is available and commercially appropriate, Landlord's policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the enforcement of any Applicable Requirement regulating the reconstruction or replacement of any undamaged sections of the Building required to be demolished or removed by reason of the enforcement of any Applicable Requirements as the result of a covered loss, but not including plate glass insurance. Said policy or policies shall also contain an agreed valuation provision in lieu of any co-insurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor or not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located ("**Index**").

(b) *Rental Value.*

Landlord shall also obtain and keep in force during the Term of this Lease a policy or policies in the name of Landlord, with loss payable to Landlord and any Lender(s), insuring the loss of the full Rent and other charges payable by all Tenants of the Building to Landlord for one year (including all Real Property Taxes, insurance costs, all Operating Expenses and any scheduled rental increases). Said insurance may provide that in the event the Lease is terminated by reason of an insured loss, the period of indemnity for such coverage shall be extended beyond the date of the completion of repairs or replacement of the Premises, to provide for one full year's loss of rental revenues from the date of any such loss. The amount of coverage shall be adjusted annually to reflect the projected rental income, Real Property Taxes, insurance premium costs and other expense, if any, otherwise payable, for the next 12-month period. Operating Expense shall include any deductible amount in the event of such loss.

(c) *Adjacent Premises*

Tenant shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Tenant's acts, omissions, use or occupancy of the Premises.

(d) *Tenant's Improvements*

Landlord shall not be required to insure Tenant owned Alterations unless the item in question has become the property of Landlord pursuant to the terms of this Lease.

9.4 Tenant's Insurance

(a) *Property Damage*

Tenant shall obtain and maintain insurance coverage on all of Tenant's Property, Trade Fixtures and Tenant owned Alterations. Such insurance shall be full replacement cost coverage with a deductible not to exceed \$100,000 per occurrence. The proceeds from any such insurance shall be used by Tenant for the replacement of Tenant's Property and the restoration of Trade Fixtures and Tenant owned Alterations. Tenant shall provide Landlord with written evidence that such insurance is in force.

N/A

(b) *Workers' Compensation and Employers' Liability Insurance.*

Tenant shall carry Workers' Compensation Insurance as required by any Applicable Requirement, throughout the Term at Tenant's sole cost and expense. Tenant shall also carry Employers' Liability Insurance in amounts not less than One Million Dollars (\$1,000,000) each accident for bodily injury by accident; One Million Dollars (\$1,000,000) policy limit for bodily injury by disease; and One Million Dollars (\$1,000,000) each employee for bodily injury by disease, throughout the Term at Tenant's sole cost and expense.

9.5 Insurance Policies.

Insurance required hereunder shall be in companies duly authorized to transact business in the State of California, and maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, or such other rating as may be required by a Lender, as set forth in the most current issue of "Best's Insurance Guide." Tenant shall not do or permit to be done anything which shall invalidate the required insurance policies. Tenant shall deliver to Landlord, prior to the Commencement Date, certified copies of, or certificates evidencing the existence and amounts of, the required insurance. No such policy shall be cancelable or subject to modification except after prior written notice to Landlord, which shall be provided at the soonest date that Tenant's insurance company will provide such notice. Tenant shall, at least thirty (30) days prior to the expiration of such policies, furnish Landlord with evidence of renewals or insurance binders evidencing renewal thereof, or Landlord may order such insurance and charge the cost thereof to Tenant, which amount shall be payable by Tenant to Landlord upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either party shall fail to procure and maintain the insurance required to be carried by it, the other party may, but shall not be required to, procure and maintain the same.

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9.6 Waiver of Subrogation

Without affecting any other rights or remedies, Tenant and Landlord each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The parties agree to have their respective property damage insurance companies waive any right to subrogation that such companies may have against Landlord or Tenant, as the case may be, so long as the insurance is not invalidated thereby.

9.7 Indemnity

(a) Indemnification by Tenant

Except for Landlord's breach of this Lease, gross negligence or willful misconduct, Tenant shall indemnify, protect, defend and hold harmless the Premises, Landlord and Landlord's Parties from and against any and all claims, loss of rents and/or damages, costs, liens, judgments, penalties, loss of permits, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with (i) the occupancy of the Premises by Tenant, (ii) the conduct of Tenant's business, (iii) any act, omission or neglect of Tenant or Tenant's Parties arising from or related to the occupancy of the Premises by Tenant or the conduct of Tenant's business, (iv) any intentional or willful misconduct by Tenant or Tenant's Parties arising from or related to the occupancy of the Premises by Tenant or the conduct of Tenant's business, or any Default or Breach by Tenant in the performance in a timely manner of any obligation on Tenant's part to be performed under this Lease.

(b) Indemnification by Landlord

Except for Tenant's negligence and/or Default/Breach of this Lease, or negligence or willful misconduct of Tenant or Tenant's Parties, Landlord shall indemnify, protect, defend and hold harmless Tenant and Tenant's Parties from and against any and all claims, loss of rents and/or damages, costs, liens, judgments, penalties, loss of permits, attorneys' and consultants' fees, expenses and/or liabilities to the extent arising out of, involving, or in connection with the any breach of this Lease by Landlord, or gross any-negligence or willful misconduct of Landlord.

(c) Scope of Protection

The foregoing indemnities shall include, but not be limited to, the defense or pursuit of any claim or any action or proceeding involved therein, and whether or not litigated and/or reduced to judgment. In case any action or proceeding is brought against the indemnified party by reason of any of the foregoing matters, the indemnifying party shall, upon notice from the other, defend the same at its sole expense by counsel reasonably satisfactory to the indemnified party, and the indemnified party shall cooperate with the other in such defense. The indemnified party need not have first paid any such claim in order to be so indemnified.

9.8 Exemption of Landlord from Liability

Landlord shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Tenant, its employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether said injury or damage results from conditions arising upon the Premises or upon other portions of the Building of which the Premises are a part, from other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is accessible or not. Landlord shall not be liable for any damages arising from any act or neglect of any other lessee of Landlord nor from the failure by Landlord to enforce the provisions of any other lease in the Project. Notwithstanding Landlord's negligence, willful misconduct or breach of this Lease, Landlord shall under no circumstances be liable for injury to Tenant's business or for any loss of income or profit therefrom.

ARTICLE 10. DAMAGE OR DESTRUCTION.

10.1 General

If the Premises or Building should be damaged or destroyed by fire, earthquake, flood, or other casualty other than a Hazardous Substance Condition (collectively, "Casualty"), Tenant shall give immediate written notice thereof to Landlord. Within thirty (30) days after Landlord's receipt of such notice, Landlord shall notify Tenant whether in Landlord's estimation material restoration of the Premises can reasonably be made within one hundred eighty (180) days from the date of such notice and receipt of required permits for such restoration. Landlord's reasonable determination shall be binding on Tenant. In the event that the damage or destruction is the result of a Hazardous Substance Condition, then the provisions of Section 7.3, rather than this Article 10, shall apply.

10.2 Within 180 Days

If the Premises or Building should be damaged by Casualty to such extent that material restoration can in Landlord's estimation be reasonably completed within one hundred eighty (180) days after the date of such notice and receipt of required permits for such restoration, this Lease shall not terminate. Provided that insurance proceeds are received by Landlord to fully repair the damage, Landlord shall proceed to rebuild and repair the Premises in the manner determined by Landlord, except that Landlord shall not be required to rebuild, repair or replace any part of the Alterations which may have been placed on or about the Premises by Tenant. If the Premises are untenantable in whole or in part following such damage, the Rent payable hereunder during the period in which they are untenantable shall be abated proportionately, but only to the extent of rental abatement insurance proceeds received by Landlord during the time and to the extent the Premises are unfit for occupancy.

10.3 Greater than 180 Days

If the Premises or Building should be damaged by Casualty to such extent that rebuilding or repairs cannot in Landlord's estimation be reasonably completed within one hundred eighty (180) days after the date of such notice and receipt of required permits for such rebuilding or repair, then Landlord shall have the option of either: (1) terminating this Lease effective upon the date of the Casualty, in which event the Rent shall be abated during the unexpired portion of this Lease; or (2) electing to rebuild or repair the Premises diligently and in the manner determined by Landlord. Landlord shall notify Tenant of its election within thirty (30) days after Landlord's receipt of notice of the Casualty. Tenant shall also have the option of terminating this Lease by delivery of written notice to Landlord within ten (10) days after receipt of Landlord's election if repairs are estimated to take more than one hundred eighty (180) days notwithstanding Landlord's election to rebuild or repair the Premises. Notwithstanding the above, Landlord shall not be required to rebuild, repair or replace any part of any Alterations which may have been placed, on or about the Premises by Tenant. If the Premises are untenantable in whole or in part following such Casualty, the Rent payable hereunder during the period in which they are untenantable shall be abated proportionately, but only to the extent of rental abatement insurance proceeds received by Landlord during the time and to the extent the Premises are unfit for occupancy. If Landlord shall have estimated that such repairs could be completed within one hundred and eighty (180) days, but the Premises have not been fully repaired and restored by that date, Tenant shall have the option to terminate this Lease by delivery of 30 days advance written notice thereof to Landlord delivered within ten (10) days after the expiration of such 180-day period; provided, that if Tenant timely delivers such notice and the repair and restoration of the Premises is substantially complete prior to the expiration of such 30-day period, Tenant's notice shall be null and void and this Lease shall continue in full force and effect.

