



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

September 22, 2017

Tuija I. Catalano
Ruben, Junius & Rose, LLP
One Bush Street, Suite 600
San Francisco CA 94104

Site Address: 855 Harrison Street
Assessor's Block/Lot: 3761/002
Zoning District: Service/Arts/Light Industrial (SALI)
Staff Contact: Linda Ajello Hoagland, (415) 575-6823 or linda.ajellohoagland@sfgov.org
Record No.: 2017-007834ZAD

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Dear Ms. Catalano:

This letter is in response to your request for a Letter of Determination regarding the property at 855 Harrison Street. This parcel is located within the SALI (Service/Arts/Light Industrial) Zoning District, Western SoMa Special Use District, 30-X Height and Bulk District and within ¼ mile of an existing Fringe Financial Service. The request seeks a determination to confirm that the pre-existing office use on the second floor of the property may continue under the current version of the Planning Code as a legal non-conforming use.

Background

The subject property is a 32,386 square feet (sf) lot on Harrison Street between 4th and 5th Streets and contains a two-story building with approximately 26,800 sf on the ground floor and approximately 15,000 square feet on the second floor. The building was constructed in 1955 as "office and warehouse" for Glaser Brothers cigar distribution company, which occupied the building for many years. Since that time, the ground floor has been occupied by various retail and commercial tenants and the second floor has been leased to various unrelated office tenants. The property was zoned Light Industrial at the time that the building was constructed in 1955, which allowed "office" uses. In 1960, the zoning designation of the property was changed to M-1 (Light Industrial). In 1990, the zoning was changed from M-1 to SLI (Service/Light Industrial). In 2013, the zoning was changed from SLI to SALI. Both the SLI and SALI zoning districts generally prohibit office uses.

In 1988, the ground floor of the building was approved for a wholesale retail use (d.b.a. "Office Club"). In 2003, the space was taken over by Staples. In 2007, the Planning Commission approved a Conditional Use Authorization (Case No. 2007.0929C – Motion No. 17519) to allow a Formula Retail Use (d.b.a. "TJ Maxx") to operate on the ground floor location to replace Staples. The staff report and motion reference

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September 22, 2017
Letter of Determination
855 Harrison Street

the building as containing one commercial use and one office use. In 2015, the K&L Wine Merchants replaced TJ Maxx as the ground floor retail tenant on the subject property.

Building Permit records and City Directories clearly indicate that Glaser Brothers occupied the office and warehouse building from 1955 to 1979 in which the second floor of the building possessed office use that was accessory to the warehouse on the ground floor. Leasing records dating from 1983 to present show that the upstairs office space in the building has been continually occupied by office uses since before the zoning was changed on the property in 1990.

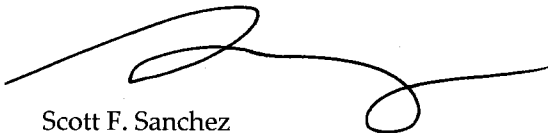
Determination

Based on the information provided in your request and via City permit records, it is my determination that the second floor office space in the building at 855 Harrison Street is a legal non-conforming use and can continue to operate as such in accordance with Planning Code Sections 180 and 183. The entitlement and building permit history, along with leasing history, indicates that a principal, non-accessory, office use was legally established on the second floor of the Property prior to the rezoning from M-1 to SLI in 1990 and that office uses have continued to operate in the space since that time without any "discontinuance and abandonment" within purview of the Planning Code, thus making the office use legal non-conforming.

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez
Zoning Administrator

cc: Linda Ajello Hoagland, Planner
Property Owner
Neighborhood Groups

REUBEN, JUNIUS & ROSE, LLP

June 6, 2017

Delivered Via Messenger

Mr. Scott Sanchez, Zoning Administrator
San Francisco Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

R # 2017 - 007834 ZAD
CK # 28690 \$ 664.-
R. SUCRE (SE)

Re: Request for Written Letter of Determination
Subject: 855 Harrison Street Office Use
Our File No.: 6148.05

Dear Mr. Sanchez:

Our office represents 855 Harrison Street Associates (“**Property Owner**”), the owner of the building at 855 Harrison Street, on Assessor’s Block 3761, Lot 002 (“**Property**”). Constructed in 1955, the two-story Property has consistently been occupied by warehouse and/or retail uses on the ground floor and office uses on the second floor. The Property Owner has a newly vacant space on the second floor that it plans to lease to a new office tenant.

Please accept this letter as a request for written determination pursuant to Planning Code Section 307(a) in order to confirm that pre-existing office use on the second floor of the Property may continue under the current version of the Planning Code as a legal non-conforming use.

I. Property Information

The Property was constructed in 1955 and sits on a 32,386-sf lot on Harrison Street between 4th Street and 5th Street. The existing building at the Property contains approx. 41,800 sf of floor area, with approx. 26,000 sf on the ground floor and approx. 15,000 sf on the second level. It is currently located in the SALI Zoning District, a 30-X Height & Bulk District, and within the Western SoMa Plan Area. The current SALI zoning designation does not permit office uses. Prior to adoption of the Western SoMa Plan in April 2013, the Property was zoned SLI, which also did not permit office uses. (See *Ord. 43-13 excerpts, Western SoMa rezoning attached as Exhibit A.1; see also Planning Commission Motion No. 17519, (Dec. 13, 2007); attached at Exhibit A.2; Planning Code Table 817.*) The SLI zoning was adopted in 1990. (*Ordinance No. 115-90; (Apr. 6, 1990).*) Prior to that time, the Property was zoned M-1, wherein office uses were principally permitted. (See *Building Permit App. No. 241394, (Oct. 10, 1960); attached at Exhibit E; Planning Code Table 210.4.*)

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin | John Kevlin
Tuija I. Catalano | Jay F. Drake | Matthew D. Visick | Lindsay M. Petrone | Sheryl Reuben¹
Thomas Tunny | David Silverman | Melinda A. Sarjapur | Mark H. Loper | Jody Knight
Chloe V. Angelis | Louis J. Sarmiento, Jr. | Corie A. Edwards | Jared Eigerman^{2,3} | John McNerney III²

1. Also admitted in New York 2. Of Counsel 3. Also admitted in Massachusetts

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A nonconforming use is defined as “a use which existed lawfully at the effective date of this Code, or of amendments thereto . . . and which fails to conform to one or more of the use limitations under Articles 2, 6, 7, and 8 of this Code that then became applicable for the district in which the property is located.” (*Planning Code* § 180(a)(1).) Non-conforming uses may be continued in their existing state. (*Planning Code* § 180(c); 182(a).)

The Property originally served as the headquarters for a trucking company, with distribution uses on the first floor and the company’s corporate offices on the upper floor. Since that time, the ground floor has been occupied by various retail and commercial tenants and the second floor has been leased to various (but unrelated) office tenants. When the Property was rezoned in 1990 to SLI, and then to SALI in 2013, the existing office use became a non-permitted use under the Planning Code. Because office use at the Property was permitted under the Planning Code at the time it was originally established, and is now no longer permitted under the Code, it is a valid nonconforming use and is permitted to continue on the Property in its current state.

II. Second Floor of 855 Harrison Authorized as Office Use

The entitlement and building permit history, along with the available leasing history, indicates that the that office use was legally established on the second floor of the Property prior to the rezoning from M-1 to SLI in 1990 and that office uses have continued to operate in the space ever since without any abandonment within the meaning of the Planning Code.

A. 2007 Conditional Use Authorization

On December 13, 2007, the Planning Commission approved a Conditional Use Authorization to permit a formula retail use (dba TJ Maxx) at the ground floor of the Property. (*Planning Commission Motion No. 17519; attached at Exhibit A.1.*) The approval motion describes the Property as follows: “The property is developed with one commercial use and one office use within a two-story, approximately 29-foot tall building.” (*Id.*) The motion further explains that “the subject building was constructed in 1955 as a two-story building with both office and commercial uses.” (*Id.*)

B. Building Permit History

The description of the established uses at the Property included in the 2007 Conditional use Authorization is bolstered by the building permit history, which confirms office use on the second floor of the Property between 1955 and the present.

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The Property Information Map Report Building Permit tracking page does not list any permits from before 1992. However, we obtained the paper copies of a number of the pre-1992 permits, which point to an established office use on the second floor of the Property, as follows:

- A building permit application filed on September 8, 1954 proposes the construction of a “warehouse and **office**” building with 26,800 square feet on the ground floor. A permit to erect associated with that application appears to have been issued in 1955, but the exact date of issuance is illegible on the copy we have obtained. The permit was signed by the Planning Department on September 8, 1954. (*Building Permit App. No. 168406; attached at Exhibit B.*)
- On May 19, 1955, the Department of Building Inspection (“DBI”) issued a permit to allow the addition of a cold room in the warehouse area of the Property. The permit application lists the present and proposed use of the Property as warehouse and **office**. The permit was signed by the Planning Department on May 10, 1955. (*Building Permit App. No. 175047 (May 19, 1955); attached at Exhibit C.*)
- An alterations permit issued on March 22, 1960 provides for certain alterations to a billing office at the Property, with the present use listed as warehouse and **office** and the proposed use listed as office. The Planning Department signed off on the permit on March 14, 1960, noting the Property’s M-1 zoning designation. (*Building Permit App. No. 233920 (Mar. 22, 1960); attached at Exhibit D.*)
- Building Permit Application No. 241394, issued on October 10, 1960, permits \$3,900 worth of alterations and lists both the present and proposed uses of the building as **office** and warehouse. The Planning Department approved the permit on October 5, 1960. This permit also notes the Property’s M-1 zoning designation (*Building Permit App. No. 241394 (Oct. 10, 1960); attached at Exhibit E.*)
- A building permit issued on April 6, 1970 to “alter office areas” at the Property, at a construction cost of \$55,000, lists the present and proposed use of the building as **office**. The permit is initialed by the Planning Department, but indicates that the plan set was not reviewed by the Department for Planning Code compliance. (*Building Permit App. No. 381682 (Apr. 6, 1970); attached at Exhibit F.*)
- A May 5, 1970 building permit initialed by the Planning Department lists the present and proposed use of the Property as “Business Units”. (*Building Permit App. No. 382570; attached at Exhibit G.*)

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- A May 6, 1970 building permit initialed by the Planning Department lists the present and proposed use of the Property as commercial. (*Building Permit App. No. 383505 (May 6, 1970); attached at Exhibit H.*)

A number of other permits we reviewed were either not signed by the Planning Department or pertain only the ground floor commercial uses at the Property. According to the Planning Department's Property Information Map Report, the building permits issued since 1994 provide for a mix of office and retail sales uses at the Property—no other use types are listed on any of those permits.

This building permit history clearly demonstrates that from the time the Property was developed in 1955 and when the Property was rezoned to SLI in 1990, the second floor was consistently occupied by authorized office uses.

C. Lease and Advertising History

A number of leases and brokerage brochures made available by the Property Owner also provide evidence of a longstanding history of second floor office use at the Property:

- On May 1, 1983, CAI Consulting Corporation entered into a sublease agreement with SF Innovations, for use as a merchandise design studio and general office space. The sublease incorporates the October 1, 1981 lease agreement between CAI Consulting Corporation and 855 Harrison Street Associates, Inc. The 1981 lease describes the premises as “the entire second floor of **office** space, as well as all of the current unleased office space on the first floor which includes the lobby, elevator and stairwell . . .” The 1981 lease states the premises shall be used “only for general office purposes.” (*Sublease Agreement between CAI Consulting Corporation and SF Innovations (May 1, 1983); Lease Agreement between CAI Consulting Corporation and 855 Harrison Street Associates, Inc. (Oct. 1, 1981); both attached at Exhibit I.*)
- A floor plan provided by a former tenant in 1987 illustrates the layout of the Property's second floor **office** space. A cover letter from Damon Raike and Company attached to the drawing explains that the space plan was submitted “by the present tenant of the second floor of 859 Harrison Street delineating the present **office** configuration.” (*Letter from Damon Raike and Company (Jul. 1, 1987) with space plan drawing; attached at Exhibit J.*)
- A broker brochure from 1987 advertises “15,000 square feet of highly improved **office** space – easily divides into 12,000 and 3,000 square feet (built out for an

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open-plan securities dealer).” The brochure further describes the space available as “approximately 15,000 square feet of **office** space on the second floor of this two-story, free-standing concrete building. This office space is presently occupied by a securities firm. It is highly improved with a mix of private offices and open space.” (See flyer and cover letter from Damon Raike & Company (Jul. 16, 1987); attached at Exhibit K.)

- On August 21, 1990, an exclusive listing agent proposal from Clarke & Cramer described the space to be rented as “Approximately 15,000 rentable square feet located on the 2nd floor of 859 Harrison Street, San Francisco, California” for a lease term of 10 years. (See Clarke & Cramer Proposal (Aug. 21, 1990); attached at Exhibit L.)
- An August 27, 2002 lease agreement provided for 3,564 square feet on the second floor of the Property to be leased to Martin M. Ron Associates, Inc. for “general **office** use.” An amendment to that agreement was executed on December 8, 2004, expanding the leased space by 790 square feet. Additional amendments executed on August 10, 2007 and on August 14, 2012 extended the lease term through September 30, 2017. (See Martin M. Ron Associates Leases at Exhibit M.)
- On January 30, 2009, a commercial lease was executed between Nationwide Legal, Inc. and Harrison Street Associates. The lease defines the rented premises as “**Office** Suite A consisting of approximately 3500 +/- Square Feet” to be used for “General **Office** Use.” The lease provided for a term through March 21, 2004. (Standard Industrial/Commercial Multi-Tenant Lease, Nationwide Legal, Inc. (Jan. 30, 2009).) Via an amendment executed on December 17, 2012, the lease was extended until March 31, 2017, with a two three-year options to extend. (First Amendment to Lease, Nationwide Legal, Inc. (Dec. 17, 2012).) (Both Nationwide Legal leases attached at Exhibit N.)

III. Written Determination Request

When the Planning Commission approved a Conditional Use Authorization to permit a TJ Maxx store at the ground floor of the Property, it confirmed that the “building was constructed in 1955 with one commercial use and one office use. (See Planning Commission Motion No. 17519; attached at Exhibit A.) The building permits signed by the Planning Department between 1955 and 1970 confirm that authorized office use existed at the second floor during that period. The building permit tracking page of the Property Information Map Report indicates that office use has continued at the second floor between 1990 and the present. Finally, the lease agreements and broker brochures spanning the years between 1983

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Mr. Scott Sanchez
Zoning Administrator
June 6, 2017
Page 6

and 2009 provide further evidence of ongoing office use on the Second floor of the Property both prior to the rezoning to SLI in 1990, and in all the years since then.

Accordingly, and based on the foregoing clear and consistent documentation, we respectfully request a written determination confirming the present authorized use of the second story of 855 Harrison Street is office use. Enclosed is a check in the amount of \$664 made payable to the San Francisco Planning Department.

Please contact me should you have any questions. Thank you.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP



Tuija I. Catalano

Enclosures:

- Exh. A.1 - Ord. 43-13 (Western SoMa Rezoning, excerpts)
- Exh. A.2 - Planning Commission Motion No. 17519 (Dec. 13, 2007)
- Exh. B - Building Permit No. 168406
- Exh. C - Building Permit No. 175047 (May 19, 1985)
- Exh. D - Building Permit No. 233920 (Mar. 22, 1960)
- Exh. E - Building Permit No. 241394 (Oct. 10, 1960)
- Exh. F - Building Permit No. 381682 (Apr. 6, 1970)
- Exh. G - Building Permit No. 382570
- Exh. H - Building Permit No. 383505
- Exh. I - CAI Consulting Corporation Sublease (May 1, 1983); Master Lease (Oct. 1, 1981)
- Exh. J - Damon Raike & Company letter and space plan drawing (Jul. 1, 1987)
- Exh. K - Damon Raike & Company flyer and cover letter (Jul. 16, 1987)
- Exh. L - Clarke & Cramer Proposal (Aug. 21, 1990)
- Exh. M - Martin M. Ron Associates Leases (2002-2012)
- Exh. N - Nationwide Legal, Inc. Lease (Jan. 30, 2009); First Amendment (Dec. 17, 2012)

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1 [Zoning Map - Height and Bulk Revisions to the Western South of Market Area Plan]

2
3 **Ordinance amending Zoning Map Sheets ZN01, ZN07, ZN08, HT01, HT07, and HT08 to**
4 **revise use districts and height and bulk districts within the Western South of Market**
5 **Plan Area; and making environmental findings, Planning Code, Section 302, findings,**
6 **and findings of consistency with the General Plan and Planning Code, Section 101.1.**

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strike-through italics Times New Roman*~~.
9 Board amendment additions are double-underlined;
 Board amendment deletions are ~~strikethrough-normal~~.

10
11 Be it ordained by the People of the City and County of San Francisco:

12
13 Section 1. Findings.

14
15 (a) California Environmental Quality Act.

16 In accordance with the actions contemplated herein, this Board adopted Ordinance No.
17 _____, concerning findings pursuant to the California Environmental Quality Act
18 (California Public Resources Code sections 21000 et seq.) A copy of said Ordinance is on file
19 with the Clerk of the Board of Supervisors in File No. 130001 and is incorporated herein by
20 reference.

21 (b) General Plan Consistency and Other Findings.

22 (1) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
23 Ordinance will serve the public necessity, convenience, and welfare for the reasons set forth
24 in Planning Commission Resolution No. 18760, and incorporates those reasons herein by
25

1 reference. A copy of Planning Commission Resolution No. 18760 is on file with the Clerk of
2 the Board of Supervisors in File No. 130003.

3 (2) This Board of Supervisors finds that this Ordinance is, on balance, consistent with
4 the General Plan and the Priority Policies of Planning Code Section 101.1(b) for the reasons
5 set forth in Planning Commission Resolution No. 18760, and incorporates those reasons
6 herein by reference.