10.4 Tenant's Fault

Notwithstanding anything herein to the contrary, if the Premises or any other portion of the Building are damaged by Casualty resulting from the fault, negligence, or breach of this Lease by Tenant or any of Tenant's Parties, neither Base Rent nor additional Rent or other charges shall be diminished during the repair of such damage and Tenant shall be liable to Landlord for the cost and expense of the repair and restoration of the Building caused thereby to the extent such cost and expense is not covered by insurance proceeds.

10.5 Insurance Proceeds

Notwithstanding anything herein to the contrary, if the Premises or Building are damaged or destroyed and are not fully covered by the insurance proceeds received by Landlord or if the holder of any indebtedness secured by a mortgage or deed of trust covering the Premises requires that the insurance proceeds be applied to such indebtedness, then in either case Landlord shall have the right to terminate this Lease by delivering written notice of termination to Tenant within thirty (30) days after the date of notice to Landlord that said damage or destruction is not fully covered by insurance or such requirement is made by any such holder, as the case may be, whereupon this Lease shall terminate.

10.6 Waiver

This Article 10 shall be Tenant's sole and exclusive remedy in the event of damage or destruction to the Premises or the Building. As a material inducement to Landlord entering into this Lease, Tenant hereby waives any rights it may have under Sections 1932, 1933(4), 1941 or 1942 of the Civil Code of California with respect to any destruction of the Premises, Landlord's obligation for tenantability of the Premises and Tenant's right to make repairs and deduct the expenses of such repairs, or under any similar law, statute or ordinance now or hereafter in effect.

10.7 Tenant's Personal Property

In the event of any damage or destruction of the Premises or the Building, under no circumstances shall Landlord be required to repair any injury or damage to, or make any repairs to or replacements of, Tenant's personal property.

10.8 Termination – Advance Payments

Upon termination of this Lease pursuant to this Article 10, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Tenant to Landlord. Landlord shall return to Tenant so much of Tenant's Security Deposit as has not been, or is not then required to be, used by Landlord under the terms of this Lease.

ARTICLE 11. UTILITIES.

11.1 Services Provided by Landlord

Landlord shall provide heating, ventilation, air conditioning, reasonable amounts of electricity for normal lighting and office machines, water for reasonable and normal drinking and lavatory use, and replacement light bulbs and/or fluorescent tubes and ballasts for standard overhead fixtures for reasonable and normal office use as of the date Tenant takes possession of the Premises as determined by Landlord (but not including above-standard or continuous cooling for excessive heat-generating machines, excess lighting or equipment), and communications lines (for telephone and internet) up to the electrical/communications panel in the Building. Landlord shall also provide janitorial services to the Premises and the Common Areas during the times and in the manner that such services are, in Landlord's judgment, customarily furnished in comparable office buildings in the immediate market area. Landlord shall not, however, be required to provide janitorial services to kitchens or storage areas included within the Premises. Subject to Sections 2.2, 2.3, 3.1 and 8.2, Tenant acknowledges that Tenant has inspected and accepts the water, electricity, heat and air conditioning and other utilities and services being supplied or furnished to the Premises as of the date Tenant takes possession of the Premises, as being sufficient for use of the Premises for reasonable and normal office use in their present condition, "as is," and suitable for the Permitted Use, and for Tenant's intended operations in the Premises. Landlord shall have no obligation to provide additional or after-hours electricity, heating or air conditioning, but if Landlord elects to provide such services at Tenant's request, Tenant shall pay to Landlord a reasonable charge for such services as determined by Landlord. Tenant agrees to keep and cause to be kept closed all window coverings when necessary because of the sun's position, and Tenant also agrees at all times to cooperate fully with Landlord and to abide by all of the regulations and requirements which Landlord may prescribe for the proper functioning and protection of electrical, heating, ventilating and air conditioning systems. Wherever heat-generating machines, excess lighting or equipment are used in the Premises which materially affect the temperature otherwise maintained by the air conditioning system, Landlord reserves

the right to install supplementary air conditioning units in the Premises and the cost thereof, including the cost of installation and the cost of operation and maintenance thereof during the Term, shall be paid by Tenant to Landlord upon demand by Landlord.

11.2 Tenant Not to Overburden

Tenant shall not without written consent of Landlord use any apparatus, equipment or device in the Premises, including without limitation, computers, electronic data processing machines, copying machines, and other machines, using excess lighting or using electric current, water, or any other resource in excess of or which will in any way increase the amount of electricity, water, or any other resource being furnished or supplied for the use of the Premises for reasonable and normal office use, in each case as of the date Tenant takes possession of the Premises as determined by Landlord, or which will require additions or alterations to or interfere with the Building power distribution systems; nor connect with electric current, except through existing electrical outlets in the Premises or water pipes, any apparatus, equipment or device for the purpose of using electrical current, water, or any other resource. If Tenant shall require water or electric current or any other resource in excess of that being furnished or supplied for the use of the Premises as of the date Tenant takes possession of the Premises as determined by Landlord, Tenant shall first procure the written consent of Landlord which Landlord may refuse, to the use thereof, and Landlord may cause a special meter to be installed in the Premises so as to measure the amount of water, electric current or other resource consumed for any such other use. Tenant shall pay directly to Landlord as an addition to and separate from payment of Operating Expenses the cost of all such additional resources, energy, utility service and meters (and of installation, maintenance and repair thereof and of any additional circuits or other equipment necessary to furnish such additional resources, energy, utility or service). Landlord may add to the separate or metered charge a recovery of additional expense incurred in keeping account of the excess water, electric current or other resource so consumed. Landlord shall not be liable for any damages directly or indirectly resulting from nor shall the Rent or any monies owed Landlord under this Lease herein reserved be abated by reason of: (a) the installation, use or interruption of use of any equipment used in connection with the furnishing of any such utilities or services, or any change in the character or means of supplying or providing any such utilities or services or any supplier thereof; (b) the failure to furnish or delay in furnishing any such utilities or services when such failure or delay is caused by acts of God or the elements, labor disturbances of any character, or any other accidents or other conditions beyond the reasonable control of Landlord or because of any interruption of service due to Tenant's use of water, electric current or other resource in excess of that being supplied or furnished for the use of the Premises as of the date Tenant takes possession of the Premises; (c) the inadequacy, limitation, curtailment, rationing or restriction on use of water, electricity, gas or any other form of energy or any other service or utility whatsoever serving the Premises or Project, whether by Regulation or otherwise; or (d) the partial or total unavailability of any such utilities or services to the Premises or the Building, whether by governmental regulation or otherwise; nor shall any such occurrence constitute an actual or constructive eviction of Tenant. Landlord shall further have no obligation to protect or preserve any apparatus, equipment or device installed by Tenant in the Premises, including without limitation by providing additional or after-hours heating or air conditioning. Landlord shall be entitled to cooperate voluntarily and in a reasonable manner with the efforts of national, state or local governmental agencies or utility suppliers in reducing energy or other resource consumption. The obligation to make services available hereunder shall be subject to the limitations of any such voluntary, reasonable program. In addition, Landlord reserves the right to change the supplier or provider of any such utility or service from time to time. Tenant shall have no right to contract with or otherwise obtain any electrical or other such service for or with respect to the Premises or Tenant's operations therein from any supplier or provider of any such service. Tenant shall cooperate with Landlord and any supplier or provider of such services designated by Landlord from time to time to facilitate the delivery of such services to Tenant at the Premises and to the Building and Project, including without limitation allowing Landlord and Landlord's suppliers or providers, and their respective agents and contractors, reasonable access to the Premises for the purpose of installing, maintaining, repairing, replacing or upgrading such service or any equipment or machinery associated therewith. Tenant shall pay for all water, gas, heat, light, power, telephone and other utilities and services specially or exclusively supplied and/or metered exclusively to the Premises or to Tenant, together with any taxes thereon. If any service is deleted by the provisions in the Basic Lease

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Provisions and such service is not separately metered to the Premises, Tenant shall pay at Landlord's option either Tenant's Share or a reasonable proportion to be determined by Landlord of all charges for such jointly metered service.

11.3 Hours of Service

Said services and utilities shall be provided during times set forth in the Basic Lease Provisions. Utilities and services required at other times shall be subject to advance request and reimbursement by Tenant to Landlord of the cost thereof.

11.4 Interruptions

There shall be no abatement of Rent and Landlord shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other causes beyond Landlord's reasonable control or in cooperation with governmental request or directions.

ARTICLE 12. ASSIGNMENT AND SUBLETTING.

12.1 Landlord's Consent Required.

Tenant shall not voluntarily or by operation of law assign, transfer, mortgage or otherwise transfer or encumber (collectively, "assign") or sublet all or any part of Tenant's interest in this Lease or in the Premises without Landlord's prior written consent given under and subject to the terms of Article 33.

(a) Change in Control

Unless Tenant is a corporation and its stock is publicly traded on a national stock exchange, a change in control of Tenant shall constitute an assignment requiring Landlord's consent. The transfer, on a cumulative basis, of more than 50% of the voting control of Tenant shall constitute a change in control for this purpose.

(b) Mergers, Acquisitions

The involvement of Tenant or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, refinancing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Tenant's assets occurs, which results or will result in a reduction of the Net Worth of Tenant, as hereinafter defined, by an amount equal to or greater than twenty-five percent (25%) of such Net Worth of Tenant as it was represented to Landlord at the time of full execution and delivery of this Lease, or at the time of the most recent assignment to which Landlord has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease by Tenant to which Landlord may reasonably withhold its consent. "**Net Worth of Tenant**" for purposes of this Lease shall be the net worth of Tenant (excluding any Guarantors) established under generally accepted accounting principles.

(c) Permitted Transfers

Tenant shall have the right, without Landlord's consent, to assign or sublet all of a portion of the Premises to a franchisee, joint venture partner or any entity controlling, controlled by or under common control with Tenant, or to a corporation or other entity with which Tenant has merged or consolidated ("**Permitted Transfers**"). Not less than ten (10) days prior to the consummation of a Permitted Transfer Tenant shall deliver to Landlord written notice thereof and sufficient information to establish that the proposed transfer is a Permitted Transfer.

(d) Transfers Without Consent

An assignment or subletting of Tenant's interest in this Lease that is not a Permitted Transfer without Landlord's specific prior written consent shall, at Landlord's option, be a Default curable after notice pursuant to Section 13.1, or a non-curable Breach without the necessity of any notice and grace period. If Landlord elects to treat such unconsented to assignment or subletting as a non-curable Breach, Landlord shall have the right to either: (i) terminate this Lease, or (ii) upon thirty (30) days' written notice

("Landlord's Notice"), increase the monthly Base Rent to 125% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any Option to purchase the Premises held by Tenant shall be subject to similar adjustment to 125% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease Term shall be increased to 125% of the scheduled adjusted Rent.

(e) *Tenant's Remedies*

Tenant's remedy for any breach of this Section 12.1 by Landlord shall be limited to compensatory damages and/or injunctive relief.

12.2 Conditions of Landlord's Consent

Without limiting the other instances in which it may be reasonable for Landlord to withhold Landlord's consent to an assignment or subletting, Landlord and Tenant acknowledge that it shall be reasonable for Landlord to withhold Landlord's consent in the following instances: if the proposed assignee does not agree to be bound by and assume the obligations of Tenant under this Lease in form and substance reasonably satisfactory to Landlord; the use of the Premises by such proposed assignee or subtenant would not be a Permitted Use or would violate any exclusivity or other arrangement which Landlord has with any other tenant or occupant or any Applicable Requirement or would increase the occupancy density or parking density of the Building or Project, or would otherwise result in an undesirable tenant mix for the Project as determined by Landlord; the proposed assignee or subtenant is not of sound financial condition sufficient to perform this Lease as determined by Landlord in Landlord's sole discretion; the proposed assignee or subtenant is a governmental agency; the proposed assignee or subtenant does not have a good reputation as a tenant of property or a good business reputation; the proposed assignee or subtenant is a person with whom Landlord is negotiating to lease similarly sized space in the Project or is a present tenant of the Project; the assignment or subletting would entail any Alterations which would lessen the value of the leasehold improvements in the Premises; or the proposed use involves Hazardous Substances, or is a noxious use or use which will unreasonably disturb other tenants of the Project; or Tenant is in default of any obligation of Tenant under this Lease, or Tenant has defaulted under this Lease on three (3) or more occasions during any twelve (12) months preceding the date that Tenant shall request consent. Failure by or refusal of Landlord to consent to a proposed assignee or subtenant shall not cause a termination of this Lease. Upon a termination under Section 13.2, Landlord may lease the Premises to any party, including parties with whom Tenant has negotiated an assignment or sublease, without incurring any liability to Tenant. At the option of Landlord, a surrender and termination of this Lease shall operate as an assignment to Landlord of some or all subleases or subtenancies. Landlord shall exercise this option by giving notice of that assignment to such subtenants on or before the effective date of the surrender and termination.

12.3 Terms and Conditions Applicable to Assignment and Subletting

(a) Regardless of Landlord's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Tenant under this Lease arising after such assignment, (ii) release Tenant of any obligations hereunder, nor (iii) alter the primary liability of Tenant for the payment of Rent or for the performance of any other obligations to be performed by Tenant.

(b) Landlord may accept Rent or performance of Tenant's obligations from any person other than Tenant pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Landlord's right to exercise its remedies for Tenant's Default or Breach.

(c) Landlord's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Tenant, Landlord may proceed directly against Tenant, any Guarantors or anyone else responsible for the performance of Tenant's obligations under this Lease, including any assignee or sublessee, without first exhausting Landlord's remedies against any other person or entity responsible therefor to Landlord, or any security held by Landlord.

(e) Each request for consent to an assignment or subletting shall be in writing and delivered to Landlord not less than thirty (30) days prior to the anticipated commencement date thereof, accompanied by information relevant to Landlord's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a deposit of \$1,000 or ten percent (10%) of the monthly Base Rent applicable to the portion of the Premises which is the subject of the proposed assignment or sublease, whichever is greater, to be applied to Landlord's costs and attorneys fees incurred in considering and processing the request for consent. Tenant shall provide Landlord with such other or additional information and/or documentation as may be reasonably requested by Landlord.

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment or entering into such sublease, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Tenant during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Landlord has specifically consented in writing.

(g) Landlord's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Tenant under this Lease unless such transfer is specifically consented to by Landlord in writing. Said Options shall transfer to any Permitted Transferee.

12.4 Bonus Rent

Any Rent or other consideration realized by Tenant under any such sublease or assignment in excess of the Rent payable hereunder, after amortization of a reasonable brokerage commission incurred by Tenant, shall be divided and paid, fifty percent (50%) to Tenant, fifty percent (50%) to Landlord. In any subletting or assignment undertaken by Tenant, Tenant shall diligently seek to obtain the maximum rental amount available in the marketplace for comparable space available for primary leasing.

12.5 Additional Terms and Conditions Applicable to Subletting

The following terms and conditions shall apply to any subletting by Tenant of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Tenant hereby assigns and transfers to Landlord all of Tenant's interest in all rentals and income arising from any sublease of all or a portion of the Premises heretofore or hereafter made by Tenant, and Landlord may collect such rent and income and apply same toward Tenant's obligations under this Lease; provided, that so long as Tenant is not in Default of this Lease, Tenant may receive, collect and enjoy the rents accruing under such sublease. Landlord shall not, by reason of the foregoing provision or any other assignment of such sublease to Landlord, nor by reason of the collection of the rents from a sublessee, be deemed liable to the sublessee for any failure of Tenant to perform and comply with any of Tenant's obligations to such sublessee under such sublease. Tenant hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Landlord stating that a Breach exists in the performance of Tenant's obligations under this Lease, to pay to Landlord the rents and other charges due and to become due under the sublease. Sublessee shall rely upon any such statement and request from Landlord and shall pay such rents and other charges to Landlord without any obligation or right to inquire as to whether such Breach exists and notwithstanding any notice or claim from Tenant to the contrary. Tenant shall have no right or claim against such sublessee, or, until the Breach has been cured, against Landlord, for any such rents and other charges so paid by said sublessee to Landlord.

(b) In the event of a Breach by Tenant in the performance of its obligations under this Lease, Landlord, at its option and without any obligation to do so, may require any sublessee to attorn to Landlord, in which event Landlord shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Landlord shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any other prior defaults or breaches of such sublessor under such sublease.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Landlord.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Landlord's prior written consent.

(e) Landlord shall deliver a copy of any notice of Default or Breach by Tenant to the sublessee, who shall have the right to cure the Default of Tenant within the grace period, if any, specified in such notice.

ARTICLE 13. DEFAULT; BREACH; REMEDIES.