7
8 Section 2. Under Sections 106 and 302(c) of the Planning Code, the following zoning
9 use designation amendments to Sheets ZN01, ZN02, ZN07, and ZN08 are hereby approved:
10

	<u>Use District</u>	<u>Use District Hereby</u>	
<u>Block/Lot</u>	<u>To Be Superseded</u>	<u>Approved</u>	<u>Zoning Map Sheet</u>
13 3509002	SLR	RCD	7
14 3509003	SLR	RCD	7
14 3509004	SLR	RCD	7
15 3509005	SLR	RCD	7
15 3509007	SLR	RCD	7
16 3509008	SLR	RCD	7
16 3509008A	SLR	RCD	7
17 3509009	SLR	WMUG	7
18 3509010	SLR	WMUG	7
18 3509011	SLR	RCD	7
19 3509014	SLR	RCD	7
19 3509015	SLR	RCD	7
20 3509015A	SLR	RCD	7
20 3509015B	SLR	RCD	7
21 3509015C	SLR	RCD	7
22 3509020	SLR	RED-MX	7
22 3509021	SLR	RED-MX	7
23 3509022	SLR	RED-MX	7
23 3509024	SLR	RED-MX	7
24 3509025	SLR	RED-MX	7
24 3509026	SLR	RED-MX	7
25 3509027	SLR	RED-MX	7


Supervisor Kim
BOARD OF SUPERVISORS

1	3760140	SLI	SALI	1
	3760141	SLI	SALI	1
2	3761002	SLI	SALI	1
	3761005C	SLI	SALI	1
3	3761006	SLI	SALI	1
4	3761007	SLI	SALI	1
	3761064	SLI	SALI	1
5	3777005	SLI	RED	1
6	3777007	SLI	RED	1
	3777009	SLI	RED	1
7	3777011	SLI	SALI	1
	3777013	SLI	RED	1
8	3777023	SLI	RED	1
	3777024	SLI	RED	1
9	3777025	SLI	RED	1
10	3777026	SLI	RED	1
	3777027	SLI	RED	1
11	3777028	SLI	SALI	1
	3777029	SLI	SALI	1
12	3777035	SLI	SALI	1
	3777036	SLI	SALI	1
13	3777037	SLI	SALI	1
14	3777042	SLI	SALI	1
	3777044	SLI	SALI	1
15	3777045	SLI	SALI	1
	3777047	SLI	SALI	1
16	3777048	SLI	SALI	1
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	3777050	SLI	SALI	1
18	3777051	SLI	SALI	1
	3777054	SLI	SALI	1
19	3777055	SLI	SALI	1
	3777056	SLI	RED	1
20	3777057	SLI	RED	1
21	3777058	SLI	RED	1
	3777059	SLI	RED	1
22	3777060	SLI	RED	1
	3777061	SLI	RED	1
23	3777062	SLI	RED	1
	3777063	SLI	RED	1
24	3777064	SLI	RED	1
25	3777065	SLI	RED	1

1	3786238	65-X	65-BX	8
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2	3786240	65-X	65-BX	8
	3786241	65-X	65-BX	8
3	3786242	65-X	65-BX	8
	3786243	65-X	65-BX	8
4	3786244	65-X	65-BX	8
	3786245	65-X	65-BX	8
5	3786246	65-X	65-BX	8
	3786247	65-X	65-BX	8
6	3786248	65-X	65-BX	8
	3786249	65-X	65-BX	8
7	3786250	65-X	65-BX	8
	3786251	65-X	65-BX	8
8	3786252	65-X	65-BX	8
9				
	3786253	65-X	65-BX	8
10	3786254	65-X	65-BX	8
	3786255	65-X	65-BX	8
11	3786256	65-X	65-BX	8
	3786257	65-X	65-BX	8
12	3786258	65-X	65-BX	8
	3786259	65-X	65-BX	8
13	3786260	65-X	65-BX	8
	3786261	65-X	65-BX	8
14	3786262	65-X	65-BX	8
15				
16				

17 Section 4. Effective Date. This ordinance shall become effective 30 days from the
18 date of passage.

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22
23 By: 
24 ANDREA RUIZ-ESQUIDE
25 Deputy City Attorney

Supervisor Kim
BOARD OF SUPERVISORS



City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 130003

Date Passed: March 19, 2013

Ordinance amending Zoning Map Sheets ZN01, ZN07, ZN08, HT01, HT07, and HT08 to revise use districts and height and bulk districts within the Western South of Market Plan Area; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and Planning Code, Section 101.1.

February 25, 2013 Land Use and Economic Development Committee - AMENDED

February 25, 2013 Land Use and Economic Development Committee - CONTINUED AS AMENDED

March 04, 2013 Land Use and Economic Development Committee - REFERRED WITHOUT RECOMMENDATION

March 12, 2013 Board of Supervisors - PASSED ON FIRST READING

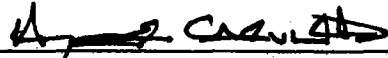
Ayes: 10 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang and Yee
Noes: 1 - Wiener

March 19, 2013 Board of Supervisors - FINALLY PASSED


Ayes: 8 - Avalos, Breed, Campos, Chiu, Cohen, Kim, Mar and Tang
Noes: 1 - Wiener
Excused: 2 - Farrell and Yee

File No. 130003

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
3/19/2013 by the Board of Supervisors of the
City and County of San Francisco.



Angela Calvillo
Clerk of the Board


Mayor
Date Approved



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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Planning Commission Motion No. 17519

Hearing Date: December 13, 2007
Case No.: 2007.0929C
Project Address: 855 HARRISON STREET
Zoning: SLI (Service/Light Industrial)
30-X Height and Bulk District
Block/Lot: 3761/002
Project Sponsor: Sarah Owsowitz
Cox, Castle & Nicholson
555 California Street
San Francisco, CA 94104
Staff Contact: Michelle Glueckert – (415) 558-6543
michelle.glueckert@sfgov.org

ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303(c), 303(i), AND 803.6 OF THE PLANNING CODE TO ALLOW A FORMULA RETAIL USE (D.B.A. "TJ MAXX") WITHIN THE WESTERN SOMA SPECIAL USE DISTRICT, SLI (SERVICE/LIGHT INDUSTRIAL) ZONING DISTRICT, AND A 30-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On August 16, 2007, Sarah Owsowitz, authorized agent for TJ Maxx (hereinafter "Project Sponsor"), filed an application with the San Francisco Planning Department (hereinafter "Department") for Conditional Use authorization under Planning Code Sections 303(c), 303(i), and 803.6 to allow a formula retail use (d.b.a. "TJ Maxx") within the Western SOMA Special Use District, SLI (Service/Light Industrial) Zoning District, and 30 -X Height and Bulk District.

On December 13, 2007, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.0929C.

The Project was determined by the Department to be categorically exempt from environmental review. The Commission has reviewed and concurs with said determination.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2007.0929C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description.** The project site is located on the southeastern side of Harrison Street, between 4th Street and 5th Street, Lot 002 in Assessor's Block 3761, within the Western SoMA Special Use District, an SLI (Service/Light Industrial) Zoning District and a 30-X Height and Bulk District. The property is developed with one commercial use and one office use within a two-story, approximately 29-foot tall building. The ground floor of the commercial space is developed with Staples, currently a formula retail office supply store. The subject property maintains approximately 345 feet of frontage on Harrison Street and is bordered on all sides by State property. The parcel between the subject property at the intersection of 5th Street and Harrison Street is owned and operated by Caltrans, with whom the Project Sponsor has a parking agreement, pending the Conditional Use authorization.
3. **Surrounding Neighborhood.** The project is located on the southeastern side of Harrison Street, between 4th Street and 5th Street. To the northwest is Harrison Street and to the southeast is Highway 80. The neighborhood is defined by a mix of uses, including a grocery store, gas station, housing, offices, and light industrial uses such as printing shops and automobile repair and rental facilities. The surrounding properties are located within the SLI (Service/Light Industrial), RSD (Residential/Service Mixed Use), and P (Public) Districts.
4. **Project Description.** The applicant proposes to change the existing formula retail use (d.b.a. "Staples") to a new formula retail use (d.b.a. "TJ Maxx"). The commercial space has been used as Staples since 2003. Prior to Staples occupying the building, Office Club, also a retail office supply establishment, occupied the tenant space for approximately 15 years. A building permit for tenant improvements, Building Permit No. 2007.05.25.2351, proposes to convert Staples to the TJ Maxx. The commercial space is approximately 20,700 square feet in size. The proposal includes tenant improvements to the Harrison Street façade, including the addition of display windows and a new street entrance to the retail use. The existing commercial space would not be enlarged.

The proposed use is a Formula Retail use. The proposal requires a change of use, and Section 312 Neighborhood Notification was conducted in conjunction with the Conditional Use authorization process. The proposed use is a neighborhood-serving use.

The proposed operation will consist of up to 90 employees. TJ Maxx is committed to participating in a formalized local resident job hiring program and plans to conduct outreach to organizations within the Western SoMa neighborhood, including the Filipino Education Center, the South of Market Employment Center, and Episcopal Community Services. The goal is to provide employment to neighborhood residents.

The subject site is served by public transit, accessible via Muni lines 47, 19, and 30.

5. **Past History and Actions.** The subject building was constructed in 1955 as a two-story building with both office and commercial uses. In 1988, the space was approved for a wholesale retail use (d.b.a. "Office Club"). In 2003, the retail space was taken over by Staples, who currently operates the building.
6. **Public Comment.** The Department has received comments from the Western SOMA Citizens Planning Task Force, expressing concerns with the proposal, related to the pedestrian nature of the use, landscaping, open space, and jobs. The Task Force recommends that TJ Maxx propose a store entrance directly from the Harrison Street sidewalk, that more trees and vegetation be included in the proposal, an inclusion of publicly accessible open space, and that TJ Maxx participate in a local job training program.
7. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Formula Retail Use.** Planning Code Section 803.6 states that Conditional Use authorization is required for a new Formula Retail Use, as defined by Planning Code Section 803.6(b).

The proposal is to change the existing formula retail use (d.b.a. "Staples") to a new formula retail use (d.b.a. "TJ Maxx").
 - B. **Parking.** Planning Section 151 requires off-street parking for every 500 square-feet of occupied floor area up to 20,000, where the occupied floor area exceeds 5,000 square-feet, plus one off-street parking space for each 250 square feet of occupied floor area in excess of 20,000 square feet.

The Subject Property contains approximately 20,700 square-feet of occupied floor area and will thus require 43 off-street parking spaces. The parking lot includes the subject parcel and an adjoining parcel owned and operated by Caltrans. Upon Conditional Use authorization, Caltrans will allow a new lease for their parking spaces with TJ Maxx, for a total of 43 parking spaces to be provided on both lots.
 - C. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department.

- D. **Street Trees.** The portion of Harrison Street directly in front of the subject property is subject to a street-tree planting program through the Department of Public Works. As such, street trees have already been planted along the public right of way in front of 855 Harrison Street. No additional street trees are required, and none are proposed.
- E. **Landscaping.** The Planning Code does not set forth a landscaping requirement for this project. However, the proposal is to add landscaping to the parking lot in the form of planter boxes, and to increase the amount of vines along the chain link fence that separates the parking lot from the sidewalk and from the 5th Street Highway 80 off-ramp.
8. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:
- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

TJ Maxx will sell apparel for men, women and children, as well as home furnishings (excluding furniture) at off-price. The retail use will occupy a building currently occupied by Staples, an office supply retail store. The size and intensity of the proposed use will be equal to that of the existing use, as no expansion to the building envelope is proposed. The Western SoMa neighborhood is currently underserved by this type of retail use.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working in the area, in that:
- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The Project Sponsor proposes to make exterior alterations to the existing building at 855 Harrison Street. These changes, in addition to identifying the store through signage, are all aimed at ensuring that the building and building site are convenient and welcoming to persons residing or working in the vicinity. By adding display windows to the Harrison Street elevation and opening access to the store directly from Harrison Street, the proposal will help to activate the street front and will provide for a better pedestrian experience.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The 855 Harrison Street site is currently served by 43 off-street parking spaces and one loading space. The proposal will not expand the existing amount of off-street parking. The Project Sponsor does propose to alter the Harrison Street elevation in order to provide access to the store from

Harrison Street, which will enable pedestrians to enter the retail space directly from the sidewalk to avoid automobiles entering and exiting the premises. This will serve to increase pedestrian safety.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The TJ Maxx will not result in noxious or offensive emissions such as noise, glare, dust, or odor.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

TJ Maxx will include several identifying signs as well as a new set of display windows along Harrison Street to activate the street frontage. Appropriate lighting for the off-street parking spaces and the loading area already exists on the site. Landscaping will be provided in the parking lot in the form of planter boxes, and vines will be planted along the chain-link fence to screen the parking from the sidewalk and the 5th Street Highway-80 off-ramp.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The proposed formula retail use complies with all applicable provisions of the Planning Code and will not adversely affect the General Plan. Furthermore, TJ Maxx is consistent with the mixture of uses recommended in the South of Market Plan, which calls for industrial, artisan, home and business service, and neighborhood-serving retail and community service activities.

- 9. **Planning Code Section 303(i)** establishes the following criteria for the Planning Commission to consider when reviewing Formula Retail Use applications for Conditional Use approval.

- A. The existing concentrations of formula retail uses within the neighborhood commercial district.

There are two formula retail uses in the immediate vicinity of 855 Harrison Street. All-Star Donuts is located approximately 300-feet away from the subject property at the intersection of 5th Street and Harrison Street, at 399 5th Street. A Whole Foods grocery store is located approximately 300-feet away from the subject property at the intersection of 4th Street and Harrison Street, at 399 4th Street.

- B. The availability of other similar retail uses within the neighborhood commercial district.

There are no other stores selling both apparel and home furnishings at off-price within a two-block radius of 855 Harrison Street. There is a Burlington Coat Factory at 899 Howard Street, at the intersection of 5th Street and Howard Street, which sells apparel but not home furnishings.

- C. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the neighborhood commercial district.

TJ Maxx will occupy an existing structure, whose architecture is generally consistent with that of other buildings in the neighborhood. The proposal will include some modifications to the existing Harrison Street façade, by including display windows at the pedestrian level and direct pedestrian access to the retail space from the sidewalk.

- D. The existing retail vacancy rates within the neighborhood commercial district.

TJ Maxx will occupy an existing retail space.

- E. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the neighborhood commercial district.

TJ Maxx will sell apparel for men, women, and children as well as home furnishings at off-price. The goods sold by TJ Maxx are likely to be needed to satisfy basic personal and household needs of Western SoMa residents. Additionally, the Western SoMa neighborhood is currently underserved by retailers selling both apparel and home furnishings at off-price.

10. **Formula Retail Use Policies for Western SoMa Special Use District.** The Project is consistent with the Formula Retail Use Policies in that:

- A. Size of New Formula Retail Uses.

- i. Discourage large out-of-scale formula retail uses in proximity to smaller existing retail uses.

There are few retail uses in the immediate vicinity of 855 Harrison Street, as the block is predominantly characterized by service and light industrial uses. The proposed TJ Maxx will not be in close proximity to smaller existing retail uses. The site is bound by Highway 80 to the southeast and Harrison Street to the northwest. The 4th Street Highway 80 on-ramp is to the northeast of the site, and the 5th Street Highway 80 off-ramp is located to the southwest.

- ii. Ensure sufficient separation of new formula retail uses and avoid clustering of formula retail uses.

There are no other formula retail uses adjacent to or on the same block as 855 Harrison Street, as the block is essentially bound on all sides by roads. The proposal will not create a clustering of formula retail uses.

- B. Use Types.

- i. Discourage single stand-alone formula retail uses.

The existing structure on the subject property is currently occupied by a stand-alone formula retail use. The proposal will not intensify this use as no expansion to the existing building envelope is proposed.

- ii. Encourage the integration of pedestrian-friendly, publicly accessible open space into new developments that include formula retail uses.

TJ Maxx will occupy an existing site that was not constructed to accommodate publicly accessible open space. However, the Project Sponsor is proposing modifications to the existing building which will enhance the pedestrian experience along Harrison Street. Additionally, street trees have already been planted by the Department of Public Works.

- iii. Discourage drive-through formula retail uses.

The proposal does not include a drive-through use.

C. Location of New Formula Retail Uses.

- i. Discourage auto-oriented formula retail uses north of Highway 80.

The proposal will continue to provide the existing 43 off-street parking spaces as required by Planning Code Section 151. No expansion of the existing off-street parking is proposed. The site is bound on all sides by roads with heavy traffic, including Harrison Street and Highway 80. The location of the site itself presents constraints to pedestrian safety and is not currently a pedestrian-friendly location. The proposal will not intensify the auto-oriented use and includes some modification to the existing site to improve the pedestrian experience.

- ii. Discourage auto-oriented formula retail uses in heavily used pedestrian areas (e.g., near schools and parks) or in proximity to existing clusters of residential uses;

As the site is bound on all sides by roads, the area is not heavily used by pedestrians. However, in order to provide a level of pedestrian activity at the site, the proposal will include the addition of display windows along Harrison Street as well as direct pedestrian entry into the retail space from the Harrison Street sidewalk, to safely draw pedestrians into the retail space.

- iii. Encourage pedestrian-oriented formula retail uses in proximity of existing residential populations.

There are minimal residential uses along the block of Harrison Street between 4th Street and 5th Street, although there is a large residential building at the corner of Harrison and 4th Streets. The proposal will include the addition of display windows along Harrison Street to activate the streetscape as well as direct pedestrian entry into the retail space from Harrison Street.

D. Other Considerations for New Formula Retail Uses.

- i. Minimize multiple automobile curb cuts.

The proposal does not include the addition of automobile curb cuts to the project site. Currently, there is one curb cut to allow ingress and egress to the parking lot. This curb cut will be retained.

- ii. Encourage a mix of uses and discourage the sole use of a development site by formula retail uses and their required parking (especially when required parking is provided in a surface parking lot).

The proposal is a change of use from one formula retail use to another formula retail use. The proposal will not intensify the existing use and does not propose an expansion of the existing building envelope.

- iii. Discourage formula retail uses that would lead to double parking.

The Project Sponsor does not anticipate that double parking would occur. The parking lot will maintain 43 off-street parking spaces. Additionally, there is short-term on-street parking along Harrison Street that may be used for additional parking by store patrons.

- iv. Provide street entrances to new retail uses and discourage any development proposals that provide retail entrances exclusively from required or non-required parking areas.

The Project Sponsor originally considered proposing a new street entrance. The site is constrained by a ground level that is three feet above the sidewalk level. The existing building has been built to the front property line and the sidewalk along Harrison Street is too narrow to provide an entryway in the public right-of-way. In order to provide a street entrance from Harrison Street, the Project Sponsor would be required to provide interior stairs and ADA-accessible ramps inside the store to meet current Building Code requirements. The Project Sponsor determined that the addition of this interior system of stairs and ramps would require them to reconfigure their interior space significantly, to a point where they would no longer be able to conduct their business due to the layout options of the existing retail space. Thus, the original proposal was to create a new side access point from the Harrison Street sidewalk to connect pedestrians to the store entrance via the sidewalk, as opposed to directly from the parking lot.

Taking into consideration the constraints mentioned above, the Planning Department recently developed an option for enclosing the existing entrance and providing a door directly onto the Harrison Street sidewalk that would serve as the main retail entrance. This would allow for ADA-accessibility without removing any existing retail space. The Project Sponsor is considering this option and will present a modified proposal at the hearing.

- v. Preferences should be given to formula retail uses that willingly participate in formalized local resident job hiring programs.

The Project Sponsor will participate in a formalized local resident job hiring program. Their outreach will include schools and centers within SoMa and Western SoMa areas, specifically including Filipino Education Center, South of Market Employment Center, and Episcopal Community Services.

11. **General Plan Compliance.** The Project is consistent with the Objectives and Policies of the General Plan in that:

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

TJ Maxx will occupy an existing retail space. The proposed development will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. The proposal will not intensify the use of the building, as no expansion to the existing building envelope is proposed. The proposal includes modifications to the existing building and site which will serve to improve the pedestrian experience along Harrison Street.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The Project will retain an existing commercial activity and will enhance the diverse economic base of the City. TJ Maxx will provide goods that are not readily available throughout the Western SoMa neighborhood.

OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

The project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

12. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

TJ Maxx will sell apparel for men, women, and children, as well as goods for the home at off-price. The goods sold by TJ Maxx are likely to satisfy basic personal and household needs of Western SoMa residents. Additionally, the Western SoMa neighborhood is generally underserved by this type of retail use.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The TJ Maxx will occupy an existing retail space and will not result in a change in the existing housing or neighborhood character of the Western SoMa neighborhood.

- C. That the City's supply of affordable housing be preserved and enhanced,

TJ Maxx will occupy an existing retail space and will not result in a change to the City's supply of affordable housing.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The proposal will provide adequate off-street parking so as to not place a burden on available neighborhood parking. Furthermore, the TJ Maxx will provide direct pedestrian access to the store, to encourage pedestrian usage of the store.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The TJ Maxx will occupy an existing retail space and will not result in the development of commercial office space in an industrial or service sector-serving site.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

TJ Maxx will occupy an existing structure and will not impede the City's preparedness to protect against injury and loss of life in an earthquake.

- G. That landmarks and historic buildings be preserved.

There are no landmark or historic buildings on the Project site.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The project will have no negative impact on existing parks and open spaces, as only minor alterations to the existing structure are proposed.

13. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
14. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2007.0929C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17519. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on December 13, 2007.

Linda Avery
Commission Secretary

AYES: Commissioners Alexander, Antonini, S. Lee, W. Lee, Moore, Olague and Sugaya

NAYS: None

ABSENT: None

ADOPTED: December 13, 2007

Exhibit A

Conditions of Approval

1. This authorization is for Conditional Use authorization under Planning Code Sections 303(c), 303(i), and 803.6, to allow a new formula retail use (d.b.a. "TJ Maxx") within the SLI (Service/Light Industrial) Zoning District and a 30-X Height and Bulk District, in general conformance with plans filed with the Application as received on August 16, 2007 and stamped "EXHIBIT B" included in the docket for Case No. 2007.0929C, reviewed and approved by the Commission on December 13, 2007.
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco for the premises (Assessor's Block 3761, Lot 002), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
3. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Planning Code Section 176.
4. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
5. The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
6. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
7. The Project Sponsor will continue to work with Planning Department staff to design display windows along Harrison Street.
8. Project Sponsor will work with the Western SOMA Citizens Planning Task Force to design a proposal that meets the Formula Retail Use Policies for Western SoMa Special Use District.
9. The Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone

number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.

10. Refuse containers shall be provided both inside and outside the establishment for use by patrons of the retail use. The operator of the use shall be responsible for maintaining the sidewalk within a one-block radius of the site free of paper or litter generated by the retail use.
11. An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.
12. The Project Sponsor shall assure the execution and recordation of the specified conditions as a Notice of Special Restrictions at the Office of the County Recorder / County Clerk.
13. The Planning Commission may, in a public hearing, consider the revocation of this conditional use authorization if a site or building permit has not been issued within three (3) years of the date of the Motion approving the project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued thenceforth diligently to completion. The Commission may also consider revoking this conditional use authorization if a permit for the project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a City, state or federal agency or by appeal of the issuance of such permit.

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not think for filing only

DEPARTMENT OF PUBLIC WORKS BLDG. FORM BUILDING INSPECTION CENTRAL PERMIT BUREAU

1

APPLICATION FOR BUILDING PERMIT FOR TYPE 1-2-3-4 STRUCTURES

BUILDING NOT TO BE OCCUPIED UNTIL CERTIFICATE OF FINAL COMPLETION IS POSTED ON THE BUILDING

September 8 1954

Application is hereby made to the Department of Public Works of the City and County of San Francisco for permission to build in accordance with the plans and specifications submitted herewith and according to the description and for the purpose hereinafter set forth:

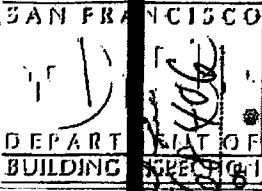
- (1) Location of Lot... (2) Type of building... (3) Total cost... (4) Use of building... (5) Occupancy... (6) Note: Sect. 105, S.F. Bldg. Code... (7) Size of lot... (8) Ground floor area... (9) Any other building on lot... (10) Is building designed for any more stories... (11) Design live load for floor...

Note: Sect. 2215, S. F. Building Code. "The full live load for which each floor or part of a floor in a commercial or industrial structure is designed shall be indicated on the drawings filed with the application and also be indicated on a small scale floor plan suitably framed under glass and permanently affixed to the structure and maintained in a conspicuous location in a public hall or corridor on each floor, etc."

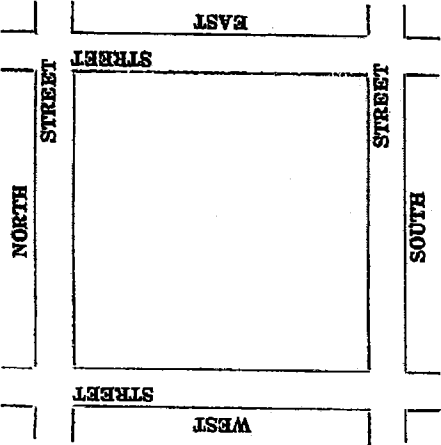
- (12) Supervision of construction by... (13) General contractor... (14) Architect... (15) Engineer... (16) I hereby certify and agree that if a permit is issued for the construction described in this application, all the provisions of the permit, and all the laws and ordinances applicable thereto will be complied with... (17) Owner...

By... [Signature] Address 16th & Kansas Sts., San Francisco Owner's Authorized Agent to be Owner's Authorized Architect, Engineer or General Contractor

PERMIT OF OCCUPANCY MUST BE OBTAINED ON COMPLETION OF HOTEL OR APARTMENT HOUSE PURSUANT TO SECT. 808, SAN FRANCISCO BUILDING CODE. No portion of building or structure, or scaffolding used during construction, to be closer than 8'-0" to any wire containing more than 750 volts; see Sec. 385, Calif. Penal Code.



Grade lines as shown on drawings accompanying this application are assumed to be correct. If actual grade lines are not the same as shown revised drawings showing correct grade lines, cuts and fills together with complete details of retaining walls and wall footings required must be submitted to this Bureau for approval.



BLDG. FORM No. 1 APPLICATION FOR PERMIT TO ERECT
Owner: 855 Harrison St.

Type: 3 (1, 2, 3, 4) STRUCTURE
Location: South side of Harrison Street
240 ft. west of Fourth Street,
San Francisco, California
Total Cost: \$-250-000-00 \$ 250,000.00 C.H.Q.
Filed: September 8 195 k
Approved:

Superintendent, Bureau of Building Inspection
Permit No. _____
Issued _____ 195
Certificate of Final Completion:
Issued _____ 195

Approved: _____
Zone: 1. I
CPC Setback: _____
Department of City Planning
Mr. Bill [Signature]
Approved: _____
Structural Engineer, Bureau of Building Inspection
[Signature]
Approved: _____

Department of Public Health
Approved: _____

Department of Fire Prevention & Public Safety
Ho [Signature]
Approved: _____
Bureau of Engineering
Approved: _____
Art Commission
Approved: _____

Approved: _____
Zone: _____
CPC Setback: _____
Department of City Planning
[Signature]
Approved: _____
who does not constitute an approval of building plans.

Department of Fire Prevention & Public Safety
Ho [Signature]
Approved: _____
For pricing only. This does not constitute or imply approval of the proposed bldg.
Bureau of Building Inspection
[Signature]

Lot No. _____
Assessor's Block No. _____
Workmen's Compensation Insurance Policy or Certificate on file with Central Policy Bureau
No Workmen's Compensation Insurance Policy or Certificate on file
excluded discharged
(a) No one to be employed
(b) Employment labor only to be employed
(c) Services or labor to be performed in return for aid or assistance only, received from any religious, charitable or relief organization

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SAN FRANCISCO

CENTRAL PERMIT BUREAU FORM

DEPARTMENT OF PUBLIC WORKS
BLDG. FORM
BUILDING INSPECTION

3

Write in Ink—File Two Copies

CITY AND COUNTY OF SAN FRANCISCO

CENTRAL PERMIT BUREAU

APPLICATION FOR BUILDING PERMIT
ADDITIONS, ALTERATIONS OR REPAIRS

May 9 1955

Application is hereby made to the Department of Public Works of San Francisco for permission to build in accordance with the plans and specifications submitted herewith and according to the description and for the purpose hereinafter set forth:

- (1) Location 855 Harrison Street, San Francisco, California
- (2) Total Cost \$5,000.00 (3) No. of stories One (4) Basement No
Yes or No
- (5) Present use of building Warehouse and Office (6) No. of families _____
- (7) Proposed use of building Warehouse and Office (8) No. of families _____
- (9) Type of construction Three (10) 16
1, 2, 3, 4, or 5 Building Code Occupancy Classification
- (11) Any other building on lot No (Must be shown on plot plan if answer is Yes.)
Yes or No
- (12) Does this alteration create an additional floor of occupancy No
Yes or No
- (13) Does this alteration create an additional story to the building No
Yes or No
- (14) Electrical work to be performed Yes Plumbing work to be performed No
Yes or No Yes or No
- (15) Ground floor area of building 26,800 sq. ft. (16) Height of building 36 ft.
- (17) Detailed description of work to be done _____

Addition of Cold Room approximately 60' x 27' in Warehouse area for storing packaged candy.

(18) No portion of building or structure or scaffolding used during construction, to be closer than 6'0" to any wire containing more than 750 volts. See Sec. 385, California Penal Code.

(19) Supervision of construction by Nathan Karp Address 918 Harrison St., S.F.

(20) General contractor HILP & RHODES California License No. 142162
Address 16th & Kansas Streets, San Francisco, California

(21) Architect _____ California Certificate No. _____
Address _____

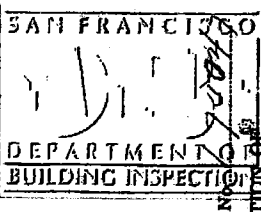
(22) Engineer Nathan Karp California Certificate No. 687 Str
Address 918 Harrison Street, San Francisco, California

(23) I hereby certify and agree that if a permit is issued for the construction described in this application, all the provisions of the permit and all laws and ordinances applicable thereto will be complied with. I further agree to save San Francisco and its officials and employees harmless from all costs and damages which may accrue from use or occupancy of the sidewalk, street or subsidewalk space or from anything else in connection with the work included in the permit. The foregoing covenant shall be binding upon the owner of said property, the applicant, their heirs, successors and assigns.

(24) Owner Glaser Bros. (Phone GA 1-7010)
(For Contact by Bureau)
Address 855 Harrison Street, San Francisco, California

By Nathan Karp Address 16th & Kansas Sts., San Francisco
Owner's Authorized Agent to be Owner's Authorized Architect, Engineer or General Contractor.

OFFICIAL COPY



BLDG. FORM

3 APPLICATION

Glaser Bros. Owner

FOR PERMIT TO MAKE ADDITIONS, ALTERATIONS or REPAIRS TO BUILDING

Location 855 Harrison Street

San Francisco, California

Total Cost \$5,000.00

MAY 10 1955

Filed 1955

Approved: [Signature]

Superintendent Bureau of Building Inspection

Permit No. 156634

MAY 19 1955

Issued 1955

REFER TO:

- Bureau of Engineering
 - BBI Struct. Engineer
 - Boiler Inspector
 - Art Commission
 - Dept. of Public Health
- Approved 5-10 1955

Approved:

Department of Public Health

Approved:

Electrical Inspector

Approved:

Art Commission

Approved:

Boiler Inspector

Approved:

Approved:

Zone 5-1
EPC Setback
[Signature]
Department of City Planning

Approved:

[Signature]
Bureau of Fire Prevention & Public Safety

Approved:

5/18/55 [Signature]
Structural Engineer, Bureau of Building Inspection

Building Inspector, Bureau of Building Inspection

I agree to comply with all conditions or stipulations of the various Bureaus or Departments noted herein.

Owner's Authorized Agent

Bureau of Engineering

OFFICIAL COPY



CENTRAL PERMIT BUREAU FORM

Write in Ink—File Two Copies

CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT OF PUBLIC WORKS
BLDG. FORM

CENTRAL PERMIT BUREAU

APPLICATION FOR BUILDING PERMIT
ADDITIONS, ALTERATIONS OR REPAIRS

3

March 14 1962

Application is hereby made to the Department of Public Works of San Francisco for permission to build in accordance with the plans and specifications submitted herewith and according to the description and for the purpose hereinafter set forth:

- (1) Location 855 Harrison St.
- (2) Total Cost \$ 1455.00 (3) No. of stories 1 (4) Basement No
Yes or No
- (5) Present use of building Warehouse and office (6) No. of families No
- (7) Proposed use of building Office (8) No. of families No
- (9) Type of construction Concrete + Wood (10) Building Code Occupancy Classification
1, 2, 3, 4, or 5
- (11) Any other building on lot No (Must be shown on plot plan if answer is Yes.)
Yes or No
- (12) Does this alteration create an additional floor of occupancy No
Yes or No
- (13) Does this alteration create an additional story to the building No
Yes or No
- (14) Electrical work to be performed No Plumbing work to be performed No
Yes or No Yes or No
- (15) Ground floor area of building _____ sq. ft. (16) Height of building _____ ft.
- (17) Detailed description of work to be done Wood partition in existing and
billing office
Studs 4"
Plywood on two sides
7 Glass openings
1 - Sub door

(18) No portion of building or structure or scaffolding used during construction, to be closer than 6'0" to any wire containing more than 750 volts. See Sec. 385, California Penal Code.

(19) Supervision of construction by J. L. Gutleben Address 817-75th Ave Oakland

(20) General contractor Underground Construction Co California License No. _____
Address 817 75th Ave Oakland Calif.

(21) Architect H.A.C. California Certificate No. _____
Address _____

(22) Engineer H.A.C. California Certificate No. _____
Address _____

(23) I hereby certify and agree that if a permit is issued for the construction described in this application, all the provisions of the permit and all laws and ordinances applicable thereto will be complied with. I further agree to save San Francisco and its officials and employees harmless from all costs and damages which may accrue from use or occupancy of the sidewalk, street or subsidewalk space or from anything else in connection with the work included in the permit. The foregoing covenant shall be binding upon the owner of said property, the applicant, their heirs, successors and assignees.

(24) Owner Wesley Bras (Phone _____)
(For Contact by Bureau)
Address 855 Harrison St San Francisco

By J. L. Gutleben Address 817-75th Ave Oakland Calif.
Owner's Authorized Agent to be Owner's Authorized Architect, Engineer or General Contractor.

PERMIT OF OCCUPANCY MUST BE OBTAINED ON COMPLETION OF HOTEL OR APARTMENT HOUSE PURSUANT TO SEC. 808 SAN FRANCISCO BUILDING CODE.

due to the quality of the original.

OFFICIAL COPY

SAN FRANCISCO
DEPARTMENT OF
BUILDING INSPECTION

BLDG. FORM
3 APPLICATION OF
No. 2-339

FOR PERMIT TO MAKE
ADDITIONS, ALTERATIONS or REPAIRS
TO BUILDING

Owner
Blanca Lopez

Location 855 Harrison St.

San Francisco, Calif.

Total Cost \$ 14,550.00

Filed 19

Approved:

APPROVED
A
Dept. Public Works

MAR 27 1960

Paul C. Gray
Superintendent, Bureau of Building Inspection

Superintendent, Bureau of Building Inspection

Permit No. 204016

Issued 3/22/60

due to the quality of the original.

REFER TO:
Bureau of Engineering
BBI Struct. Engineer
Boiler Inspector
Art Commission
Dept. of Public Health

Approved 3/17 1960

1- No record permitted on side.

Approved:
Department of Public Health

Approved:
Department of Electricity

Approved:
Art Commission

Approved:
Boiler Inspector

Workman's Compensation Insurance Policy or Certificate filed with Central Permit Bureau
No Workman's Compensation Insurance Policy or Certificate on file for reason of exclusion checked:
(a) No one to be employed
(b) Casual labor only to be employed
(c) Services or labor to be performed in return for aid or sustenance only, received from any religious, charitable or relief organization

Approved:
Zone 1
CPC Setback

Approved:
Department of City Planning

Approved:
Bureau of Fire Prevention & Public Safety

Approved:
Structural Engineer, Bureau Building Inspection

Approved:
Bureau of Engineering

Building Inspector, Bureau of Building Inspection
I agree to comply with all conditions or stipulations of the various Bureaus or Departments noted hereon.
Paul C. Gray
OWNER OR Owner's Authorized Agent

OFFICIAL COPY

DEPARTMENT OF PUBLIC WORKS
BUILDING INSPECTION

DEPARTMENT OF PUBLIC WORKS
BLDG. FORM

3

Write in Ink—File Two Copies
CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT OF PUBLIC WORKS

RECEIVED

CENTRAL PERMIT BUREAU
1960 OCT 3 PM 2:10

APPLICATION FOR BUILDING PERMIT
ADDITIONS, ALTERATIONS OR REPAIRS

SEPT 30 1960

Application is hereby made to the Department of Public Works of San Francisco for permission to build in accordance with the plans and specifications submitted herewith and according to the description and for the purpose hereinafter set forth:

(1) Location B55 HARRISON ST. SAN FRANCISCO

(2) Total Cost \$ 3700.00 (3) No. of stories 1 (4) Basement No

(5) Present use of building OFFICE & WAREHOUSE (6) No. of families —

(7) Proposed use of building OFFICE & WAREHOUSE (8) No. of families —

(9) Type of construction 3N (10) 16

(11) Any other building on lot No (Must be shown on plot plan if answer is Yes.)
Yes or No

(12) Does this alteration create an additional floor of occupancy No
Yes or No

(13) Does this alteration create an additional story to the building No
Yes or No

(14) Electrical work to be performed YES Plumbing work to be performed No
Yes or No Yes or No

(15) Ground floor area of building — sq. ft. (16) Height of building — ft.

(17) Detailed description of work to be done REMOVE SECTION OF FIXTURE WHERE 11' WALLS INTERFERE, INSTALL OBSCURE GLASS, INSTALL RUBBER BALK AND FLOOR TILE TO MATCH EXISTING, WALLS TO RECEIVE 1/2" SHEETROCK BOTH SIDES, INSTALL LATCH SETS

201 Blount St

(18) No portion of building or structure or scaffolding used during construction, to be closer than 6' to any wire containing more than 750 volts. See Sec. 385, California Penal Code.