13.1 Default; Breach

A "**Default**" is defined as a failure by Tenant to observe, comply with or perform any of the terms, covenants, conditions or Rules applicable to Tenant under this Lease. A "**Breach**" by Tenant is defined as the occurrence of any one or more of the following Defaults, and the failure by Tenant to cure such Default prior to the expiration of the applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security of the Premises, or where the coverage of the property insurance required herein is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism;

(b) The failure by Tenant to make any payment of Rent, or any Security Deposit required to be made by Tenant hereunder whether to Landlord or to a third party, or any other monetary payment required to be made by Tenant hereunder as and when due; the failure by Tenant to provide Landlord with reasonable evidence of insurance or surety bond required under this Lease; or the failure of Tenant to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of three (3) days following written notice to Tenant;

(c) The failure by Tenant to provide (A) reasonable written evidence of compliance with Applicable Requirements, (B) the rescission of an unauthorized assignment or subletting, (C) an Estoppel Certificate, (D) a requested subordination, (E) evidence concerning any guaranty or Guarantor, (G) any document requested under Article 38, or (H) any other documentation or information which Landlord may reasonably require of Tenant under the terms of this Lease, where any such failure continues for a period of ten (10) days following written notice to Tenant.

(d) A Default by Tenant as to the terms, covenants, conditions or provisions of this Lease, or of the Rules adopted under Section 0(c) hereof that are to be observed, complied with or performed by Tenant, other than those described in Subsections 13.1 (a)(b) or (c) above, where such Default continues for a period of thirty (30) days after written notice thereof to Tenant; provided, however, that if the nature of Tenant's Default is such that more than thirty (30) days are reasonably required for its cure, then it shall not be deemed to be a Breach of this Lease by Tenant if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

(e) The occurrence of any of the following events: (A) the making by Tenant of any general arrangement or assignment for the benefit of creditors; (B) Tenant's becoming a "debtor" as defined in 11 U.S. Code Section 101 or any successor statute thereto (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days; provided, however, in the event that any provision of this Subsection 13.1(e) is contrary to any Applicable Requirements, such provision shall be of no force or effect, and shall not affect the validity of the remaining provisions;

(f) The discovery that any financial statement of Tenant or of any Guarantor given to Landlord was materially false;

(g) If the performance of Tenant's obligations under this Lease is guaranteed: (A) the death of a Guarantor, (B) the termination of a Guarantor's liability with respect to this Lease other than in

accordance with the terms of such guaranty, (C) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (D) a Guarantor's refusal to honor the guaranty, or (E) a Guarantor's breach of its guaranty obligation on an anticipatory breach basis, and Tenant's failure, within sixty (60) days following written notice to Tenant of any such event, to provide Landlord with written alternative assurances of security, which, when coupled with the then existing resources of Tenant, equals or exceeds the combined financial resources of Tenant and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies

If Tenant fails to perform any affirmative duty or obligation of Tenant under this Lease, within ten (10) days after written notice to Tenant (or in case of an emergency, without notice), Landlord may at its option (but without obligation to do so) perform such duty or obligation on Tenant's behalf, including but not limited to obtaining reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Landlord shall be due and payable by Tenant upon invoice therefor. If any check given to Landlord by Tenant shall not be honored by the bank upon which it is drawn, Landlord, at its option, may require all future payments by Tenant to be made only by cashier's check. In the event of a Breach of this Lease by Tenant, with or without further notice or demand, and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such Breach, Landlord may:

(a) Terminate Tenant's Right to Possession

Landlord may terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease and the Term hereof shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant: (A) the worth at the time of the award of the unpaid Rent which had been earned at the time of termination; (B) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after the termination until the time of award exceeds the amount of such rental loss that the Tenant proves could have been reasonably avoided; (C) the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that the Tenant proves could be reasonably avoided; and (D) any other amount necessary to compensate Landlord for all the detriment proximately caused by the Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any commercially reasonable leasing commission paid by Landlord in connection with this Lease applicable to the unexpired Term of this Lease.

The worth at the time of award shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

Efforts by Landlord to mitigate damages caused by Tenant's Default or Breach of this Lease shall not waive Landlord's right to recover damages under this Section 13.2. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Landlord shall have the right to recover in such proceeding the unpaid Rent and damages as are recoverable therein, or Landlord may reserve the right to recover all or any part thereof in a separate suit for such Rent and/or damages. If a notice and grace period required under Article 13 was not previously given, a notice to pay rent or quit, or to perform or quit, as the case may be, given to Tenant under any statute authorizing the forfeiture of leases for unlawful detainer shall also constitute the applicable notice for grace period purposes required by Article 13. In such case, the applicable grace period under the unlawful detainer statute shall run concurrently with the one such statutory notice, and the failure of Tenant to cure the Default within the greater of the two (2) such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Landlord to the remedies provided for in this Lease or by statute.

(b) *Continue the Lease*

Landlord may elect to continue the Lease and Tenant's right to possession in effect under California Civil Code Section 1951.4 after Tenant's Breach and recover the Rent as it becomes due, provided Tenant has the right to sublet or assign subject only to reasonable limitations. Landlord and Tenant agree that the limitations on assignment and subletting in this Lease are reasonable.

Acts of maintenance or preservation, efforts to relet the Premises, or the appointment of a receiver to protect the Landlord's interest under this Lease shall not constitute a termination of the Tenant's right to possession.

(c) *Increase Security Deposit*

If Tenant is in Default under Section 13.1(b) hereof and such Default occurs more than three times in any twelve (12) month period, Landlord may require that Tenant increase the Security Deposit to the amount of three times the current month's Rent at the time of the most recent Default.

(d) *Any Other Remedy*

Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the State of California.

(e) *Default Fee*

Landlord and Tenant agree that if an attorney is consulted by Landlord in connection with a Tenant Default or Breach, \$350.00 is a reasonable minimum sum per such occurrence for legal services and costs in the preparation and service of a notice of Default, and that Landlord may include the cost of such services and costs in said notice as Rent due and payable to cure said Default.

(f) *Late Charges*

Tenant acknowledges that late payment by Tenant to Landlord of Rent will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges, which may be imposed upon Landlord by the terms of any ground lease, mortgage or deed of trust covering the Premises. Accordingly, if any installment of Rent or other sum due from Tenant shall not be received by Landlord or Landlord's designee within ten (10) days after such amount shall be due, then, without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge ("**Late Charge**") equal to five percent (5%) of such overdue amount. The Parties hereby agree that such Late Charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such Late Charge by Landlord shall in no event constitute a waiver of Tenant's Default or Breach with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder. In the event that a Late Charge is payable hereunder, whether or not collected, for three (3) consecutive overdue installments of Rent, then notwithstanding any other provision of this Lease to the contrary, Rent shall, at Landlord's option, become due and payable quarterly in advance.

(g) *Interest*

Any monetary payment due Landlord hereunder, other than late charges, not received by Landlord when due (as to scheduled payments such as Base Rent) or within 30 days following the date on which it was due (for nonscheduled payments) shall bear interest from the date due, as to scheduled payments, or from the 31st day after the date due, as to nonscheduled payments. The interest ("**Interest Rate**") charged shall be computed at the rate of 10% percent per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the Late Charge provided for in Section 13.2(f).

(h) *Remedies Cumulative*

All rights, privileges and elections or remedies of the parties are cumulative and not alternative, to the extent permitted by law and except as otherwise provided herein.

13.3 Survival of Indemnity

Subject to any applicable statute of limitations, the expiration or termination of this Lease and/or the termination of Tenant's right to possession shall not relieve Tenant either party from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the Term hereof or by reason of Tenant's occupancy of the Premises.

13.4 Inducement Recapture in Event of Breach

Any agreement by Landlord for free or abated Rent or other charges applicable to the Premises, or for the giving or paying by Landlord to or for Tenant of any cash or other bonus, inducement or consideration for Tenant's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Tenant's full and faithful performance of all of the terms, covenants and conditions of this Lease to be performed or observed by Tenant during the Term hereof. Upon the occurrence of a Breach of this Lease by Tenant, any such Inducement Provisions shall automatically be deemed deleted from this Lease and of no further force or effect, and any Rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Landlord under such an Inducement Provision shall be immediately due and payable by Tenant to Landlord, and recoverable by Landlord as additional Rent due under this Lease, notwithstanding any subsequent cure of said Breach by Tenant. The acceptance by Landlord of Rent or the cure of the Breach which initiated the operation of this Section 13.4 shall not be deemed a waiver by Landlord of the provisions of this Section 13.4 unless specifically so stated in writing by Landlord at the time of such acceptance.