(19) Supervision of construction by OWNER Address —

(20) General contractor UNDERGROUND CONCRETE Co. California License No. 171655
Address 807 75th AVE OAKLAND

(21) Architect — California Certificate No. —
Address —

(22) Engineer — California Certificate No. —
Address —

(23) I hereby certify and agree that if a permit is issued for the construction described in this application, all the provisions of the permit and all laws and ordinances applicable thereto will be complied with. I further agree to save San Francisco and its officials and employees harmless from all costs and damages which may accrue from use or occupancy of the sidewalk, street or subwalk space or from anything else in connection with the work included in the permit. The foregoing covenant shall be binding upon the owner of said property, the applicant, their heirs, successors and assigns.

(24) Owner GLAZER BROS (Phone —)
Address B55 HARRISON ST. SAN FRANCISCO (For Contact by Bureau)

By J.R. Peters Address 807-75th AVE OAKLAND
Owner's Authorized Agent to be Owner's Authorized Architect, Engineer or General Contractor.

PERMIT OF OCCUPANCY MUST BE OBTAINED ON COMPLETION OF HOTEL OR APARTMENT HOUSE PURSUANT TO SEC. 808 SAN FRANCISCO BUILDING CODE.

due to the quality of the original

Due to the quality of the original...

DEPARTMENT OF
INSPECTION

BLDG. FORM

No. 241584

APPLICATION OF

GLAZER BOGS Owner

FOR PERMIT TO MAKE
ALTERATIONS, ADDITIONS OR REPAIRS
TO BUILDING

Location BSS HARBORVIEW

ST. SAN FRANCISCO

Total Cost \$ 3900.00

Filed SEP 17 1960

APPROVED
Dep. Public Works

0617-1960

Physician

Supervisor, Bureau of Building Inspection

Permit No. 215-774

Issued 10-10-60

REFER TO:

- Bureau of Engineering
- Bldg. Struct. Engng.
- Boiler Inspector
- Art Commission
- Dept. of Public Health

Approved D. F.

Approved:

M. I.
John J. ...
CPC Building

Approved:

10/6/60 M. ...
Department of City Planning

Approved:

Department of Public Health

Approved:

Department of Electricity

Approved:

Art Commission

Approved:

Boiler Inspector

Workman's Compensation Insurance
Policy or Certificate filed with Central
Permit Bureau

- (a) No one to be employed
- (b) Casual labor only to be employed
- (c) Services or labor to be performed in
return for aid or assistance only
received from any religious, char-
itable or relief organization

Quinn
Builder, Inspector, Bureau of Building Inspection

Permit to comply with all conditions or stipu-
lations of the various Bureaus or Departments
listed herein.
I, ... Owner or Owner's Authorized Agent

Bureau of Fire Prevention & Public Safety

Approved:

Structural Engineer, Bureau Building Inspection

Approved:

Bureau of Engineering

OFFICIAL COPY

SAN FRANCISCO

DEPARTMENT OF BUILDING INSPECTION

CENTRAL PERMIT BUREAU F485

Writes in Ink—File Two Copies

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS

BLDG. FORM

3

APPLICATION FOR BUILDING PERMIT
ADDITIONS, ALTERATIONS OR REPAIRS

CENTRAL PERMIT BUREAU

MAR 24 1970

3-24-70

Application is hereby made to the Department of Public Works of San Francisco for permission to build in accordance with the plans and specifications submitted herewith and according to the description and for the purpose hereinafter set forth:

- (1) Location 855 Harrison Street
- (2) Total Cost (\$) 55,000.00 (3) No. of Stories 2 (4) Basement or Cellar no
- (5) Present Use of building Office (6) No. of families yes or no
- (7) Proposed Use of building Office (8) No. of families yes or no
- (9) Type of construction 1, 2, 3, 4, or 5 (10) F-2
- (11) Any other building on lot no (must be shown on plot plan if answer is yes.) Proposed Building Code Classification F-2
- (12) Does this alteration create an additional story to the building? no
- (13) Does this alteration create a horizontal extension to the building? no
- (14) Does this alteration constitute a change of occupancy? no
- (15) Electrical work to be performed yes (16) Plumbing work to be performed yes
- (17) Automobile runway to be altered or installed no
- (18) Sidewalk over sub-sidewalk space to be repaired or altered no
- (19) Will street space be used during construction? no
- (20) Write in description of all work to be performed under this application:
(Reference to plans is not sufficient)
Alter office areas

APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS. A SEPARATE PERMIT FOR THE WIRING AND PLUMBING MUST BE OBTAINED.

- (21) Supervision of construction by LAMBERT & WELLS CON. CO., INC. Address 315-2nd St.
- (22) General Contractor LAMBERT & WELLS CON. CO., INC. California License No. 238073
Address 315-2nd St., 981-2633
- (23) Architect or Engineer California Certificate No.
(for design) Address California Certificate No.
- (24) Architect or Engineer California Certificate No.
(for construction) Address California Certificate No.

(25) I hereby certify and agree that if a permit is issued for the construction described in this application, all the provisions of the permit and all laws and ordinances applicable thereto will be complied with. I further agree to save San Francisco and its officials and employees harmless from all costs and damages which may accrue from use or occupancy of the sidewalk, street or sub-sidewalk space or from anything else in connection with the work included in the permit. This foregoing covenant shall be binding upon the owner of said property, the applicant, their heirs, successors and assigns.

(26) Owner Glaser Bros. (Phone 981 2633)
Address 855 Harrison Street
For contract by Bureau

By [Signature] Address 315 - 2nd Street
Agent to be Owner's Authorized Architect, Engineer or General Contractor.
CERTIFICATE OF FINAL COMPLETION AND/OR PERMIT OF OCCUPANCY MUST BE OBTAINED ON COMPLETION OF WORK OR ALTERATION INVOLVING AN ENLARGEMENT OF THE BUILDING OR A CHANGE OF OCCUPANCY PURSUANT TO SEC. 808 AND 809, SAN FRANCISCO BUILDING CODE, BEFORE BUILDING IS OCCUPIED.

Pursuant to Sec. 804, San Francisco Building Code, the building permit shall be posted on job. Owner is responsible for approved plans and application being kept at building site.

THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED.

OFFICIAL COPY

SAN FRANCISCO
DEPARTMENT OF
BUILDING INSPECTION

BLDG. FORM

3 APPLICATION OF

Glazer Bros Lease Owner

FOR PERMIT TO MAKE
ALTERATION OR REPAIRS
OF TO BUILDING COPY

Location 853 Harrison

Total Cost \$ 53,000
Filed 3/24/70
MAR 24 1970

APPROVED: 746/90

APPROVED
Dept. Public Works

Superintendent of Building Inspection

Permit No. 342547

APR - 6 1970

Issued 19

REFER TO:

- Bureau of Engineering
- Bldg. Inspector
- Art Commission
- Dept. of Public Health
- Dept. of Electricity
- Redevelopment Agency
- Parking Authority

Approved: 4/6
Provided the following conditions are complied with:

Approved: Department of Public Health

Approved: Department of Electricity

Approved: Art Commission

Approved: Boiler Inspector

Approved: Redevelopment Agency

Approved: Parking Authority

No portion of building or structure or scaffolding used during construction to be closer than 6' to any wire containing more than 750 volts. See Sec. 286 California Penal Code.

Approved: Bureau of Fire Prevention & Public Safety

Approved: Bureau of Engineering

Approved: Civil Engineer, Bureau of Building Inspection

Bureau of Engineering

Ben Weisb
Owner or Owner's Authorized Agent

Building Inspector, Bureau of Building Inspection

I agree to comply with all conditions or stipulations of the various Bureaus or Departments noted herein.

OFFICIAL COPY



CENTRAL PERMIT BUREAU Form 3

Write in Ink—File Two Copies

CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT OF PUBLIC WORKS
BLDG. FORM

CENTRAL PERMIT BUREAU

APPLICATION FOR BUILDING PERMIT
ADDITIONS, ALTERATIONS OR REPAIRS

3

April 22, 1970

Application is hereby made to the Department of Public Works of San Francisco for permission to build in accordance with the plans and specifications submitted herewith and according to the description and for the purpose hereinafter set forth:

- (1) Location.....855 Harrison Street
- (2) Total Cost (\$) 2,700.00 (3) No. of Stories..... 2 (4) Basement or Cellar..... NO
- (5) Present Use of building..... Business Units (6) No. of families..... yes or no
- (7) Proposed Use of building..... SAME (8) No. of families..... yes or no
- (9) Type of construction..... 3 (10)..... F.V
- (11) Any other building on lot..... NO (must be shown on plot plan if answer is yes.)
- (12) Does this alteration create an additional story to the building?..... NO
- (13) Does this alteration create a horizontal extension to the building?..... NO
- (14) Does this alteration constitute a change of occupancy..... NO
- (15) Electrical work to be performed..... NO (16) Plumbing work to be performed..... NO
- (17) Automobile runway to be altered or installed..... NO
- (18) Sidewalk over sub-sidewalk space to be repaired or altered..... NO
- (19) Will street space be used during construction?..... NO
- (20) Write in description of all work to be performed under this application:
(Reference to plans is not sufficient)
Fabricate & install Metal Stairs, as per drawings.

(Insp. Spears)

- (21) Supervision of construction by Mission Iron Works Address 410 Bayshore Bl.
- (22) General Contractor..... Same California License No. 252362
- (23) Architect or Engineer..... California Certificate No.
- (24) Architect or Engineer..... California Certificate No.
- (25) I hereby certify and agree that if a permit is issued for the construction described in this application, all the provisions of the permit and all laws and ordinances applicable thereto will be complied with. I further agree to save San Francisco and its officials and employees harmless from all costs and damages which may accrue from use or occupancy of the sidewalk, street or sub-sidewalk space or from anything else in connection with the work included in the permit. The foregoing covenant shall be binding upon the owner of said property, the applicant, their heirs, successors and assigns.
- (26) Owner..... Glaser Bros. (Phone YA. 6-5834)
- Address..... 855 Harrison Street

By Mission Iron Works Address 410 Bayshore Blvd.

CERTIFICATE OF FINAL COMPLETION AND/OR PERMIT OF OCCUPANCY MUST BE OBTAINED ON COMPLETION OF WORK OR ALTERATION INVOLVING AN ENLARGEMENT OF THE BUILDING OR A CHANGE OF OCCUPANCY PURSUANT TO SEC. 808 AND 809, SAN FRANCISCO BUILDING CODE, BEFORE BUILDING IS OCCUPIED.

Pursuant to Sec. 804, San Francisco Building Code, the building permit shall be posted on job. Owner is responsible for approved plans and application being kept at building site.

APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS. A SEPARATE PERMIT FOR THE WIRING AND PLUMBING MUST BE OBTAINED.

THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED.

CONSTRUCTION LEADER
ADDRESS OF
CONSTRUCTION LEADER

OFFICIAL COPY

SAN FRANCISCO
DEPARTMENT
BUILDING INSPECTION

BLDG. FORM
3 APPLICATION OF

Glazer Bros.
FOR PERMIT TO MAKE
STRUCTURAL ALTERATION & REPAIR
OF 1ST FLOOR BUILDING
Location: 655 Harrison Street.

Total Cost \$ 2,700.00

APR 23 1970

Filed 622.2.3.1970 19

APPROVED: *[Signature]* MAY 4 1970

Superintendent, Bureau of Building Inspection
Permit No. 343643
Issued MAY 5 - 1970 19

REFER TO:

- Bureau of Engineering
- HBI Struct. Engineer
- Boiler Inspector
- Art Commission
- Dept. of Public Health
- Dept. of Electricity
- Redevelopment Agency
- Parking Authority

Approved 4/23 1970

Provided the following conditions are complied with:

Submit copy of needed contract for not current.

Approved:

Zone
CFC Setbacks
Department of Public Health

Approved:

Department of Electricity

Approved:

Art Commission

Approved:

Boiler Inspector

Approved:

Redevelopment Agency

Approved:

Parking Authority

No portion of building or structure or roof-folding used during construction to be closer than 6' or to any wire containing more than 750 volts. See Sec. 385 California Penal Code.

Approved:

Department of City Planning

Approved:

Bureau of Fire Prevention & Public Safety

Approved:

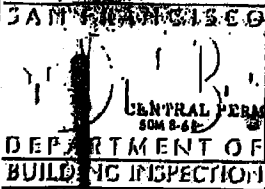
No notes on plan.
City Engineer, Bureau of Building Inspection

Approved:

Bureau of Engineering

[Signature]
Building Inspector, Bureau of Building Inspection
I agree to comply with all conditions or stipulations of the various Bureaus or Departments noted herein.
[Signature]
Owner or Owner's Authorized Agent

OFFICIAL COPY



Write in Ink—File Two Copies

CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT OF PUBLIC WORKS
BLDG. FORM

CENTRAL PERMIT BUREAU

3

APPLICATION FOR BUILDING PERMIT
ADDITIONS, ALTERATIONS OR REPAIRS

Application is hereby made to the Department of Public Works of San Francisco for permission to build in accordance with the plans and specifications submitted herewith and according to the description and for the purpose hereinafter set forth:

- (1) Location 855 HARRISON ST
- (2) Total Cost (\$) 19,000 (3) No. of Stories 2 (4) Basement or Cellar no
- (5) Present Use of building car (6) No. of families none
- (7) Proposed Use of building same (8) No. of families none
- (9) Type of construction..... (10) Proposed Building Code Classification 1, 2, 3, 4, or 5
- (11) Any other building on lot..... (must be shown on plot plan if answer is yes.)
- (12) Does this alteration create an additional story to the building? no
- (13) Does this alteration create a horizontal extension to the building? no
- (14) Does this alteration constitute a change of occupancy? no
- (15) Electrical work to be performed. yes (16) Plumbing work to be performed yes
- (17) Automobile runway to be altered or installed. no
- (18) Sidewalk over sub-sidewalk space to be repaired or altered. yes
- (19) Will street space be used during construction? no
- (20) Write in description of all work to be performed under this application:
(Reference to plans is not sufficient)
Ground Floor New Office

APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS. A SEPARATE PERMIT FOR THE WIRING AND PLUMBING MUST BE OBTAINED.

- (21) Supervision of construction by..... Address.....
- (22) General Contractor Dambert & Wells California License No. 315 201 ST
- (23) Architect or Engineer..... California Certificate No. 315 201 ST
- (24) Architect or Engineer..... California Certificate No. 315 201 ST
- (25) I hereby certify and agree that if a permit is issued for the construction described in this application, all the provisions of the permit and all laws and ordinances applicable thereto will be complied with. I further agree to save San Francisco and its officials and employees harmless from all costs and damages which may accrue from use or occupancy of the sidewalk, street or sub-sidewalk space or from anything else in connection with the work included in the permit. The foregoing covenant shall be binding upon the owner of said property, the applicant, their heirs, successors and assignees.
- (26) Owner GLASSER BROS (Phone 412677)
Address 855 HARRISON For contact by Bureau

By [Signature] Address 315 201 ST
Owner's Authorized Agent to be Owner's Authorized Architect, Engineer or General Contractor.
CERTIFICATE OF FINAL COMPLETION AND/OR PERMIT OF OCCUPANCY MUST BE OBTAINED ON COMPLETION OF WORK OR ALTERATION INVOLVING AN ENLARGEMENT OF THE BUILDING OR A CHANGE OF OCCUPANCY PURSUANT TO SEC. 808 AND 809, SAN FRANCISCO BUILDING CODE, BEFORE BUILDING IS OCCUPIED.
Pursuant to Sec. 804, San Francisco Building Code, the building permit shall be posted on job. Owner is responsible for approved plans and application being kept at building site.

THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED.

CONSTRUCTION LENDER
(First name and branch complete if any. If none, it is no licensed construction lender, see "requirements")

ADDRESS OF
CITY AND COUNTY LENDER

OFFICIAL COPY

SAN FRANCISCO

DEPARTMENT OF BUILDING INSPECTION

BLDG. FORM No. 383

APPLICATION OF OFFICE COPIES

FOR PERMIT TO MAKE ADDITIONS, ALTERATION or REPAIRS TO BUILDING

Location: 855 HARRISON

Total Cost \$ 19,800
Filed 5/5 MAY 5 - 1970

APPROVED: [Signature] MAY 6 1970

Superintendent, Bureau of Building Inspection

47462-343654

Issued MAY 6 1970

REFER TO:

- Bureau of Engineering
- ERI Struct. Engineer
- Boiler Inspector
- Art Commission
- Dept. of Public Health
- Dept. of Electricity
- Redevelopment Agency
- Parking Authority

Approved: S/K 70

Provided the following conditions are complied with:

Approved: Department of Public Health

Approved: Department of Electricity

Approved: Art Commission

Approved: Boiler Inspector

Approved: Redevelopment Agency

Approved: Parking Authority

No portion of building or structure or scaffolding used during construction to be closer than 6'0" to any wire containing more than 750 volts. See Sec. 886 California Penal Code.

Approved: Zone CFC Setbacks
Department of City Planning

Approved: Bureau of Fire Prevention & Public Safety

Approved: Civil Engineer, Bureau of Building Inspection

Approved: Bureau of Engineering

[Signature]

I agree to comply with all conditions or stipulations of this various Bureaus or Departments noted hereon.

[Signature]
Owner or Owner's Authorized Agent



An AMBROS company

SUBLEASE

S.F. Innovation
Sent this to me on 5/28/83
FINAL
Read check

1. PARTIES * 2 corporation
This Sub-Lease is entered into as of the 1st day of May, 1983 by and between CAI CONSULTING CORPORATION, Sublessor and S.F. INNOVATIONS/ ARTHUR BJORK, individually, Sublessee as a Sublease under the Lease dated OCTOBER 1, 1981, 19 entered into by 855 HARRISON STREET ASSOCIATES INC. as Lessor and Sublessor under this Lease. A copy of said Lease is attached hereto, marked Exhibit A, and incorporated herein by reference.

2. PROVISIONS CONSTITUTING SUBLEASE
(a) This Sublease is subject to all of the terms and conditions of the Lease in Exhibit A, except as specifically exempted herein and Sublessee shall assume and perform the obligations of Sublessor as Lessee in said Lease, to the extent said terms and conditions are applicable to the premises subleased pursuant to this Sublease. Sublessee shall not commit or permit to be committed on the subleased premises or act or omission which shall violate any term or condition of the Lease. In the event of the termination of Sublessor's interest as Lessor under the Lease for any reason, then this Sublease shall terminate coincidentally therewith without any liability of Sublessor to Sublessee.
(b) All of the terms and conditions contained in the Lease in Exhibit A, are incorporated herein, except for paragraphs SEE ADDENDUM EXHIBIT B except as inconsistent herewith and

terms and conditions of this Sublease (with each reference therein to Lessor and Lessee to be deemed to refer to Sublessor and Sublessee) and along with all of the following paragraphs set out in this Sublease, shall be the complete terms and conditions of this Sublease.

3. PREMISES
Sublessor leases to Sublessee and Sublessee hires from said Sublessor the following described premises situated in the City of SAN FRANCISCO, County of SAN FRANCISCO, State of CA. See Addendum Exhibit B

4. TERM
4.1 Term. The term of this Sublease shall be for a period commencing on MAY 1, 1983 and ending on NOVEMBER 30, 1984, unless sooner terminated pursuant to any provision hereof.

4.2 Delay in Commencement. Notwithstanding said commencement date, if for any reason Sublessor cannot deliver possession of the Premises to Sublessee on said date, Sublessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or the obligations of Sublessee hereunder or extend the term hereof, but in such case Sublessee shall not be obligated to pay rent until possession of the Premises is tendered to Sublessee; provided, however, that if Sublessor shall not have delivered possession of the Premises within ninety (90) days from said commencement date, Sublessee may, at Sublessee's option, by notice in writing to Sublessor within ten (10) days thereafter, cancel this Sublease. If this Lease is cancelled as herein provided, Sublessor shall return any monies previously deposited by Sublessee and the parties shall be discharged from all obligations hereunder. *Sub

4.3 Early Possession. In the event that Sublessor shall permit Sublessee to occupy the Premises prior to commencement date of the term, such occupancy shall be subject to all of the provisions of this Sublease. Said early possession shall not advance the termination date of this Sublease.

5. RENT. Sublessee shall pay to Sublessor as rent for the Premises equal monthly installments of () Dollars, in advance, on the first day of each month of the term hereof. Sublessee shall pay Sublessor upon the execution hereof the sum of () Dollars as rent for 1st Month and Security Deposit

Rent for any period during the term hereof which is for less than one month shall be a pro rata portion of the monthly installment. Rent shall be payable without notice or demand and without any deduction, offset, or abatement in lawful money of the United States of America to Sublessor at the address stated herein or to such other persons or at such other places as Sublessor may designate in writing.

6. SECURITY DEPOSIT. Sublessee shall deposit with Sublessor upon execution hereof the sum of () Dollars as security for Sublessee's faithful performance of Sublessee's obligations hereunder. If Sublessee fails to pay rent or other charges due hereunder, or otherwise defaults with respect to any provision of this Sublease, Sublessor may use, apply, retain all or any portion of said deposit for the payment of any rent or other charge in default or for the payment of any other sum which Sublessor may become obligated by reason of Sublessee's default, or to compensate Sublessor for any loss or damage which Sublessor may suffer thereby. If Sublessor so uses or applies all or any portion of said deposit, Sublessee shall within ten (10) days after written demand therefor deposit cash with Sublessor in an amount sufficient to restore said deposit to the full amount hereinabove stated and Sublessee's failure to do so shall be a breach of this Sublease, and Sublessor may at his option terminate this Sublease. Sublessor shall not be required to keep said deposit separate from its general accounts. If Sublessee performs all of Sublessee's obligations hereunder, the deposit or so much thereof as had not theretofore been applied by Sublessor shall be returned without payment of interest for its use to Sublessee (or, at Sublessor's option, to the last assignee, if any, of Sublessee's interest hereunder) within ten (10) days after the expiration of the term hereof, or after Sublessee has vacated the Premises, whichever is later.

7. USE.
Use. The Premises shall be used and occupied only for MERCHANDISE DESIGN STUDIO - general office purposes.

8. COMMISSION. Upon execution of this Sublease, Sublessor shall pay Fuller Commercial Brokerage Company a real estate commission in the amount of \$ see commission agreement.

ADDENDUM B IS HEREBY INCORPORATED HEREIN BY REFERENCE.
Address 859 HARRISON SAN FRANCISCO, CA
By [Signature] Chairman
By [Signature] S.F. INNOVATIONS, INC.
Address 109 MINNA STREET, SUITE 554, SAN FRANCISCO, CA 90015
By [Signature] Arthur Bjork SUBLESSEE

Consent by Lessor. The undersigned, Lessor under the Lease in Exhibit A, hereby consents to the subletting of the Premises described herein on the terms and conditions contained in this Sublease. This consent shall apply only to this Sublease and shall not be deemed to be a consent to any other Sublease.

Consult your Attorney— This document has been prepared for submission to your attorney for his approval. No representation or recommendation is made by Fuller Commercial Brokerage Company or its agents or employees as to the legal sufficiency or legal effect of this document. These are questions for your attorney.

LESSOR: 855 Harrison Street Associates a general partnership

STANDARD INDUSTRIAL LEASE — GROSS

EXHIBIT A
AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION



1. Parties. This Lease, dated, for reference purposes only, October 1, 1981, is made by and between BSE Harrison Street Associates, Inc., a general partnership (herein called "Lessor") and CAI Consulting Corporation, a California Corporation (herein called "Lessee")

2. Premises. Lessor hereby leases to Lessee and Lessee leases from Lessor for the term, at the rental, and upon all of the conditions set forth herein, that certain real property situated in the County of San Francisco State of California commonly known as 855 Harrison Street, San Francisco and described as The entire second floor office space, as well as all of the currently un-leased office space on the first floor which includes the lobby, elevator and stairwell as shown on Exhibit A hereto. In addition, exclusive use of the eastern parking lot.
See Paragraph 68

Said real property including the land and all improvements therein, is herein called "the Premises".

3. Term.

3.1 Term. The term of this Lease shall be for a period commencing on October 5, 1981 and ending on November 30th, 1981 unless sooner terminated pursuant to any provision hereof.

3.2 Delay in Possession. Notwithstanding said commencement date, if for any reason Lessor cannot deliver possession of the Premises to Lessee on said date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or the obligations of Lessee hereunder or extend the term hereof, but in such case, Lessee shall not be obligated to pay rent until possession of the Premises is tendered to Lessee; provided, however, that if Lessor shall not have delivered possession of the Premises within sixty (60) days from said commencement date, Lessee may, at Lessee's option, by notice in writing to Lessor within ten (10) days thereafter, cancel this Lease, in which event the parties shall be discharged from all obligations hereunder; provided further, however, that if such written notice of Lessee is not received by Lessor within said ten (10) day period, Lessee's right to cancel this Lease hereunder shall terminate and be of no further force or effect.

3.3 Early Possession. If Lessee occupies the Premises prior to said commencement date, such occupancy shall be subject to all provisions hereof; such occupancy shall not advance the termination date, and Lessee shall not be entitled to any abatement of rent.

4. Rent. Lessee shall pay to Lessor as rent for the Premises, monthly payments of \$ in advance, on the first day of each month of the term hereof. Lessee shall pay Lessor upon the execution hereof \$ as rent for December 1981. No later than February 1, 1982 or as soon as the additional first floor space of the western side is subleased, The rental becomes monthly payable in advance on the first day of each month of the term hereof. See Paragraph 68

Rent for any period during the term hereof which is for less than one month shall be a pro rata portion of the monthly installment. Rent shall be payable in lawful money of the United States to Lessor at the address stated herein or to such other persons or at such other places as Lessor may designate in writing.

5. Security Deposit. Lessee shall deposit with Lessor upon execution hereof \$ as security for Lessee's faithful performance of Lessee's obligations hereunder. If Lessee fails to pay rent or other charges due hereunder, or otherwise defaults with respect to any provision of this Lease, Lessor may use, apply or retain all or any portion of said deposit for the payment of any rent or other charge in default or for the payment of any other sum to which Lessor may become obligated by reason of Lessee's default, or to compensate Lessor for any loss or damage which Lessor may suffer thereby. If Lessor so uses or applies all or any portion of said deposit, Lessee shall within ten (10) days after written demand therefor deposit cash with Lessor in an amount sufficient to restore said deposit to the full amount hereinabove stated and Lessee's failure to do so shall be a material breach of this Lease. If the monthly rent shall, from time to time, increase during the term of this Lease, Lessee shall deposit with Lessor additional security deposit so that the amount of security deposit held by Lessor shall at all times bear the same proportion to current rent as the original security deposit bears to the original monthly rent set forth in paragraph 4 hereof. Lessor shall not be required to keep said deposit separate from its general accounts. If Lessee performs all of Lessee's obligations hereunder, said deposit, or so much thereof as has not theretofore been applied by Lessor, shall be returned, without payment of interest or other increment for its use, to Lessee (or, Lessor's option, to the last assignee, if any, of Lessee's interest hereunder) at the expiration of the term hereof, and after Lessee has vacated the Premises; no trust relationship is created herein between Lessor and Lessee with respect to said Security Deposit.
Upon Lessor's written request.

6. Use.

6.1 Use. The Premises shall be used and occupied only for general office purposes or any other use which is reasonably comparable and for no other purpose.

6.2 Compliance with Law. See Paragraph 51 and Paragraph 58.
(a) Lessor warrants to Lessee that the Premises in its condition existing on the date that the lease term commences, but without regard to use or without Lessee's use of the Premises, does not violate any covenants or restrictions of record, or any applicable building code, regulation or ordinance in such a way as to cause the lease to be unenforceable. In the event that it is determined that this warranty has been violated, then it shall be the obligation of the Lessor, after written notice from Lessee, to promptly, at Lessor's sole cost and expense, rectify any such violation. If the Lessor does not give to Lessor written notice of the violation of this warranty within six months from the date that the lease term commences, the correction of same shall be the obligation of the Lessee at Lessee's sole cost. The warranty contained in this paragraph 6.2(a) shall be of no effect, prior to the date of this Lease, if Lessee was the owner or occupant of the Premises; and, in such event, Lessee shall correct any such violation at Lessee's sole cost.

(b) Except as otherwise provided in paragraph 6.2(a), Lessee shall, at Lessee's expense, comply promptly with all applicable statutes, ordinance rules, regulations, orders, covenants and restrictions of record, and requirements in effect during the term or any part of the term hereof, regulate the use by Lessee of the Premises. Lessee shall not use nor permit the use of the Premises in any manner that will tend to create waste or a nuisance, or, if there shall be more than one tenant in the building containing the Premises, shall tend to disturb such other tenants unreasonably.

6.3 Condition of Premises. See Paragraph 51.
(a) Lessor shall deliver the Premises to Lessee clean and free of debris on Lease commencement date (unless Lessee to direct possession) and Lessor further warrants to Lessee that the plumbing, lighting, air conditioning, heating, and loading covers on the Premises are in good operating condition on the lease commencement date. In the event that it is determined that this warranty has been violated, then it shall be the obligation of the Lessor, after receipt of written notice from Lessee setting forth with specificity the nature of the violation, to promptly, at Lessor's sole cost and expense, rectify such violation. Lessee shall be deemed to have such notice as to a violation of this warranty within thirty (30) days after the lease commencement date and shall cause the corrective presumption that Lessor has complied with all of Lessor's obligations hereunder. The warranty contained in this paragraph 6.3(a) shall be of no force or effect prior to the date of this Lease, if Lessee was the owner or occupant of the Premises.
(b) Except as otherwise provided in this Lease, Lessee hereby accepts the Premises in their condition existing as of the Lease commencement date or the date that Lessee takes possession of the Premises, whichever is earlier, subject to all applicable zoning, municipal and state laws, ordinances and regulations governing and regulating the use of the Premises, and any covenants or restrictions of record and accepts this Lease subject thereto and to all matters disclosed hereby and by any exhibits attached hereto. Lessee acknowledges that neither Lessor nor Lessor's agent has made any representation or warranty as to the present or future suitability of the Premises for the conduct of Lessee's business.

7. Maintenance, Repairs and Alterations.

7.1 Lessor's Obligations. Subject to the provisions of Paragraphs 6, 7.2, and 9 and except for damage caused by any negligent or intentional act or omission of Lessee, Lessee's agents, employees, or invitees in which event Lessee shall repair the damage, Lessor, at Lessor's expense, shall keep in good order, condition and repair the foundations, exterior walls and the exterior roof of the Premises. Lessor shall not, however, be obligated to paint such exterior, nor shall Lessor be required to maintain the interior surface of exterior walls, windows, doors or plate glass. Lessee shall have no obligation to make repairs under this Paragraph 7.1 until a reasonable time after receipt of written notice of the need for such repair. Lessee expressly waives the benefits of any statute now or hereafter in effect which would otherwise afford Lessee the right to make repairs. Lessor's expense shall terminate this Lease because of Lessor's failure to keep the Premises in good order, condition and repair.

7.2 Lessee's Obligations. See Paragraph 59.
(a) Subject to the provisions of Paragraphs 6, 7.1 and 9, Lessee, at Lessee's expense, shall keep in good order, condition and repair the Premises and every part thereof (whether or not the damaged portion of the Premises or the means of repairing the same are reasonably or not accessible to Lessee) including, without limiting the generality of the foregoing, all plumbing, heating, air conditioning, (Lessee shall procure

Initials:

easterly tenant elevator

maintain, at Lessee's expense, all of the following system maintenance, contract ventilating, electrical and lighting facilities and equipment within the Premises, fixtures, interior walls and exterior walls, ceilings, windows, doors, plate glass, and skylights, located within the Premises, and all landscaping, driveways, parking lots, fences and signs located in the Premises and all accessways and parking areas located in the Premises. Lessee expressly waives the benefit of any statute now or hereinafter in effect which would otherwise afford Lessee the right to make repairs at Lessor's expense and terminates this lease because of the above.

(b) If Lessee fails to perform Lessee's obligations under this Paragraph 7.2 or under any other paragraph of this Lease, Lessor may at Lessor's option enter upon the Premises after 10 days prior written notice to Lessee (except in the case of emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf and put the Premises in good order, condition and repair, and the cost thereof together with interest thereon at the maximum rate then allowable by law shall be due and payable as additional rent to Lessor together with Lessee's next rental installment.

(c) On the last day of the term hereof, or on any sooner termination, Lessee shall surrender the Premises to Lessor in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Lessee shall repair any damage to the Premises occasioned by the installation or removal of its trace fixtures, furnishings and equipment. Notwithstanding anything to the contrary otherwise stated in this Lease, Lessee shall leave the air lines, power panels, electrical distribution systems, lighting fixtures, space heaters, air conditioning, plumbing and fencing on the premises in good operating condition.

7.3 Alterations and Additions.

(a) Lessee shall not, without Lessor's prior written consent make any alterations, improvements, additions, or Utility Installations in, on or about the Premises, except for nonstructural alterations not exceeding \$2,500 in cumulative costs during the term of this Lease. In any event, whether or not in excess of \$2,500 in cumulative cost, Lessee shall make no change or alteration to the exterior of the Premises nor the exterior of the building(s) on the Premises without Lessor's prior written consent. As used in this Paragraph 7.3 the term "Utility Installation" shall mean carpeting, window coverings, air lines, power panels, electrical distribution systems, lighting fixtures, space heaters, air conditioning, plumbing, and fencing. Lessor may require that Lessee remove any or all of said alterations, improvements, additions or Utility Installations at the expiration of the term and restore the Premises to their prior condition. Lessor may require Lessee to provide Lessor, at Lessee's sole cost and expense, a lien and completion bond in an amount equal to one and one-half times the estimated cost of such improvements, to insure Lessor against any liability for mechanic's and materialmen's liens and to insure completion of the work. Should Lessee make any alterations, improvements, additions or Utility Installations without the prior approval of Lessor, Lessor may require that Lessee remove any or all of the same.

(b) Any alterations, improvements, additions or Utility Installations in, or about the Premises that Lessee shall desire to make and which requires the consent of the Lessor shall be presented to Lessor in written form, with proposed detailed plans. If Lessor shall give its consent, the consent shall be deemed conditioned upon Lessee acquiring a permit to do so from appropriate governmental agencies, the furnishing of a copy thereof to Lessor prior to the commencement of the work and the compliance by Lessee of all conditions of said permit. Lessor's reasonable approval or disapproval of Lessee's plans shall be given within Lessee's reasonable business days of Lessor's receipt of the same. Lessee shall indemnify Lessor for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use in the Premises, which claims are or may be secured by any mechanics' or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than ten (10) days' notice prior to the commencement of any work in the Premises, and Lessor shall have the right to post notices of non-responsibility in or on the Premises as provided by law. If Lessee shall, in good faith, contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend itself and Lessor against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Lessor or the Premises, upon the condition that if Lessor shall require, Lessee shall furnish to Lessor a surety bond satisfactory to Lessor in an amount equal to such contested lien claim or demand indemnifying Lessor against liability for the same and holding the Premises free from the effect of such lien or claim. In addition, Lessor may require Lessee to pay Lessor's attorneys fees and costs in participating in such action if Lessor shall decide it is to its best interest to do so.

(d) Unless Lessor requires their removal, as set forth in Paragraph 7.3(a), all alterations, improvements, additions and Utility Installations (whether or not such Utility Installations constitute trade fixtures of Lessee), which may be made on the Premises, shall become the property of Lessor and remain upon and be surrendered with the Premises at the expiration of the term. Notwithstanding the provisions of this Paragraph 7.3(d), Lessee's machinery and equipment, other than that which is affixed to the Premises so that it cannot be removed without material damage to the Premises, shall remain the property of Lessee and may be removed by Lessee subject to the provisions of Paragraph 7.2(c). See Paragraph 7.2(c).

8. Insurance; Indemnity.

8.1 Liability Insurance - Lessee. Lessee shall, at Lessee's expense, obtain and keep in force during the term of this Lease a policy of Combined Single Limit Bodily Injury and Property Damage insurance insuring Lessee and Lessor against any liability arising out of the use, occupancy or maintenance of the Premises and all other areas appurtenant thereto. Such insurance shall be in an amount not less than \$1,000,000 per occurrence. The policy shall insure performance by Lessee of the indemnity provisions of this Paragraph 8. The limits of said insurance shall not, however, limit the liability of Lessee hereunder.

8.2 Liability Insurance - Lessor. Lessor shall obtain and keep in force during the term of this Lease a policy of Combined Single Limit Bodily Injury and Property Damage insurance insuring Lessor and Lessee against any liability arising out of the use, occupancy or maintenance of the Premises and all other areas appurtenant thereto in an amount not less than \$2,500,000 per occurrence.

8.3 Property Insurance. Lessor shall obtain and keep in force during the term of this Lease a policy or policies of insurance covering loss or damage to the Premises, but not Lessee's fixtures, equipment or tenant improvements in an amount not to exceed the full replacement value thereof, as the same may exist from time to time, providing protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, flood (in the event same is required by a lender having a lien on the Premises) special extended perils ("all risk", as such term is used in the insurance industry) but not plate glass insurance. In addition, the Lessor shall obtain and keep in force, during the term of this Lease, a policy of rental value insurance covering a period of one year, with loss payable to Lessor, which insurance shall also cover all real estate taxes and insurance costs for said period.

8.4 Payment of Premium Increase.

(a) Lessee shall pay to Lessor, during the term hereof, in addition to the rent, the amount of any increase in premiums for the insurance required under Paragraphs 8.2 and 8.3 over and above such premiums paid during the Base Period, as hereinafter defined, whether such premium increase shall be the result of the nature of Lessee's occupancy, any act or omission of Lessee, requirements of the holder of a mortgage or deed of trust covering the Premises, increased valuation of the Premises, or general rate increases. In the event that the Premises have been damaged, destroyed, or the words "Base Period" shall mean the last twelve months of the prior occupancy. In the event that the Premises have never been damaged, destroyed, or the words "Base Period" shall be deemed to be the lowest premiums reasonably obtainable for said insurance assuming the most normal use of the Premises. Provided, however, in lieu of the Base Period, the parties may insert a calendar date at the end of this sentence which figure shall be considered as the insurance premium for the Base Period: \$2504.00. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$1,000,000 per occurrence. See Paragraph 54.