13.5 Breach by Landlord

Landlord shall not be deemed in breach of this Lease unless Landlord fails within a reasonable time to perform an obligation required to be performed by Landlord. For purposes of this Section 13.5, a reasonable time shall in no event be less than thirty (30) days after receipt by Landlord, and any Lender whose name and address shall have been furnished to Tenant in writing for such purpose, of written notice specifying wherein such obligation of Landlord has not been performed; provided, however, that if the nature of Landlord's obligation is such that more than (30) days after such notice are reasonably required for its performance, then Landlord shall not be in breach of this Lease if performance is commenced within such thirty (30) day period following Tenant's notice and thereafter diligently pursued to completion.

ARTICLE 14. CONDEMNATION

If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (all of which are herein called "**Condemnation**"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than ten percent (10%) of the floor area of the Premises, or more than ten percent (10%) of then parking spaces is taken by Condemnation, Tenant may, at Tenant's option, to be exercised in writing within ten (10) days after Landlord shall have given Tenant written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Tenant does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent and Tenant's Share shall be reduced in the same proportion as the rentable floor area of the Premises taken bears to the total rentable floor area of the Premises. No reduction of Base Rent shall occur if the Condemnation does not apply to any portion of the Premises. Any award for the taking of all or any part of the Premises under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of Landlord, whether such award shall be made as compensation for diminution of value of the leasehold or for the taking of the fee, or as severance damages; provided, however, that Tenant shall be entitled to any compensation, separately awarded to Tenant for Tenant's relocation expenses and/or loss of Tenant's Trade Fixtures, Alterations paid for solely by Tenant, and goodwill. All Alterations made to the Premises by Tenant at Tenant's expense, for purposes of Condemnation only, shall be considered the property of Tenant and Tenant shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of such

Condemnation, Landlord shall to the extent of its net severance damages received, over and above the legal and other expenses incurred by Landlord in the Condemnation matter, repair any damage to the Premises caused by such Condemnation. Tenant shall be responsible for the payment of any amount in excess of such net severance damages required to complete such repair.

ARTICLE 15. ESTOPPEL CERTIFICATES AND FINANCIAL STATEMENTS.

15.1 Estoppel Certificate.

Each party (as “**Responding Party**”) shall within ten (10) days after written notice from the other party (the “**Requesting Party**”) execute, acknowledge and deliver to the Requesting Party a statement in writing (“**Estoppel Certificate**”) confirming the status of the tenancy, rent, and such other and further information as the Requesting Party may reasonably request. The failure of the Responding Party to respond within said ten (10) day period to a request shall constitute conclusive proof that the information set forth in the Estoppel Certificate by the Requesting Party is true and correct; and, in such event, the Requesting Party may execute such Estoppel Certificate on behalf of the other party, and such other party shall be estopped from contesting the validity or accurateness thereof.

15.2 Financial Statement.

If Landlord desires to finance, refinance, or sell the Premises or the Building, or any part thereof, Tenant and all Guarantors shall deliver to any potential Lender or purchaser designated by Landlord such financial statements of Tenant and such Guarantors as may be reasonably required by such Lender or purchaser, including but not limited to Tenant’s financial statements for the past three (3) years. All such financial statements shall be received by Landlord and such Lender or purchaser in strictest confidence and shall be used only for the purposes herein set forth.

ARTICLE 16. LANDLORD’S LIABILITY.

The term “**Landlord**” as used herein shall mean the owner or owners at the time in question of the fee title to the Premises. In the event of a transfer of Landlord’s title or interest in the Premises or in this Lease, Landlord shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Landlord at the time of such transfer or assignment. Except as otherwise expressly provided herein, upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, together with the transferee’s assumption in writing of the obligations of Landlord under this Lease, the prior Landlord shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Landlord. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Landlord shall be binding only upon the Landlord as hereinabove defined. The obligations of Landlord under this Lease shall not constitute personal obligations of Landlord or its partners, members, directors, officers, or shareholders, and Tenant shall look only to the Project, and to no other assets of Landlord, for the satisfaction of any liability of Landlord with respect to this Lease, and shall not seek recourse against Landlord’s partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

ARTICLE 17. SEVERABILITY.

The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

ARTICLE 18. TIME OF ESSENCE.

Time is of the essence with respect to the performance of all obligations to be performed or observed by the parties under this Lease.

ARTICLE 19. NO PRIOR OR OTHER AGREEMENTS

This Lease contains all agreements between the parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective.

ARTICLE 20. NOTICES.

20.1 Notice Requirements.

All notices required or permitted by this Lease shall be in writing and may be delivered in person (by hand or by messenger or courier service) or may be sent by certified or registered mail or U.S. Postal Service Express Mail or delivery service which guarantees overnight delivery, with postage prepaid, or by facsimile transmission during normal business hours, and shall be deemed sufficiently given if served in a manner specified in this Article 20. The addresses noted in the Basic Lease Provisions shall be that party's address for delivery or mailing of notice purposes. Either party may by written notice to the other specify a different address for notice purposes, except that upon Tenant's taking possession of the Premises, the Premises shall constitute Tenant's address for the purpose of mailing or delivering notices to Tenant. A copy of all notices required or permitted to be given to Landlord hereunder shall be concurrently transmitted to such party or parties at such addresses as Landlord may from time to time hereafter designate by written notice to Tenant.

20.2 Date of Notice.

Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given twenty-four (24) hours after the delivery of the same to the United States Postal Service or courier. If any notice is transmitted by facsimile transmission or similar means, the same shall be deemed served or delivered upon facsimile confirmation or receipt of the transmission thereof, provided a copy is also concurrently delivered via delivery or mail. If notice is received on a Saturday or a Sunday or a legal holiday, it shall be deemed received on the next business day.

ARTICLE 21. WAIVERS.

No waiver by either party of the default or breach by the other party of any term, covenant or condition hereof shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent default or breach by such party of the same or any other term, covenant or condition hereof. Landlord's consent to, or approval of, any such act shall not be deemed to render unnecessary the obtaining of Landlord's consent to, or approval of, any subsequent or similar act by Tenant, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent. Regardless of Landlord's knowledge of a Default or Breach at the time of accepting rent, the acceptance of rent by Landlord shall not be a waiver of any Default or Breach by Tenant of any provision hereof. Any payment given Landlord by Tenant may be accepted by Landlord on account of moneys or damages due Landlord, notwithstanding any qualifying statements or conditions made by Tenant in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Landlord at or before the time of deposit of such payment.

ARTICLE 22. RECORDING.

Tenant shall not record this Lease without Landlord's prior written consent, but shall, upon request of the Landlord, execute, acknowledge and deliver to Landlord a short form memorandum of this Lease for recording purposes.

ARTICLE 23. HOLDOVER.

Tenant has no right to retain possession of the Premises or any part thereof beyond the expiration or earlier termination of this Lease, without Landlord's prior written consent. In the event that Tenant holds over in violation of this Article 23 without Landlord's prior written consent, then the Base Rent payable from and after the time of the expiration or earlier termination of this Lease shall be increased to one hundred and fifty (150%) percent of the Base Rent applicable during the month immediately preceding such expiration or earlier termination. Tenant shall also indemnify, defend, protect and hold Landlord harmless from any loss, liability or cost, including consequential and incidental damages and reasonable attorneys' fees, incurred by Landlord resulting from delay by Tenant in surrendering the Premises,

including, without limitation, any claims made by the succeeding tenant founded on such delay. Nothing contained herein shall be construed as a consent by Landlord to any holding over by Tenant.

ARTICLE 24. CUMULATIVE REMEDIES.

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies in law or in equity.

ARTICLE 25. COVENANTS AND CONDITIONS.

All provisions of this Lease to be observed or performed by Tenant are both covenants and conditions.

This Lease shall be construed as though the covenants between Landlord and Tenant are independent and not dependent. Tenant expressly waives the benefit of any statute to the contrary and agrees that except as otherwise expressly set forth in this Lease, if Landlord fails to perform its obligations under this Lease, Tenant shall not be entitled:

- (a) To make any repairs or perform any acts at Landlord's expense; or
- (b) To any setoff of the Rent or other amounts owing under this Lease against Landlord.

The foregoing, however, shall in no way impair Tenant's right to bring a separate action against Landlord for any violation by Landlord of the provisions of this Lease if notice is first given to Landlord and any lender of whose address Tenant has been notified, and an opportunity is granted to Landlord and that lender to correct those violations as provided herein.

ARTICLE 26. BINDING EFFECT; CHOICE OF LAW.

This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State of California. Any litigation between the parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

ARTICLE 27. SUBORDINATION; ATTORNMENT; NON-DISTURBANCE.