(b) Lessee shall pay any such premium increases to Lessor within 30 days after receipt by Lessee of a copy of the premium statement or other satisfactory evidence of the amount due. If the insurance policies maintained hereunder cover other improvements in addition to the Premises, Lessor shall also deliver to Lessee a statement of the amount of such increase attributable to the Premises and showing in reasonable detail, the manner in which such amount was computed. If the term of this Lease shall not expire concurrently with the expiration of the period covered by such insurance, Lessee's liability for premium increases shall be prorated on an annual basis.

(c) If the Premises are part of a larger building, then Lessee shall not be responsible for paying any increase in the property insurance premium caused by the acts or omissions of any other tenant of the building of which the Premises are a part.

8.5 Insurance Policies. Insurance required hereunder shall be in companies holding a "General Policyholders Rating" of at least B plus, or such other rating as may be required by a lender having a lien on the Premises, as set forth in the most current issue of "Best Insurance Guide". Lessee shall deliver to Lessor copies of policies of liability insurance required under Paragraph 8.1 or certificates evidencing the existence of amounts of such insurance. No such policy shall be cancellable or subject to reduction of coverage or other modification except after thirty (30) days' prior written notice to Lessor. Lessee shall, at least thirty (30) days prior to the expiration of such policies, furnish Lessor with renewals or "binders" thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee upon demand. Lessee shall not do or permit to be done anything which shall invalidate the insurance policies referred to in Paragraph 8.3.

8.6 Waiver of Subrogation. Lessee and Lessor each hereby release and relieve the other, and waive their entire right of recovery against the other for loss or damage arising out of or incident to the perils insured against under paragraph 8.3, which perils occur in, on or about the Premises, whether due to the negligence of Lessor or Lessee or their agents, employees, contractors and/or invitees. Lessee and Lessor shall, upon obtaining the policies of insurance required hereunder, give notice to the insurance carrier or carriers that the foregoing mutual waiver of subrogation contained in this Lease, and shall require said waiver to be included in said policy or policies.

**** 8.7 Indemnity.** Lessee shall indemnify and hold harmless Lessor from and against any and all claims arising from Lessee's use of the Premises, or from the conduct of Lessee's business or from any activity, work or things done, permitted or suffered by Lessee in or about the Premises, or from any and all claims arising from any and all claims arising from any and all claims arising from any and all claims arising from the performance of any obligation on Lessee's part to be performed under the terms of this Lease, or arising from any negligence of the Lessee, or any of Lessee's agents, contractors, or employees, and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Lessor by reason of any such claim, Lessee upon notice from Lessor shall defend the same at Lessee's expense by counsel satisfactory to Lessor. Lessee, as a material part of its consideration to Lessor, hereby assumes all risk of damage to property or injury to persons, in, upon or about the Premises arising from any act and Lessee hereby waives all claims in respect thereof against Lessor.

**** 8.9 Exemption of Lessor from Liability.** Lessee hereby agrees that Lessor shall not be liable for injury to Lessee's business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Lessee, Lessee's employees, invitees, customers, or any other person in or about the Premises, nor shall Lessor be liable for injury to the person of Lessee, Lessee's employees, agents or contractor, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, destruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether the same damage or injury results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part, or from other sources or places and, regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Lessor, Lessor shall not be liable for any damages arising from any act or neglect of any other tenant, if any, of the building in which the Premises are located.

**See Paragraph 61

*directly
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9. Damage or Destruction.

9.1 Definitions.

(a) "Premises Partial Damage" shall herein mean damage or destruction to the Premises to the extent that the cost of repair is less than 50% of the fair market value of the Premises immediately prior to such damage or destruction. "Premises Building Partial Damage" shall herein mean damage or destruction to the building of which the Premises are a part to the extent that the cost of repair is less than 50% of the fair market value of such building as a whole immediately prior to such damage or destruction.

(b) "Premises Total Destruction" shall herein mean damage or destruction to the Premises to the extent that the cost of repair is 50% or more of the fair market value of the Premises immediately prior to such damage or destruction. "Premises Building Total Destruction" shall herein mean damage or destruction to the building of which the Premises are a part to the extent that the cost of repair is 50% or more of the fair market value of such building as a whole immediately prior to such damage or destruction.

(c) "Insured Loss" shall herein mean damage or destruction which was caused by an event required to be covered by the insurance described in paragraph 8.

9.2 Partial Damage - Insured Loss. Subject to the provisions of paragraphs 9.4, 9.5 and 9.6, if at any time during the term of this Lease there is damage which is an Insured Loss and which falls into the classification of Premises Partial Damage or Premises Building Partial Damage, then Lessor shall at Lessor's sole cost, repair such damage, but not Lessee's fixtures, equipment or tenant improvements, as soon as reasonably possible and this Lease shall continue in full force and effect.

9.3 Partial Damage - Uninsured Loss. Subject to the provisions of Paragraphs 9.4, 9.5 and 9.6, if at any time during the term of this Lease there is damage which is not an Insured Loss and which falls within the classification of Premises Partial Damage or Premises Building Partial Damage, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may at Lessor's option either (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Lessee within thirty (30) days after the date of the occurrence of such damage of Lessor's intention to cancel and terminate this Lease, as of the date of the occurrence of such damage. In the event Lessor elects to give such notice of Lessor's intention to cancel and terminate this Lease, Lessee shall have the right within ten (10) days after the receipt of such notice to give written notice to Lessor of Lessee's intention to repair such damage at Lessee's expense, without reimbursement from Lessor, in which event this Lease shall continue in full force and effect, and Lessee shall proceed to make such repairs as soon as reasonably possible. If Lessee does not give such notice within such 10-day period this Lease shall be canceled and terminated as of the date of the occurrence of such damage.

9.4 Total Destruction. If at any time during the term of this Lease there is damage, whether or not an Insured Loss, (including destruction required by any authorized public authority), which falls into the classification of Premises Total Destruction or Premises Building Total Destruction, this Lease shall automatically terminate as of the date of such total destruction.

9.5 Damage Near End of Term.

(a) If at any time during the last six months of the term of this Lease there is damage, whether or not an Insured Loss, which falls within the classification of Premises Partial Damage, Lessor may at Lessor's option cancel and terminate this Lease as of the date of occurrence of such damage by giving written notice to Lessee of Lessor's election to do so within 30 days after the date of occurrence of such damage.

(b) Notwithstanding paragraph 9.5(a), in the event that Lessee has an option to extend or renew this Lease, and the time within which said option may be exercised has not yet expired, Lessee shall exercise such option, if it is to be exercised at all, no later than 20 days after the occurrence of an Insured Loss falling within the classification of Premises Partial Damage during the last six months of the term of this Lease. If Lessee duly exercises such option during said 20 day period, Lessor shall, at Lessor's expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option during said 20 day period, then Lessor may at Lessor's option terminate and cancel this Lease as of the expiration of said 20 day period by giving written notice to Lessee of Lessor's election to do so within 10 days after the expiration of said 20 day period, notwithstanding any term or provision in the grant of option to the contrary.

9.6 Abatement of Rent; Lessee's Remedies. Unless such damage or destruction is caused by Lessee's willful or negligent acts

(a) In the event of damage described in paragraphs 9.2 or 9.3 and Lessor or Lessee repairs or restores the Premises pursuant to the provisions of this Paragraph 9, the rent payable hereunder for the period during which such damage, repair or restoration continues shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, except for abatement of rent, if any. Lessee shall have no claim against Lessor for any damage suffered by reason of any such damage, destruction, repair or restoration, except as elsewhere provided herein.

(b) If Lessor shall be obligated to repair or restore the Premises under the provisions of this Paragraph 9 and shall not commence such repair or restoration within 90 days after such obligations shall accrue, Lessee may at Lessee's option cancel and terminate this Lease by giving Lessor written notice of Lessee's election to do so at any time prior to the commencement of such repair or restoration. In such event this Lease shall terminate as of the date of such notice.

9.7 Termination - Advance Payments. Upon termination of this Lease pursuant to this Paragraph 9, an equitable adjustment shall be made concerning advance rent and any advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's security deposit as has not theretofore been applied by Lessor.

9.8 Waiver. Lessor and Lessee waive the provisions of any statutes which relate to termination of leases when leased property is destroyed and agree that such event shall be governed by the terms of this Lease.

10. Real Property Taxes.

10.1 Payment of Tax Increase. Lessor shall pay the real property tax, as defined in paragraph 10.3, applicable to the Premises; provided, however, that Lessee shall pay, in addition to rent, the amount, if any, by which real property taxes applicable to the Premises increase over the fiscal real estate tax year 1981-1982. Such payment shall be made by Lessee within thirty (30) days after receipt of Lessor's written statement setting forth the amount of such increase and the computation thereof. If the term of this Lease shall not expire concurrently with the expiration of the tax fiscal year, Lessee's liability for increased taxes for the last partial lease year shall be prorated on an annual basis. See

10.2 Additional Improvements. Notwithstanding paragraph 10.1 hereof, Lessee shall pay to Lessor upon demand therefor the entire amount of any increase in real property tax if assessed solely by reason of additional improvements placed upon the Premises by Lessee or at Lessee's request.

10.3 Definition of "Real Property Tax". As used herein, the term "real property tax" shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income or estate taxes) imposed on the Premises by any authority having the direct or indirect power to tax, including any city, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof, or against any legal or equitable interest of Lessor in the Premises or in the real property of which the Premises are a part, as against Lessor's right to rent or other income therefrom, and as against Lessor's business of leasing the Premises. The term "real property tax" shall also include any tax, fee, levy assessment or charge (i) in substitution of, partially or totally, any tax, fee, levy, assessment or charge hereinabove included within the definition of "real property tax," or (ii) the nature of which was hereinbefore included within the definition of "real property tax," or (iii) which is imposed for service or right not charged prior to June 1, 1978, or, if previously charged, has been increased since June 1, 1978, or (iv) which is imposed as result of a transfer, either partial or total, of Lessor's interest in the Premises or which is added to a tax or charge hereinbefore included within the definition of real property tax by reason of such transfer, or (v) which is imposed by reason of this transaction, any modifications or changes hereof or any transfers hereof.

10.4 Joint Assessment. If the Premises are not separately assessed, Lessee's liability shall be an equitable proportion of the real property taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 Personal Property Taxes.

(a) Lessee shall pay prior to delinquency all taxes assessed against and levied upon trade fixtures, furnishings, equipment and all other personal property of Lessee contained in the Premises or elsewhere. When possible, Lessee shall cause said trade fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor.

(b) If any of Lessee's said personal property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. Utilities. Lessee shall pay for all water, gas, heat, light, power, telephone and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered to Lessee, Lessee shall pay a reasonable proportion to be determined by Lessor of all charges jointly metered with other premises. See Paragraph 62

12. Assignment and Subletting.

12.1 Lessor's Consent Required. Lessee shall not voluntarily or by operation of law assign, transfer, mortgage, sublet, or otherwise transfer encumber all of any part of Lessee's interest in this Lease or in the Premises, without Lessor's prior written consent, which Lessor shall not unreasonably withhold. Lessor shall respond to Lessee's request for consent hereunder in a timely manner and any attempted assignment, transfer, mortgage, encumbrance or subletting without such consent shall be void, and shall constitute a breach of this Lease. See Paragraph 62

12.2 Lessee Affiliate. Notwithstanding the provisions of paragraph 12.1 hereof, Lessee may assign or sublet the Premises, or any part thereof, without Lessor's consent, to any corporation which controls, is controlled by or is under common control with Lessee, or to a corporation resulting from the merger or consolidation with Lessee, or to any person or entity which acquires all the assets of Lessee as a going concern of the business that is being conducted on the Premises, provided that said assignee assumes, in full, the obligations of Lessee under this Lease. Any such assignment shall not, in any way, affect or limit the liability of Lessee under the terms of this Lease even if after such assignment, subletting the terms of this Lease are materially changed or altered without the consent of Lessee, the consent of whom shall not be necessary.

12.3 No Release of Lessee. Regardless of Lessor's consent, no subletting or assignment shall release Lessee of Lessee's obligation or alter primary liability of Lessee to pay the rent and to perform all other obligations to be performed by Lessee hereunder. The acceptance of rent by Lessor from any other person shall not be deemed to be a waiver by Lessor of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting. In the event of default by any assignee of Lessee or any successor of Lessee the performance of any of the terms hereof, Lessor may proceed directly against Lessee without the necessity of exhausting remedies against any assignee. Lessor may consent to subsequent assignments or subletting of this Lease or amendments or modifications to this Lease with or without the consent of Lessee, without notifying Lessee, or any successor of Lessee, and without obtaining its or their consent thereto and such action shall not release Lessee of liability under this Lease.

12.4 Attorney's Fees. In the event Lessee shall assign or sublet the Premises or request the consent of Lessor to any assignment or subletting, or if Lessor shall request the consent of Lessee to any assignment or subletting, then Lessee shall pay Lessor's reasonable attorneys fees incurred in connection therewith, such attorneys fees not to exceed \$300.00 for each such request, assignee or subtenant approved by Lessor.

Initials: _____

Receipt of

13. Defaults; Remedies.

13.1 Defaults. The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by Lessee

- (a) The vacating or abandonment of the Premises by Lessee
(b) The failure by Lessee to make any payment of rent or any other payment required to be made by Lessee hereunder, as and when due, where such failure shall continue for a period of three days after written notice inereof from Lessor to Lessee. In the event that Lessor serves Lessee with a Notice to Pay Rent or Quit pursuant to applicable Unlawful Detainer statutes such Notice to Pay Rent or Quit shall also constitute the notice required by this subparagraph
(c) The failure by Lessee to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Lessee, other than as described in paragraph (b) above, where such failure shall continue for a period of 30 days after written notice hereof from Lessor to Lessee, provided, however, that if the nature of Lessee's default is such that more than 30 days are reasonably required for its cure, then Lessee shall not be deemed to be in default if Lessee commenced such cure within said 30-day period and thereafter diligently prosecutes such cure to completion.
(d) (i) The making by Lessee of any general arrangement or assignment for the benefit of creditors; (ii) Lessee becomes a "debtor" as defined in 11 U.S.C. §101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days. Provided, however, in the event that any provision of this paragraph 13.1(d) is contrary to any applicable law, such provision shall be of no force or effect.

(e) The discovery by Lessor that any financial statement given to Lessor by Lessee, any assignment of Lessee's any instrument of Lessee, any successor instrument of Lessee or any instrument of Lessee's obligator hereunder, or any of them, was in any way false

13.2 Remedies. In the event of any such material default or breach by Lessee, Lessor may at any time thereafter, with or without notice, demand and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such default or breach

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the Premises to Lessor. In such event Lessor shall be entitled to recover from Lessee all damages incurred by Lessor by reason of Lessee's default 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 attorney's fees, and any real estate commission actually paid; the worth at the time of award by the court having jurisdiction thereof of the amount by which the unpaid rent for the balance of the term after the time of such award exceeds the amount of such rental loss for the same period that Lessee proves could be reasonably avoided; that portion of the leasing commission paid by Lessor pursuant to Paragraph 15 applicable to the unexpired term of this Lease.

(b) Maintain Lessee's right to possession in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Premises. In such event Lessor shall be entitled to enforce all of Lessor's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder.

(c) Pursue any other remedy now or hereafter available to Lessor under the laws or judicial decisions of the state wherein the Premises are located. Unpaid installments of rent and other unpaid monetary obligations of Lessee under the terms of this Lease shall bear interest from the date due at the maximum rate then allowable by law.

13.3 Default by Lessor. Lessor shall not be in default unless Lessor fails to perform obligations required of Lessor within a reasonable time, but in no event later than thirty (30) days after written notice by Lessee to Lessor and to the holder of any first mortgage or deed of trust covering the Premises whose name and address shall have theretofore been furnished to Lessee in writing, specifying wherein Lessor has failed to perform such obligation; provided, however, that if the nature of Lessor's obligation is such that more than thirty (30) days are required for performance then Lessor shall not be in default if Lessor commences performance within such 30-day period and thereafter diligently prosecutes the same to completion.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee to Lessor of rent and other sums due hereunder will cause Lessor 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 on Lessor by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of rent or any other sum due from Lessee shall not be received by Lessor or Lessor's designee within ten (10) days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall pay to Lessor a late charge equal to 1% of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of late payment by Lessee. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent Lessor 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 installments of rent, then rent shall automatically become due and payable quarterly in advance, rather than monthly, notwithstanding paragraph 4 or any other provision of this Lease to the contrary.

13.5 Impounds. In the event that a late charge is payable hereunder, whether or not collected, for three (3) installments of rent or any other monetary obligation of Lessee under the terms of this Lease, Lessee shall pay to Lessor, if Lessor shall so request, in addition to any other payments required under this Lease, a monthly advance installment, payable at the same time as the monthly rent, as estimated by Lessor, for real property taxes and insurance expenses on the Premises which are payable by Lessee under the terms of this Lease. Such fund shall be established to insure payment when due, before delinquency, of any or all such real property taxes and insurance premiums. If the amounts paid to Lessor by Lessee under the provisions of this paragraph are insufficient to discharge the obligations of Lessee to pay such real property taxes and insurance premiums as the same become due, Lessee shall pay to Lessor, upon Lessor's demand, such additional sums necessary to pay such obligations. All moneys paid to Lessor under this paragraph may be intermingled with other moneys of Lessor and shall not bear interest. In the event of a default in the obligations of Lessee to perform under this Lease, then any balance remaining from funds paid to Lessor under the provisions of this paragraph may, at the option of Lessor, be applied to the payment of any monetary default of Lessee in lieu of being applied to the payment of real property tax and insurance premiums.

See Paragraph 63

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 10% of the floor area of the building on the Premises, or more than 25% of the land area of the Premises which is not occupied by any building, is taken by condemnation, Lessee may, at Lessee's option, to be exercised in writing only within ten (10) days after Lessor shall have given Lessee 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 Lessee 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 rent shall be reduced in the proportion that the floor area of the building taken bears to the total floor area of the building situated on the Premises. NO REDUCTION OF RENT SHALL OCCUR IF THE ONLY AREA TAKEN IS THAT WHICH DOES NOT HAVE A BUILDING LOCATED THEREON. 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 Lessor, whether such award shall be made as compensation for diminution in value of the leasehold or for the taking of the fee, or as severance damages; provided, however, that Lessee shall be entitled to any award for loss of or damage to Lessee's trade fixtures and removable personal property. In the event that this Lease is not terminated by reason of such condemnation, Lessor shall to the extent of severance damages received by Lessor in connection with such condemnation, repair any damage to the Premises caused by such condemnation except to the extent that Lessee has been reimbursed therefor by the condemning authority. Lessee shall pay any amount in excess of such severance damages required to complete such repair.

15. Broker's Fee.

(a) Upon execution of this Lease by both parties, Lessor shall pay to Cushman & Wakefield of California, Inc., a California Corporation broker(s), a fee as set forth in a separate agreement between Lessor and said broker(s), or in the event there is no separate agreement between Lessor and said broker(s), the sum of \$_____ for brokerage services rendered by said broker(s) to Lessor in this transaction.

(b) Lessor hereby agrees that if Lessee exercises any Option as defined in Paragraph 32 of this Lease, which is provided to Lessee under this Lease, or any subsequently granted Option which is substantially similar to an Option granted to Lessee under this Lease, or if Lessee occupies any portion of the Premises or other premises described in this Lease, which are substantially similar to what Lessee would have acquired, had an Option been granted to Lessee, or if Lessee remains in possession of the Premises after the expiration of the term of this Lease after having failed to exercise an Option, or if said broker(s) are the procuring cause of any other lease or sale entered into between the parties pertaining to the Premises and/or any adjacent property in which Lessor has an interest, then as to any of said transactions, Lessor shall pay said broker(s) a fee in accordance with the schedule of said broker(s) in effect at the time of execution of this Lease.

(c) Lessor agrees to pay said fee not only on behalf of Lessor but also on behalf of any person, corporation, association, or other entity having an ownership interest in said real property or any part thereof, when such fee is due hereunder. Any transferee of Lessor's interest in this Lease, whether such transferee by agreement or by operation of law, shall be deemed to have assumed Lessor's obligation under this Paragraph 15. Said broker shall be a third party beneficiary of the provisions of this Paragraph 15.

16. Estoppel Certificate.

(a) Lessee shall at any time upon not less than ten (10) days' prior written notice from Lessor execute, acknowledge and deliver to Lessor a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to Lessee's knowledge, any uncured defaults on the part of Lessor hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises.

(b) At Lessor's option, Lessee's failure to deliver such statement within such time shall be a material breach of this Lease or shall be conclusive upon Lessee (i) that this Lease is in full force and effect, without modification except as may be represented by Lessor, (ii) that there are no uncured defaults in Lessor's performance, and (iii) that not more than one month's rent has been paid in advance or such failure may be considered by Lessor as a default by Lessee under this Lease.

Initials: [Handwritten initials]

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee hereby agrees to deliver to any lender or purchaser designated by Lessor such financial statements of Lessee as may be reasonably required by such lender or purchaser. Such statements shall include the past three years' financial statements of Lessee. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Lessor's Liability.** The term "Lessor" as used herein shall mean only the owner or owners at the time in question of the fee title or a lessee's interest in a ground lease of the Premises, and except as expressly provided in Paragraph 18, in the event of any transfer of such title or interest Lessor herein named (and in case of any subsequent transfers then the grantor) shall be relieved from and after the date of such transfer of all liability as respects Lessor's obligations thereafter to be performed, provided that any funds in the hands of Lessor or the then grantor at the time of such transfer, in which Lessee has an interest, shall be delivered to the grantee. The obligations contained in this Lease to be performed by Lessor shall, subject as aforesaid, be binding on Lessor's successors and assigns, only during their respective periods of ownership.

18. **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.

19. **Interest on Past-due Obligations.** Except as expressly herein provided, any amount due to Lessor not paid when due shall bear interest at the maximum rate then allowable by law from the date due. Payment of such interest shall not excuse or cure any default by Lessee under this Lease provided, however, that interest shall not be payable on late charges incurred by Lessee nor on any amounts upon which late charges are paid by Lessee.

20. **Time of Essence.** Time is of the essence.

21. **Additional Rent.** Any monetary obligations of Lessee to Lessor under the terms of this Lease shall be deemed to be rent.

22. **Incorporation of Prior Agreements; Amendments.** This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification. Except as otherwise stated in this Lease, Lessee hereby acknowledges that neither the real estate broker listed in Paragraph 15 hereof nor any cooperating broker on this transaction nor the Lessor or any employees or agents of any of said persons has made any oral or written warranties or representations to Lessee relative to the condition or use by Lessee of said Premises and Lessee acknowledges that Lessee assumes all responsibility regarding the Occupational Safety Health Act, the legal use and adaptability of the Premises and the compliance thereof with all applicable laws and regulations in effect during the term of this Lease except as otherwise specifically stated in this Lease.

23. **Notices.** Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery or by certified mail, and if given personally or by mail, shall be deemed sufficiently given if addressed to Lessee or to Lessor at the address noted below the signature of the respective parties, as the case may be. Either party may by notice to the other specify a different address for notice purposes except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice purposes. A copy of all notices required or permitted to be given to Lessor hereunder shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate by notice to Lessee. See Paragraph 52.

24. **Waivers.** No waiver by Lessor or any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Lessee of the same or any other provision. Lessor's consent to, or approval of any act, shall not be deemed to render unnecessary the obtaining of Lessor's consent to or approval of any subsequent act by Lessee. The acceptance of rent hereunder by Lessor shall not be a waiver of any preceding breach by Lessee of any provision hereof, other than the failure of Lessee to pay the particular rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent.

25. **Recording.** Either Lessor or Lessee shall, upon request of the other, execute, acknowledge and deliver to the other a "short form" memorandum of this Lease for recording purposes.

26. **Holding Over.** If Lessee, with Lessor's consent, remains in possession of the Premises or any part thereof after the expiration of the term hereof, such occupancy shall be a tenancy from month to month upon all the provisions of this Lease pertaining to the obligations of Lessee, but all options and rights of first refusal, if any, granted under the terms of this Lease shall be deemed terminated and be of no further effect during said month to month tenancy.

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

28. **Covenants and Conditions.** Each provision of this Lease performable by Lessee shall be deemed both a covenant and a condition.

29. **Binding Effect; Choice of Law.** Subject to any provisions hereof restricting assignment or subletting by Lessee and subject to the provisions of Paragraph 17, this Lease shall bind the parties, their personal representatives, successors and assigns. This Lease shall be governed by the laws of the State wherein the Premises are located.

30. **Subordination.**

(a) This Lease, at Lessor's option, shall be subordinate to any ground lease, mortgage, deed of trust, or any other hypothecation or security now or hereafter placed upon the real property of which the Premises are a part and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. Notwithstanding such subordination, Lessee's right to quiet possession of the Premises shall not be disturbed if Lessee is not in default and so long as Lessee shall pay the rent and observe and perform all of the provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms. If any mortgagee, trustee or ground lessor shall elect to have this Lease prior to the lien of its mortgage, deed of trust or ground lease, and shall give written notice thereof to Lessee, this Lease shall be deemed prior to such mortgage, deed of trust, or ground lease, whether this Lease is dated prior or subsequent to the date of said mortgage, deed of trust or ground lease on the date of recording thereof.

(b) Lessee agrees to execute any documents required to effectuate an attornment, a subordination or to make this Lease prior to the lien of any mortgage, deed of trust or ground lease, as the case may be. Lessee's failure to execute such documents within 10 days after written demand shall constitute a material default by Lessee hereunder, or, at Lessor's option, Lessor shall execute such documents on behalf of Lessee as Lessee's attorney-in-fact. Lessee hereby makes, constitute and irrevocably appoint Lessor as Lessee's attorney-in-fact and in Lessee's name, place and stead, to execute such documents in accordance with this paragraph 30, so long as such documents are consistent with subparagraph (a).

31. **Attorney's Fees.** Whether party or the broker named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to his reasonable attorney's fees to be paid by the losing party as fixed by the court. The provisions of this paragraph shall inure to the benefit of the broker named herein who seeks to enforce a right hereunder.

32. **Lessor's Access.** Lessor and Lessor's agents shall have the right to enter the Premises at reasonable times for the purpose of inspecting the same, showing the same to prospective purchasers, lenders, or lessees, and making such alterations, repairs, improvements or additions to the Premises or to the building of which they are a part as Lessor may deem necessary or desirable. Lessor may at any time place on or about the Premises any ordinary "For Sale" signs and Lessor may at any time during the last 120 days of the term hereof place on or about the Premises any ordinary "For Lease" signs, all without rebate of rent or liability to Lessee.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, either voluntarily or involuntarily, any auction upon the Premises without first having obtained Lessor's prior written consent. Notwithstanding anything to the contrary in this Lease, Lessor shall not be obligated to exercise any standard reasonableness in determining whether to grant such consent.

34. **Signs.** Lessee shall place any sign upon the Premises without Lessor's prior written consent except that Lessee shall have the right, without the prior permission of Lessor to place ordinary and usual for rent or sublet signs thereon.

35. **Merger.** The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation thereof, or a termination by Lessor, shall not work a merger, and shall, at the option of Lessor, terminate all or any existing subtenancies or may, at the option of Lessor, operate as an assignment to Lessor of any or all of such subtenancies.

36. **Consents.** Except paragraph 33 hereof, wherever in this Lease the consent of one party is required to an act of the other party, such consent shall not be unreasonably withheld.

37. **Guarantor.** In the event that there is a guarantor of this Lease, said guarantor shall have the same obligations as Lessee under this Lease.

38. **Quiet Possession.** Upon Lessee paying the rent for the Premises and observing and performing all of the covenants, conditions and provisions on Lessee to be observed and performed hereunder, Lessee shall have quiet possession of the Premises for the entire term hereof subject to all of the provisions of this Lease. The individuals executing this Lease on behalf of Lessor represent and warrant to Lessee that they are fully authorized and legally capable of executing this Lease on behalf of Lessor and that such execution is binding upon all parties holding an ownership interest in the Premises.

39. **Options.**

39.1 **Definition.** As used in this paragraph the word "Options" has the following meaning: (1) the right or option to extend the term of this Lease or to renew this Lease or to extend or renew any lease that Lessee has on the real property of Lessor; (2) the option or right of Lessee to lease the Premises or any part of the Premises or to lease other property of Lessor; or (3) the right of first refusal to lease other property of Lessor or the right of first refusal to purchase other property of Lessor; or (4) the right or option to purchase the Premises, or the right of first refusal to purchase the Premises, or the right of first refusal to purchase other property of Lessor; or (5) the right or option to purchase other property of Lessor.

39.2 **Options Granted.** Each Option granted to Lessee in this Lease is personal to Lessee and may not be exercised or be assigned, voluntarily or involuntarily, by or to any person or entity other than Lessee, provided, however, the Option may be exercised by or assigned to any

Lease or to renew this L

Lessee Affiliate as defined in paragraph 12.2 of this Lease. The Options herein granted to Lessee are not assignable separate and apart from this Lease. See Paragraphs 55 and Paragraphs 57 and 60.

39.3 Multiple Options. In the event that Lessee has any multiple options to extend or renew this Lease a later option cannot be exercised until the first option to extend or renew this Lease has been so exercised.

39.4 Effect of Default on Options.

(a) Lessee shall have no right to exercise an Option, notwithstanding any provision in the grant of Option to the contrary, (i) during the time commencing from the date Lessor gives to Lessee a notice of default pursuant to paragraph 13.1(b) or 13.1(c) and continuing until the default alleged in said notice of default is cured, or (ii) during the period of time commencing on the day after a monetary obligation to Lessor is due from Lessee and unpaid without any necessity for notice thereof to Lessee and continuing until the obligation is paid, or (iii) at any time after an event of default described in paragraphs 13.1(a), 13.1(d), or 13.1(e) (without any necessity of Lessor to give notice of such default to Lessee), or (iv) in the event that Lessor has given to Lessee three or more notices of default under paragraph 13.1(b), where a late charge becomes payable under paragraph 13.4 for each of such defaults, or paragraph 13.1(c), whether or not the defaults are cured, during the 12 month period prior to the time that Lessee intends to exercise the subject Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of paragraph 39.4(a).

(c) All rights of Lessee under the provisions of an Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and during the term of this Lease, (i) Lessee fails to pay to Lessor a monetary obligation of Lessee for a period of 30 days after such obligation becomes due (without any necessity of Lessor to give notice thereof to Lessee), or (ii) Lessor fails to commence to cure a default specified in paragraph 13.1(c) within 30 days after the date that Lessor gives notice to Lessee of such default; and/or Lessee fails thereafter to diligently prosecute said cure to completion, or (iii) Lessee commits a default described in paragraph 13.1(a), 13.1(d) or 13.1(e) without any necessity of Lessor to give notice of such default to Lessee, or (iv) Lessor gives to Lessee three or more notices of default under paragraph 13.1(b), where a late charge becomes payable under paragraph 13.4 for each such default, or paragraph 13.1(c), whether or not the defaults are cured.

40. Multiple Tenant Building. In the event that the Premises are part of a larger building or group of buildings then Lessee agrees that it will abide by, keep and observe all reasonable rules and regulations which Lessor may make from time to time for the management, safety, care, and cleanliness of the building and grounds, the parking of vehicles and the preservation of good order therein as well as for the convenience of other occupants and tenants of the building. The violations of any such rules and regulations shall be deemed a material breach of this Lease by Lessee.

41. Security Measures. Lessee hereby acknowledges that the rental payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of Lessee, its agents and invitees from acts of third parties. See Paragraph 64.

42. Easements. Lessor reserves to itself the right, from time to time, to grant such easements, rights and dedications that Lessor deems necessary or desirable, and to cause the recordation of Parcel Maps and restrictions, so long as such easements, rights, dedications, Maps and restrictions do not unreasonably interfere with the use of the Premises by Lessee. Lessee shall sign any of the aforementioned documents upon request of Lessor and failure to do so shall constitute a material breach of this Lease.

43. 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 recovery 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.

44. Authority. If Lessee 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 behalf of said entity. If Lessee is a corporation, trust or partnership, Lessee shall, within thirty (30) days after execution of this Lease, deliver to Lessor evidence of such authority/satisfactory to Lessor, upon written request reasonably.

45. 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.

46. Addendum. Attached hereto is an addendum or addenda containing paragraphs 47 through 69 which constitutes a part of this Lease.

Handwritten initials and numbers: "JCS", "98", "200".

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS LEASE, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

IF THIS LEASE HAS BEEN FILLED IN IT HAS BEEN PREPARED FOR SUBMISSION TO YOUR ATTORNEY FOR HIS APPROVAL. NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION OR BY THE REAL ESTATE BROKER OR ITS AGENTS OR EMPLOYEES AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION RELATING THERETO; THE PARTIES SHALL RELY SOLELY UPON THE ADVICE OF THEIR OWN LEGAL COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

The parties hereto have executed this Lease at the place on the date specified immediately adjacent to their respective signatures.

Executed at San Francisco
on Oct 5, 1981
Address 1695 Mission St
San Francisco CA 94107

855 Harrison Street Associates
By [Signature] 861-2179
By [Signature]
"LESSOR" (Corporate seal)

Executed at San Francisco
on 10/2/81
Address 350 California St
1-810-1

CAI Consulting Corporation
By [Signature]
By _____
"LESSEE" (Corporate seal)

ADDENDUM TO LEASE DATED OCTOBER 1, 1981
BETWEEN
855 HARRISON STREET ASSOCIATES
AND
CAI Consulting Corporation

See Paragraph 65.

47. Option to Renew: (a) Lessor grants to Lessee the personal option to renew this lease for one (1) three year period commencing on October 1, 1984, ("option period") under the same terms and conditions of the original lease except the monthly rental of ~~12,000.00~~ for this period shall be increased in proportion to the increase, if any, in the Consumer Price Index from the date of commencement of this lease to the date of commencement of the option period. for All Urban Consumers
- (b) The Consumer Price Index to be used is the San Francisco Oakland Metropolitan Area (all items) published by The U.S. Department of Labor, Bureau of Labor Statistics. The rental so determined shall be the rental for the remainder of the term. that is, the total rent increase shall not exceed 33.1% of the original monthly rental.
- (c) This Consumer Price Index increase shall be limited to ten (10) percent per year compounded annually. In no event will the rent be reduced from the initial rent because of a decrease in the Consumer Price Index. In order to exercise this option, Lessee shall notify Lessor by U.S. mail service in writing, no later than June 1, 1984 of its intention to extend the lease.
48. Use of Adjoining Premises: Lessor will restrict the use of the currently available front ground floor office space located on the western side of the building to office uses only.
49. Sign Restrictions: Lessor shall not permit the placement of signs on the building which are inconsistent with the general office character of the tenants. However, this provision does not affect billboard usage on top of the building.
50. Building Improvements: Lessor grants to Lessee the right to refurbish the main entrance to the property located on the western side of the building. Any improvements shall be subject to the Lessor's prior express written approval of the plans. The costs of these improvements shall be at the Lessee's expense.
Except as otherwise provided herein,
51. Lessee shall lease space "as-is" without improvements or warranties made by Lessor.
52. Notices: All notices to be given to Lessee can be transmitted in writing personally or by depositing same in the U.S. mail, postage prepaid and addressed to Lessee at the said premises. Any notices to be sent to Lessor can be transmitted to him at:

(over) Initials:
C

Harrison Street Associates
1695 Mission Street
San Francisco, Calif. 94103

53. Early Possession: Upon mutual execution of this lease, Lessor grants to Lessee the right to enter the premises to begin tenant improvements and building alterations.
54. It is understood that Lessee's pro-rata portion of the tax and insurance increase mentioned in paragraphs 8 and 10 shall be 40%, unless Lessee exercises his rights in Paragraph 68, in which case percentage shall be 36.5%.
55. In the event Lessee shall assign, sell, sublet or in any way transfer more than 50% of its interest in this lease, options and/or premises, then the rent and rental increases in this lease shall be adjusted to reflect increases, if any, in the prevailing fair market rents in the area. In no event shall the rent or rental increases be decreased. *
56. Lessee shall not place any sign on the roof of the premises. I may place a sign to be approved in form by Lessor on the front of the building.
57. OMITTED

*The foregoing rental adjustment shall not be made unless Lessee exercises the option to renew provided for in this Lease, shall be made one time only, and shall be effective as of the later of (i) December 1, 1984, or (ii) the date that Lessee ceases to occupy more than 50% of the Premises.

Lessee shall have the right to elect to have the new rent and rental increase determined as hereinafter provided at any time after December 1, 1983. If possible, the new rent and rental increase shall be determined by mutual agreement. If the parties are unable to agree within thirty days of Lessee's request to have the determination made, or if Lessee has not requested a determination, within thirty days prior to the effective date of such rental adjustment, then within ten days after the expiration of such period each party, at its cost and by giving notice to the other party, shall appoint a real estate appraiser to appraise and set the new rent and rental increases. If a party does not appoint an appraiser within ten days after the other party has given notice of the name of its appraiser, the single appraiser appointed shall be the sole appraiser. If the two appraisers are appointed by the parties as stated in this paragraph, they shall meet promptly and attempt to set the new rent and rental increases. If they are unable to agree within thirty days after the second appraiser has been appointed, they shall attempt to elect a third appraiser within ten days after the last day the two appraisers are given to set the new rent and rental increases. If they are unable to agree on the third appraiser, either of the parties to this Lease by giving ten days' notice to the other party can apply to the president

Initials:

judge of the San Francisco Superior Court for the selection of a third appraiser. Each of the parties shall bear one-half of the cost of appointing the third appraiser (if any) and of paying the third appraiser's fee. The third appraiser shall be a person who has not previously acted in any capacity for either party. Within thirty days after the selection of the third appraiser, a majority of the appraisers shall set the new rent and rental increases. If a majority of the appraisers are unable to set the new rent and rental increases within the stipulated period of time, the determination of the third appraiser shall control.