27.1 Subordination.

This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed by Landlord upon the real property of which the Premises are a part, to any and all advances made on the security thereof, and to all renewals, modifications, consolidations, replacements and extensions thereof; on condition that such holder of the Security Device agrees that Tenant will not be disturbed in its possession of the Premises under this Lease so long as Tenant is not in Breach hereof. Tenant agrees that the Lenders holding any such Security Device shall have no duty, liability or obligation to perform any of the obligations of Landlord under this Lease arising prior to such Lender obtaining title to the Premises through foreclosure or deed in lieu, or taking possession under a receiver. Landlord shall make commercially reasonable efforts to obtain a Non-Disturbance Agreement (as defined below) from all existing Lenders having a Security Device, and if unable to secure the same within thirty (30) days after mutual execution and delivery of this Lease, Tenant may contact and negotiate directly with such Lenders. If any Lender shall elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device and shall give written notice thereof to Tenant, this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

27.2 Attornment.

Subject to the non-disturbance provisions of Section 27.3, Tenant agrees to attorn to a Lender or any other party who acquires ownership of the Premises by reason of a foreclosure of a Security Device, and that in the event of such foreclosure, such new owner shall not: (a) be liable for any act or omission of any prior Landlord or with respect to events occurring prior to acquisition of ownership, (b) be subject to any offsets or defenses which Tenant might have against any prior Landlord, or (c) be bound by prepayment of more than one month's Rent.

27.3 Non-Disturbance.

With respect to Security Devices entered into by Landlord after the execution of this Lease, Tenant's subordination of this Lease shall be subject to receiving assurance (a "**Non-Disturbance Agreement**") from the Lender that Tenant's possession of this Lease, including any Options to extend or renew the Term hereof, will not be disturbed so long as Tenant is not in Breach hereof and attorns to the record owner of the Premises.

27.4 Self-Executing.

The agreements contained in this Article 27 shall be effective without the execution of any further documents; provided, however, that upon written request from Landlord or a Lender in connection with a sale, financing or refinancing of the Building or Project, Tenant and Landlord shall execute such further writings as may be reasonably required to document any such subordination or non-subordination, attornment and/or non-disturbance agreement as is provided for herein.

ARTICLE 28. INTENTIONALLY DELETED

ARTICLE 29. LANDLORD'S ACCESS; SHOWING PREMISES; REPAIRS.

Landlord and Landlord's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times upon not less than 24 hours' prior notice (except that in the event of an emergency, only such notice as is practicable need be given) for the purpose of showing the same to prospective purchasers, Lenders, or lessees, and making such alterations, repairs, improvements or additions to the Premises or to the Building as Landlord may reasonably deem necessary. Landlord may at any time place on or about the Premises or Building any ordinary "For Lease" signs. All such activities of Landlord shall be without abatement of Rent or liability to Tenant.

ARTICLE 30. AUCTIONS.

Tenant shall not conduct, nor permit to be conducted, either voluntary or involuntary, any auction upon the Premises without first having obtained Landlord's prior written consent. Notwithstanding anything to the contrary in this Lease, Landlord shall not be obligated to exercise any standard of reasonableness in determining whether to grant such consent.

ARTICLE 31. SIGNS.

Tenant shall not place, install, affix, paint or maintain any signs, notices, graphics or banners whatsoever or any window decor which is visible in or from public view or corridors, the common areas or the exterior of the Premises or the Building, in or on any exterior window or window fronting upon any common areas or service area without Landlord's prior written approval which Landlord shall have the right to withhold in its absolute and sole discretion; provided that Tenant's name shall be included in any Building-standard door and directory signage, if any, in accordance with Landlord's Building signage program, including without limitation, payment by Tenant of any fee charged by Landlord for maintaining such signage, which fee shall constitute additional Rent hereunder. Any installation of signs, notices, graphics or banners on or about the Premises or Project approved by Landlord shall be subject to any Applicable Requirements and to any other requirements imposed by Landlord. Tenant shall remove all such signs or graphics by the expiration or any earlier termination of this Lease. Such installations and removals shall be made in such manner as to avoid injury to or defacement of the Premises, Building or Project and any other improvements contained therein, and Tenant shall repair any injury or defacement including without limitation discoloration caused by such installation or removal. Notwithstanding the foregoing, during the term of the Lease, Tenant shall be entitled, at no cost to Tenant, to building-standard identification in the main building lobby and in the elevator lobby on the 4th Floor.

ARTICLE 32. TERMINATION; MERGER.

Unless specifically stated otherwise in writing by Landlord, the voluntary or other surrender of this Lease by Tenant, the mutual termination or cancellation hereof, or a termination hereof by Landlord for Breach by Tenant, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, Landlord shall, in the event of any such surrender, termination or cancellation, have the option

to continue any one or all of any existing subtenancies. Landlord's failure within ten (10) days following any such event to make a written election to the contrary by written notice to the holder of any such lesser interest, shall constitute Landlord's election to have such event constitute the termination of such interest.

ARTICLE 33. CONSENTS.

(a) Except for Article 30 hereof (Auctions) or as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed.

(b) Subject to any limitation on costs set forth elsewhere in this Lease, Landlord's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Tenant for any Landlord consent pertaining to this Lease or the Premises, including but not limited to consents to an assignment a subletting or the presence or use of a Hazardous Substance, shall be paid by Tenant to Landlord upon receipt of an invoice and supporting documentation therefor.

(c) Subject to any limitation on costs set forth elsewhere in this Lease, In addition to the deposit described in Section 12.3, Landlord may, as a condition to considering any such request by Tenant, require that Tenant deposit with Landlord an amount of money (in addition to the Security Deposit held under Article 5) reasonably calculated by Landlord to represent the costs Landlord will incur in considering and responding to Tenant's request. Any unused portion of said deposit shall be refunded to Tenant without interest. Landlord's consent to any act, assignment of this Lease or subletting or the Premises by Tenant shall not constitute an acknowledgment that no Default or Breach by Tenant of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Landlord at the time of such consent.

(d) All conditions to Landlord's consent authorized by this Lease are acknowledged by Tenant as being reasonable. The failure to specify herein any particular condition to Landlord's consent shall not preclude the imposition by Landlord at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. If Landlord shall deny its consent, Landlord shall set forth with reasonable detail the reasons for such denial and what is required to obtain such consent.

ARTICLE 34. NON-APPROPRIATION.

Landlord understands that monies paid to Landlord by Tenant as rent are derived from federal, state, or local sources, including local taxes, and are subject to curtailment, reduction, or cancellation by government agencies or sources beyond the control of Tenant. Tenant shall have the right to terminate this Agreement in the event that such curtailment, reduction, or cancellation occurs, at any time during any Extended Term. Termination shall be effective upon the expiration of six (6) calendar months after the mailing of termination notice by Tenant to Landlord, and the liability of the parties hereunder for further performance under the terms of the Agreement, except as otherwise set forth in this Section, shall thereupon cease, but neither party shall be relieved of their duty to perform their obligations up to the date of termination.

ARTICLE 35. QUIET POSSESSION.

Upon payment by Tenant of the Rent for the Premises and the performance of all of the covenants, conditions and provisions on Tenant's part to be observed and performed under this Lease, Tenant shall have quiet possession of the Premises for the entire Term hereof subject to all of the provisions of this Lease.

ARTICLE 36. [INTENTIONALLY OMITTED]

ARTICLE 37. SECURITY MEASURES.

Tenant hereby acknowledges that the Rent payable to Landlord hereunder does not include the cost of guard service or other security measures, and that Landlord shall have no obligation whatsoever to

provide same. Tenant assumes all responsibility for the protection of the Premises, Tenant, its agents and invitees and their property from the acts of third parties.

ARTICLE 38. RESERVATIONS.

(a) Landlord reserves the right, from time to time, to grant, without the consent or joinder of Tenant, such easements, right of way, utility raceways, and dedications that Landlord deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights of way, utility raceways, dedications, maps and restrictions do not reasonably interfere with the use of the Premises by Tenant. Tenant agrees to sign any documents reasonably requested by Landlord to effectuate any such easement rights, dedication, map or restrictions.

(b) Tenant shall not use any representation (photographic or otherwise) of the Building or Project or their name(s) in connection with Tenant's business nor suffer or permit anyone, except in emergency, to go upon the roof of the Building.

ARTICLE 39. PERFORMANCE UNDER PROTEST.

If at any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other under the provisions hereof, the party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said party to institute suit for recover of such sum. If it shall be adjudged that there was no legal obligation on the part of said party to pay such sum or any part thereof, said party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease.

ARTICLE 40. MISCELLANEOUS PROVISIONS.

40.1 Authority

If either Party hereto is a corporation, trust, or general or limited partnership, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. If Tenant is a corporation, trust or partnership, Tenant shall, at the time of execution hereof, deliver to Landlord evidence satisfactory to Landlord of such authority.

40.2 Conflict.

Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

40.3 Offer.

Preparations of this Lease by either Landlord or Tenant or Landlord's agent or Tenant's agent and submission of same to Tenant or Landlord shall not be deemed an offer to lease. This Lease is not intended to be binding until executed and delivered by all parties hereto.

40.4 Amendments.

This Lease may be modified only in writing, signed by the parties in interest at the time of the modification. The parties shall amend this Lease from time to time to reflect any adjustments that are made to the Base Rent or other Rent payable under this Lease. As long as they do not materially change Tenant's obligations hereunder or alter Tenant's rights in the Premises, Tenant agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by an institutional insurance company or pension plan Lender in connection with the obtaining of normal financing or refinancing of the property of which the Premises are part provided Tenant's liabilities and obligations are not materially expanded or materially adversely affected.

40.5 Multiple Parties.

Except as otherwise expressly provided herein, if more than one person or entity is named herein as either Landlord or Tenant, the obligations of such multiple parties shall be the joint and several responsibility of all persons or entities named herein as such Landlord or Tenant.

40.6 Days; Lease Year

Whenever in this Lease reference is made to a number of "days," unless otherwise specified it shall mean calendar days. For purposes of this Lease, the term "Lease Year" means each consecutive twelve-month (12-month) period during the Lease Term, provided that: (a) The first Lease Year commences on the Lease Commencement Date and ends on the last day of the eleventh (11th) calendar month thereafter; (b) The second (2nd) and each succeeding Lease Year commences on the first day of the next calendar month; and (c) The last Lease Year ends on the Lease Expiration Date or earlier date of termination.

40.7 Drafting and Determination Presumption

The parties acknowledge that this Lease has been agreed to by both the parties, that both Landlord and Tenant have consulted with attorneys with respect to the terms of this Lease and that no presumption shall be created against Landlord because Landlord drafted this Lease. The Parties hereby agree that, at the time this Lease is executed, the terms of this Lease are commercially reasonable and effectuate the intent and purpose of Landlord and Tenant with respect to the Premises.

40.8 Waiver of Jury Trial

Each party hereto (which includes any Assignee, successor heir or personal representative of a party) shall not seek a jury trial, hereby waives trial by jury, and hereby further waives any objection to venue in the county in which the Building is located, and agrees and consents to personal jurisdiction of the courts of the state in which the Property is located, in any action or proceeding or counterclaim brought by any party hereto against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage, or the enforcement of any remedy under any statute, emergency or otherwise, WHETHER ANY OF THE FOREGOING IS BASED ON THIS LEASE OR ON TORT LAW. EACH PARTY REPRESENTS THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL CONCERNING THE EFFECT OF THIS SECTION 40.8. THE PROVISIONS OF THIS SECTION 40.8 shall survive the expiration or earlier termination of this Lease.

40.9 Americans With Disabilities Act

For purposes of Section 1938 of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that to Landlord's actual knowledge, the Premises have not undergone inspection by a CASp.

California Civil Code Section 1938 states:

"A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

Notwithstanding anything to the contrary in this Lease, Landlord and Tenant hereby agree that, during the term of this Lease, as the same may be extended, Tenant shall be responsible for (i) the payment of the fee for any CASp inspection that Tenant desires, and (ii) making, at Tenant's sole cost, any repairs necessary to correct violations of construction-related accessibility standards within the Premise identified by a CASp inspection obtained by Tenant, whether such violations occurred before or occur after the

commencement of the term of the Lease, provided that such repairs shall be in accordance with the terms of the Lease. Tenant hereby agrees that: any CASp inspecting the Premises shall be selected by Landlord; Tenant shall promptly deliver to Landlord any CASp report regarding the Premises obtained by Tenant; and Tenant shall keep information contained in any CASp report regarding the Premises confidential, except as may be necessary for Tenant or its agents to complete any repairs or correct violations with respect to the Premises that Tenant undertaken by Tenant. Tenant shall have no right to cancel or terminate the Lease due to violations of construction-related accessibility standards within the Premises identified in a CASp report obtained during the Term of the Lease.

40.10 No Light, Air or View Easement

Any diminution or shutting off of light, air or view by any structure which may be erected on lands adjacent to or in the vicinity of the Building shall in no way affect this Lease or impose any liability on Landlord.

40.11 No Third Party Benefit

This Lease is a contract between Landlord and Tenant and nothing herein is intended to create any third party benefit.

40.12 Counterparts

This Lease may be executed in any number of counterparts, each of which shall be deemed an original.

40.13 Exhibits.

The Basic Lease Provisions and the Exhibits, addenda and attachments attached hereto are hereby incorporated herein by this reference and made a part of this Lease as though fully set forth herein.

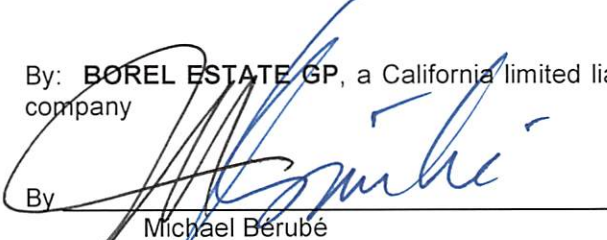
The Parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

LANDLORD: BOREL ESTATE COMPANY,
A California limited partnership

**TENANT: SAN MATEO COUNTY FLOOD AND SEA
LEVEL RISE RESILIENCY DISTRICT**

By: **BOREL ESTATE GP**, a California limited liability company

By _____
Carole Groom

By  _____
Michael Berube

Title: President, Board of Supervisors

Title: Manager

By _____

By  _____
Chonita E. Cleary

Name Printed: _____

Title: Manager

Title: _____

Signed at: San Mateo

Signed at: San Mateo

Dated: 11/25/19

Dated: _____



American Building Calculations

23110 State Road 54
Suite 252
Lutz, FL 33549
813-600-5472
www.abcalc.biz



HAGMAN ASSOCIATES
ARCHITECTS

Client:
1618 Sand Hill Rd
Suite 309
Palo Alto, CA 94304
650-216-7300

Borel
ESTATE COMPANY

Property:

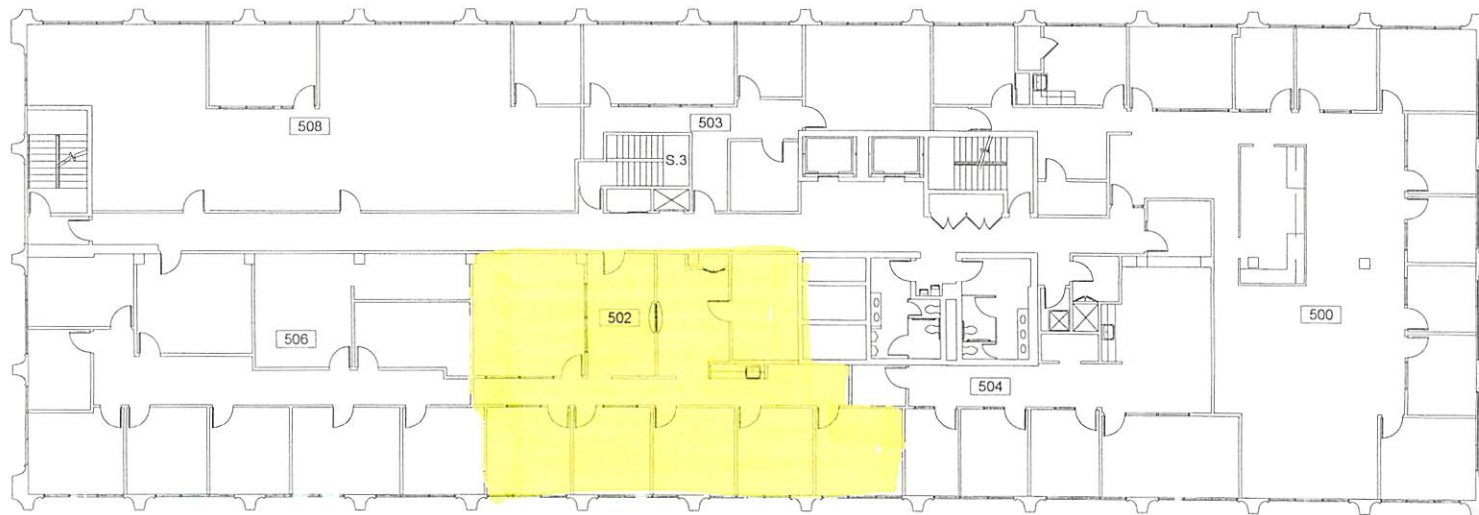
1700 S El Camino Real
San Mateo, CA 94402

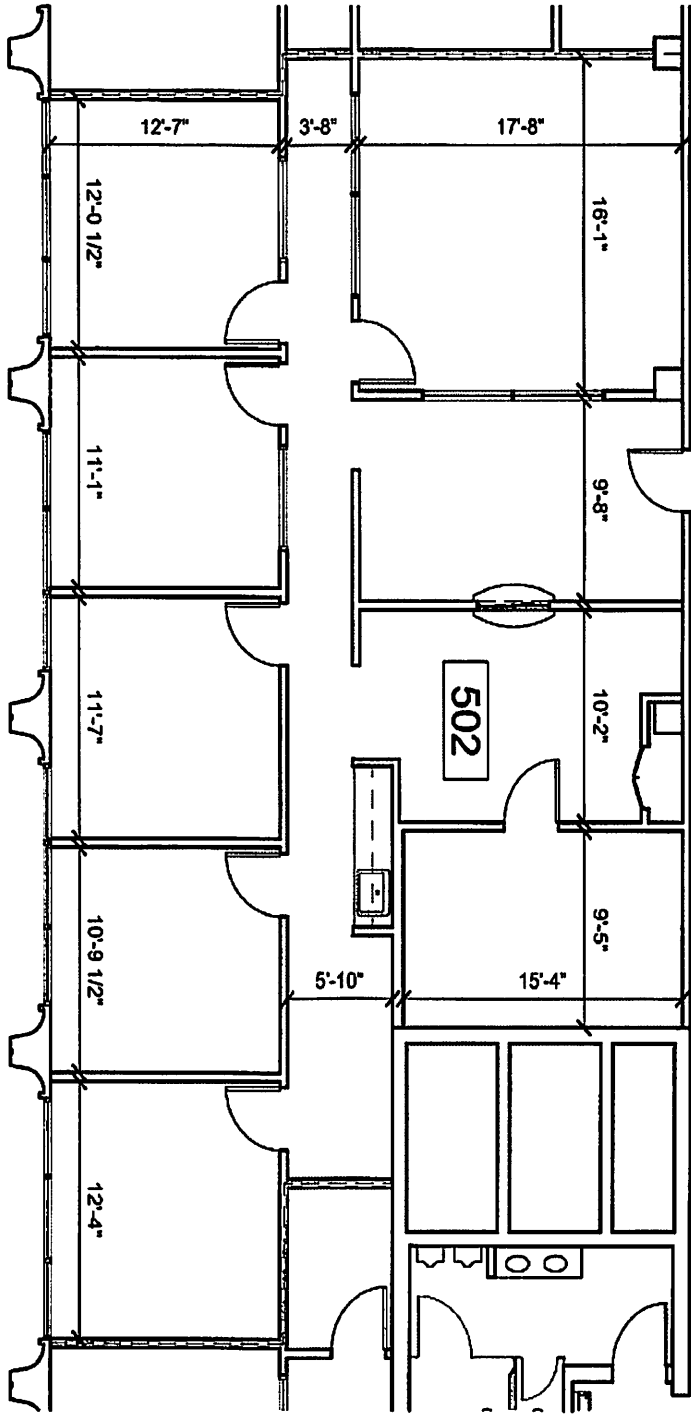
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Field Drawn By:	N/A
Drawn By:	JM
Published Date:	05/10/18
Revision Date:	N/A

Scale:	
Custom	

FIFTH FLOOR
FLOOR PLAN





SUITE 502
SCALE 1/8"=1'-0"

DATE 09.18.19
SCALE NTS
JOB # 19002-10
REVISIONS

BOREL ESTATE BUILDING
1700 EL CAMINO REAL
SAN MATEO, CA.

A

EXHIBIT B
RULES AND REGULATIONS

The terms, conditions and provisions of this "Exhibit B" are hereby incorporated into and are made a part of the Lease. Any capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms as set forth in the Lease:

1. Subject to the express provisions of the Lease, no advertisement, picture or sign of any sort shall be displayed on or outside the Premises or the Building without the prior written consent of Landlord. Landlord shall have the right to remove any such unapproved item without notice and at Tenant's expense.
2. Tenant shall not regularly park motor vehicles in designated parking areas after the conclusion of normal daily business activity.
3. Subject to the express provisions of the Lease, Tenant shall not use any method of heating or air conditioning other than that supplied by Landlord without the prior written consent of Landlord.
4. All window coverings installed by Tenant and visible from the outside of the Building require the prior written approval of Landlord.
5. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance or any flammable or combustible materials on or around the Premises or the Building without the prior written consent of Landlord.
6. Tenant shall not alter any lock or install any new locks or bolts on any door at the Premises without the prior written consent of Landlord. In the event any such lock is allowed by Landlord, Tenant shall be required to use Landlord's locksmith in accordance with Landlord's master key system at Tenant's sole cost and expense. Upon termination or earlier expiration of the Lease, Tenant shall deliver to Landlord the keys of offices and rooms which shall have been furnished to Tenant or which Tenant shall have had made, and, in the event of loss of any such keys, shall pay Landlord therefore.
7. Tenant agrees not to make any duplicate keys provided by Landlord without the prior written consent of Landlord.
8. Tenant shall not disturb, solicit or canvas any occupant of the Building and shall cooperate to prevent same.
9. No person shall go on the roof without Landlord's permission.
10. Business machines and mechanical equipment belonging to Tenant which cause noise or vibration that may be transmitted to the structure of the Building, to such a degree as to be objectionable to Landlord or other Tenants, shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration.
11. All goods, including material used to store goods, delivered to the Premises of Tenant shall be immediately moved into the Premises and shall not be left in parking or receiving areas overnight.
12. Except for service animals, Tenant shall not permit any animals, including, but not limited to, any household pets, to be brought or kept in or about the Premises, the Building, or any of the Common Areas of the foregoing.
13. Tenant shall not permit any motor vehicles to be washed on any portion of the Premises or in the Common Areas of the Building, nor shall Tenant permit mechanical work or

maintenance of motor vehicles to be performed on any portion of the Premises or in the Common Areas of the Building.

14. All loading and unloading of goods shall be done only at times, in the areas, and through the entrances designated for such purposes by Landlord. The delivery or shipping of merchandise, supplies, and fixtures to and from the Premises shall be subject to such rules and regulations as in the judgment of Landlord are necessary for the proper operation of the Building.
15. No cooking (except for in the kitchen area of the Premises) shall be done or permitted by any tenant on the Premises, nor shall the Premises be used for washing clothes, for lodging, or for any improper or objectionable purpose.
16. No aerial shall be erected on the roof or exterior walls of the Premises or any the ground without, in each instance, the written consent of Landlord. Any aerial so installed without such written consent shall be subject to removal without notice at anytime without liability to Landlord, and the expenses involved in such removal shall be charged to and paid by Tenant upon demand.
17. No loudspeaker, television, phonographs, radios, or other devices shall be used in a manner so as to be heard or seen outside of the Premises without the written consent of Landlord.
18. The plumbing facilities shall not be used for any other purpose that for which they are constructed, and no foreign substances of any kind shall be deposited therein, and the expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Tenant.
19. Subject to Tenant's right of access to the Premises twenty-four (24) hours a day, seven (7) days a week, Landlord reserves the right to close and keep locked all entrance and exit doors of the Building and otherwise regulate access of all persons to the Building on Saturdays, Sundays, and public holidays, and on other days between the hours of 6:00 p.m. and 7:00 a.m. and at such other times as Landlord may deem advisable for the adequate protection and safety of the Building, its tenants and occupants, and the property in the Building. Landlord reserves the right to exclude or expel from the Building any person, who, in the judgment of Landlord is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of the rules and regulations of the Building.
20. Landlord reserves the right to waive any rule in any particular instance or as to any particular person or occurrence, and further, Landlord reserves the right to amend or rescind any of these rules or make, amend and rescind new rules to the extent Landlord, in its sole judgment deems suitable for the safety, care and cleanliness of the Building and the conduct of high standard of merchandising and services therein. Tenant agrees to conform to such new or amended rules upon receiving written notice of the same.

EXHIBIT C

to that certain Lease

By and between BOREL ESTATE COMPANY as Landlord and

COUNTY OF SAN MATEO, as Tenant

LANDLORD'S WORK LETTER

Landlord shall, at Landlord's sole cost and expense, without reimbursement by Tenant, construct the improvements in Suite 502 ("**Landlord's Work**") set forth below. Landlord shall be solely responsible, in its sole discretion, for the selection of contractors and subcontractors and the manner and timing of Landlord's Work.

1. Painting the Premises with colors specified by Tenant.
2. Demolition of interior reception desk wall.
3. New Carpet and VTC specified by Tenant based upon Landlord's Building Standard materials and finishes.

Any improvements beyond the Landlord's Work shall be performed by Tenant at Tenant's sole cost and expense.

"Substantial Completion" shall mean that Landlord has completed Landlord's Work in the condition required in this Exhibit and Landlord has received, if applicable, any final required approval of such work, subject only to items which need correction or completion of a nature and degree as typically appear on a construction project punch list ("**Punch List**") and to a state of completion to allow Tenant to have unhindered access to the Premises to commence business operations. Landlord shall give Tenant written notice upon achieving Substantial Completion.