Initials: EC

ND

58. Compliance with Law.

Notwithstanding paragraph 6.2 above, Lessee shall not be required to make any alterations, additions or improvements of any kind to the Premises in order to bring the Premises into compliance with applicable statutes, ordinances, rules, regulations, orders, covenants and restrictions of record or other requirements.

59. Maintenance and Repairs. Notwithstanding paragraphs 6 and 7 above:

(a) Lessor warrants that the existing plumbing, heating, air conditioning, ventilating, electrical and lighting facilities and equipment and the elevator on the Premises will be and will operate in good working order for a period of thirty (30) days following the Lease commencement date; and

(b) Lessee's repair obligation with regard to the elevator and the air conditioning facilities and equipment on the Premises shall be limited to maintaining a service contract on the elevator and the air conditioning facilities and equipment so long as the same are in working order. Lessee shall not be obligated to make any major repairs on the elevator or the air conditioning facilities and equipment on the Premises, nor shall Lessor be so obligated after the expiration of the period provided for by subparagraph

60. Alterations.

(a) Notwithstanding paragraph 7.3, and subject to the provisions of paragraph 7.2, Lessee may remove, upon the termination of this Lease, any draperies installed by Lessee. In addition, Lessee may remove any air conditioning equipment installed by Lessee in the premises so long as Lessee agrees to restore the premises to their prior condition at the commencement of the Lease.

(b) Lessor hereby consents to Lessee's installing an air conditioning unit on the roof of the Premises, subject to Lessor's approval of plans for installation. Lessee may remove such air conditioning equipment so long as Lessee agrees to restore premises to their condition at the commencement of the Lease.

(c) Notwithstanding paragraph 7.3(a), Lessor shall not require Lessee to remove walls, doors or partitions or similar alterations, improvements, additions or utility installations made to or in the Premises by Lessee so long as Lessor has given its prior written consent to said alterations, improvements, additions or utility installations.

61. Lessor's Liability.

Notwithstanding paragraphs 8.7 and 8.8 or any other provision of this Lease, Lessor shall remain liable for Lessor's negligent or willful acts or omissions and those of its agents or employees, and Lessee's indemnification of Lessor and waiver of liability shall not extend thereto.

Initials:

62. Utilities.

Lessor agrees to make the determination of Lessee's share of utility charges under paragraph 11 on a reasonable basis, which shall include, but not be limited to, taking into account any unusual use of utilities by any tenant. Lessor agrees to provide Lessee with copies of utility bills for the Premises upon request.

Initials: *[Handwritten initials]*

63. Condemnation.

The provisions of this paragraph supplement those of paragraph 14. In the event that any of the parking area for the Premises is taken by condemnation, and this Lease is not terminated as hereinabove provided, the rent hereunder shall be reduced by the fair rental value of the parking area allocated to Lessee that is taken, in addition to any reduction made pursuant to paragraph 14. Lessee shall be entitled to any separate condemnation award made for Lessee's relocation expenses.

64. Security Measures.

The terms of this paragraph will apply only in the event Lessee exercises his right to partial termination. See Paragraph 65. *See 65*

Lessor acknowledges that Lessee will share the lobby that serves the Premises (the "Lobby") with the tenant of certain space on the first floor of the building in which the Premises is located, which space is presently vacant (the "First Floor Tenant").

(a) Lessee agrees to maintain and repair the Lobby (except for repair of any unusual damage not caused by the act or omission of Lessee or its agents). Lessor agrees that it will require the First Floor Tenant to be responsible for repair of any unusual damage to the Lobby caused by the First Floor Tenant or its agents.

(b) Lessor will require the First Floor Tenant to agree, that Lessee shall not be liable for any claims for injury or damage to persons or property arising out of or connected with Lessee's maintenance, repair, or operation of the Lobby, except for injury or damage caused by Lessee's negligent or willful act or omission or those of its agents.

(c) Lessor will require the First Floor Tenant to agree not to use the Lobby as a reception area nor allow the placement of furniture for purposes of facilitating such use.

(d) Lessor agrees that the First Floor Tenant's lease shall expressly provide for those matters set forth in subparagraphs (a) through (c) above, and that such provisions shall be expressly enforceable by Lessee for its own benefit.

Initials: *JS*
CS
100

65. Option to Renew.

(a) Notwithstanding the provisions of paragraphs 39.2 and 47, Lessee shall be entitled to give notice of exercise of the option to renew provided for in this Lease at any time prior to June 1, 1984, and Lessee shall be entitled to exercise said option whether or not Lessee itself occupies any portion of the Premises on the date of notice of exercise or at the commencement of or during the extended term.

each October 5 throughout the lease
2/2/84
4/6/84

(b) The rental increase provided for by subparagraph (a) of paragraph 47 above shall be computed as follows. The base for computing the increase shall be the last Consumer Price Index published prior to ~~December 3, 1981~~ ^{October 1, 1984} ("beginning index"). If the last Consumer Price Index published prior to ~~December 3, 1981~~ ^{October 1, 1984} ("extension index") has increased over the beginning index, the monthly rent for the option term shall be set by multiplying the then-current monthly rental by a fraction, the numerator of which is the extension index and the denominator which is the beginning index.***

(c) If the Consumer Price Index provided for herein changes so that the base year differs from that used as of the date of the beginning index, the Consumer Price Index provided for herein shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Consumer Price Index provided for herein is discontinued or revised during the term of this Lease, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if such Consumer Price Index had not been discontinued or revised.

66. Subletting.

It is understood that the space leased hereby is in excess of Lessee's needs, and that Lessee will immediately seek a subtenant for approximately 4,000 square feet of the Premises.

* and each successive October 5 throughout the lease
* the immediately preceding "extension index" becomes the next "beginning index."

** This procedure to be instituted annually each Oct. 5 throughout the lease in order to achieve the compounded rental increase provided by paragraph 47, and such increase, if any, shall be effective for the option period commencing Dec. 1, 1984.

Initials:
[Signature]

67. Notwithstanding paragraph 63 above, Lessee does not accept the premises in their existing condition with regard to the roof of the building in which the premises are located. Lessor agrees as soon as reasonable possible after the execution of this lease, and after identification of the leaking area, to commence repair of the roof and thereafter diligently prosecute said repairs to completion. Notwithstanding any other provision of this lease, Lessor shall remain liable for any damage or injury to persons or property caused by leakage of the roof, so long as such damage is caused by Lessor's failure to keep the roof in good repair.

68. Lessor grants to Lessee the right to terminate this lease with respect to the office space located on the first floor west of the Lobby, as shown in Exhibit A, with 120 days written notice. in that event, the rental becomes monthly payable on the first day of each month and the security provisions outlined in paragraph 64 become effective, and Lessee's parking spaces shall be 21 spaces of the eastern lot.

69. It is understood and agreed by Lessor and Lessee that Lessee shall remit to Cushman & Wakefield of California Inc. on October 5, 1981 a check in the amount of to comply with paragraphs 4 and 5 above.

Initials: *W/C*
W/C

EXHIBIT B

ADDENDUM TO SUBLEASE DATED MAY 1, 1983
SUBLESSOR- CAI CONSULTING CORPORATION
SUBLESSEE-S.F. INNOVATION ARTHUR BJORK

1. PREMISES: The eastern portion of the second floor including the storage room adjacent to the men's restroom.
2. SIZE: 2800 rentable square feet
3. TERM: MAY 1, 1983 - NOVEMBER 30, 1984
plus an option to renew for THREE additional years subject to SUBLESSORS exercising their option to renew their lease for an additional THREE years.
SUBLESSOR shall notify SUBLESSEE of their intent to renew or not renew by MAY 1, 1984.
SUBLESSEE shall have 15 days to notify SUBLESSOR of their intent to renew or not renew.
See paragraph 20 below.
4. BASE RENTAL: [REDACTED] per month full service (gross) excluding janitorial service expense. Lessee shall pay for all janitorial service supplied to the subleased premises.
5. INCREASES TO BASE RENTAL: Annual CPI increases to commence effective December 1, 1984 as compared with May 1, 1983 index. Index to be for all Urban Consumers San Francisco/Oakland. Minimum increase shall be 3% and the maximum increase shall be 9%. In no event shall base rent be lower than initial rental. See paragraph 10 below.
6. SECURITY: SUBLESSOR shall provide security system as they presently use at Sublessor's expense. See paragraph 11 below.
7. PARKING: Sublessor shall provide THREE(3) reserved spaces for Sublessee in Eastern parking lot. Such spaces shall be adjoining and marked for exclusive use of Sublessee.
8. TENANT IMPROVEMENTS: Sublessee shall submit plans or sketches of intended improvements to Sublessor for his prior approval to build-out, such approval shall not be unreasonably withheld. See paragraph 12 below.
9. OCCUPANCY: Sublessee shall be permitted to commence tenant improvements after Sublessor's review of financial statements of Sublessee and after final agreement to all terms and conditions of lease. Sublessor will attempt to accommodate the April 15, 1983 target date.

EXHIBIT B

ADDENDUM TO SUBLEASE DATED MAY 1, 1983
SUBLESSOR- CAI CONSULTING CORPORATION
SUBLESSEE-S.F. INNOVATION ARTHUR BJORK

1. PREMISES: The eastern portion of the second floor including the storage room adjacent to the men's restroom.
2. SIZE: 2800 rentable square feet
3. TERM: MAY 1, 1983 - NOVEMBER 30, 1984
plus an option to renew for THREE additional years subject to SUBLESSORS exercising their option to renew their lease for an additional THREE years.
SUBLESSOR shall notify SUBLESSEE of their intent to renew or not renew by MAY 1, 1984.
SUBLESSEE shall have 15 days to notify SUBLESSOR of their intent to renew or not renew.
See paragraph 20 below.
4. BASE RENTAL: [REDACTED] per month, full-service (gross) excluding janitorial service expense. Lessee shall pay for all janitorial service supplied to the subleased premises.
5. INCREASES TO BASE RENTAL: Annual CPI increases to commence effective December 1, 1984 as compared with May 1, 1983 index. Index to be for all Urban Consumers San Francisco/Oakland. Minimum increase shall be 3% and the maximum increase shall be 9%. In no event shall base rent be lower than initial rental. See paragraph 10 below.
6. SECURITY: SUBLESSOR shall provide security system as they presently use at Sublessor's expense. See paragraph 11 below.
7. PARKING: Sublessor shall provide THREE(3) reserved spaces for Sublessee in Eastern parking lot. Such spaces shall be adjoining and marked for exclusive use of Sublessee.
8. TENANT IMPROVEMENTS: Sublessee shall submit plans or sketches of intended improvements to Sublessor for his prior approval to build-out, such approval shall not be unreasonably withheld. See paragraph 12 below.
9. OCCUPANCY: Sublessee shall be permitted to commence tenant improvements after Sublessor's review of financial statements of Sublessee and after final agreement to all terms and conditions of lease. Sublessor will attempt to accommodate the April 15, 1983 target date.

10. INCREASES TO BASE RENTAL: As provided in paragraph 5 above, the monthly rent provided for in paragraph 4 above shall be subject to adjustment effective December 1, 1984 and annually thereafter, if the term of this Sublease should be extended ("the Adjustment Date") as follows:

The base for computing the adjustment is the Consumer Price Index for All Urban Consumers for the San Francisco/Oakland Area, published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), for the month of April, 1983 ("Beginning Index"). The Index published most immediately preceding the Adjustment Date in question ("Extension Index") is to be used in determining the amount of the adjustment. If the Extension Index has increased over the Beginning Index, the monthly rent for the following year (until the next rent adjustment) shall be set by multiplying the monthly rent set forth in paragraph 4 above by a fraction, the numerator of which is the Extension Index and the denominator of which is the Beginning Index, provided, however, that in no case shall the monthly rent be increased by less than three percent (3%) or more than nine percent (9%) of the monthly rent in effect immediately prior to the adjustment. On adjustment of the monthly rent, the parties shall immediately execute an amendment to this Sublease stating the new monthly rent. If the Index is changed so that the base year differs from that in effect when the term commences, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor Statistics. If the Index is discontinued or revised during the term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

11. SECURITY: Except as set forth in paragraph 6 above, Sublessor shall have no responsibility for the security of the premises subleased hereunder, and the provisions of Paragraphs 8.7, 8.8 and 41 of the Lease attached as Exhibit A shall be specifically applicable.
12. TENANT IMPROVEMENTS: Any and all improvements to the subleased premises shall require the prior approval of both Sublessor and Lessor under the Lease attached as Exhibit A pursuant to subparagraph 7.3 of said Lease. If said Lessor refuses to give such approval, Sublessor shall not be obligated to give such approval.

13. OCCUPANCY: Notwithstanding paragraph 9 above, Sublessee shall not be permitted to commence tenant improvements until the same have been approved by both Sublessor and Lessor under the Lease attached as Exhibit A, as provided in paragraph 12 above, and any entry into the subleased premises for such purposes prior to the commencement of the term hereof shall be subject to all of the terms and conditions of this Sublease except payment of rent.
14. INAPPLICABLE PROVISIONS OF MASTER LEASE: Pursuant to paragraph 2(b) of the Sublease of which this Addendum constitutes a part, the following provisions of the Lease attached hereto as Exhibit A are not incorporated herein for purposes of becoming terms and conditions of this Sublease: Paragraph 1 - Parties; Paragraph 2 - Premises; Paragraph 3 - Term; Paragraph 4 - Rent; Paragraph 5 - Security Deposit; Subparagraph 8.4 - Payment of Premium Increase; Subparagraph 9.5(b) - regarding Damage Near End of Term; Subparagraph 10.1 - Payment of Tax Increase; Subparagraph 10.4 - Joint Assessment; Paragraph 11 - Utilities; Subparagraph 13.5 - Impounds; Paragraph 15 - Broker's Fee; Paragraph 17 - Lessor's Liability; Paragraph 25 - Recording; Paragraph 47 - Option to Renew; Paragraph 50 - Building Improvements; Paragraph 53 - Early Possession; Paragraph 54 - [Untitled]; the first sentence of the third paragraph of paragraph 55 - [Untitled]; Subparagraphs 60 (a) and (b) regarding Alterations; Paragraph 62 - Utilities; Paragraph 64 - Security Measures; Paragraph 65 - Option to Renew; Paragraph 66 - Subletting; Paragraph 67 [Untitled]; Paragraph 68 - [Untitled]; and Paragraph 69 - [Untitled].
15. OBLIGATIONS OF MASTER LESSOR: It is understood and agreed that the obligations set forth in the following provisions of the Lease attached as Exhibit A are and shall remain the obligations of Lessor thereunder, and Sublessor shall have no obligation therefor: Subparagraph 7.1 - Lessor's Obligations; Subparagraph 8.3 - Property Insurance; Subparagraph 9.2 - Partial Damage-Insured Loss; Subparagraph 9.3 - Partial Damage-Uninsured Loss; Subparagraph 9.5 - Damage Near End of Term; Subparagraph 9.6(b) regarding Lessee's Remedies; Paragraph 48 - Use of Adjoining Premises; and Paragraph 49 - Sign Restrictions.
16. ASSIGNMENT OR SUBLETTING: It is understood and agreed that any assignment of subletting, including or those described in Subparagraph 12.2 of the Lease attached as Exhibit A, shall be subject to the approval of the Lessor thereunder as well as Sublessor, as provided for by Paragraph 12 thereof. Sublessor may withhold consent to any assignment or subletting (i) to which said Lessor has refused to consent, or (ii) which would cause an increase in rent under said Lease.

17. NOTICES: The provisions of Paragraphs 23 and 52 of the Lease attached as Exhibit A shall apply to this Sublease, except that Sublessor's address for notice purposes shall be 859 Harrison Street, San Francisco, California, 94107, and Sublessee's address for notice purposes shall be the premises subleased hereunder.
18. LESSOR'S ACCESS: It is understood and agreed that both Sublessor and Lessor under the Lease attached as Exhibit A shall have access to the subleased premises pursuant to Paragraph 32 of said Lease.
18. INSURANCE: It is understood and agreed that the insurance to be maintained by Sublessee pursuant to Subparagraph 8.1 of the Lease attached as Exhibit A shall insure Sublessee, Sublessor and Lessor under said Lease.
20. OPTION TO RENEW: Any renewal of this Sublease shall be subject to all of the terms and conditions hereof except Paragraph 3 of this Addendum and this Paragraph 20, including without limitation the provisions for adjustment of rent.
21. JOINT AND SEVERAL: The obligations of Sublessee provided for by this Sublease are the joint and several obligations of the parties constituting Sublessee.

60 x 7 1/2 x 11 1/2

Damon Raike and Company Commercial & Industrial Real Estate

July 1, 1987

Mr. Richard Caldwell
Mr. Mark Hayes
Norris, Beggs & Simpson
601 California Street
San Francisco, CA 94108

RE: Sequoia Pacific Systems--859 Harrison Street

Dear Richard and Mark:

Enclosed please find a space plan submitted to us by the present tenant of the second floor of 859 Harrison Street delineating the present office configuration. I trust this information will be important to you and your clients and hope that it results in a proposal to lease. We request that when you are finished reviewing this space plan you return it to our offices at 100 Pine Street, Suite 1800, San Francisco.

Thank you in advance for your cooperation, and we look forward to assisting you in this transaction with any other information you may need.

Sincerely,

DAMON RAIKE AND COMPANY

Tom Christian

TXC:pj
Enclosure

cc: Mr. Gary Zimmerman

CONFIDENTIAL - SECURITY INFORMATION

1977

CONFIDENTIAL - SECURITY INFORMATION
EXCLUDED FROM AUTOMATIC
DOWNGRADING AND
DECLASSIFICATION

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DOWNGRADING AND
DECLASSIFICATION

Damon Raike and Company Commercial & Industrial Real Estate

July 16, 1987

Mr. Gary Zimmerman
c/o Discount Builders Supply
1695 Mission Street
San Francisco, California 94103

RE: Broker Flyer For 829 Harrison Street
San Francisco, California

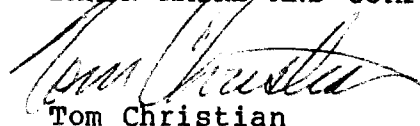
Dear Gary:

Enclosed please find a broker flyer which we have circulated amongst the San Francisco office leasing brokerage community and which we also use when cold calling on selected tenants for your building at 859 Harrison Street, San Francisco.

We look forward to leasing the second floor of your building in the immediate future at the highest price the market will bear.

Sincerely,

DAMON RAIKE AND COMPANY

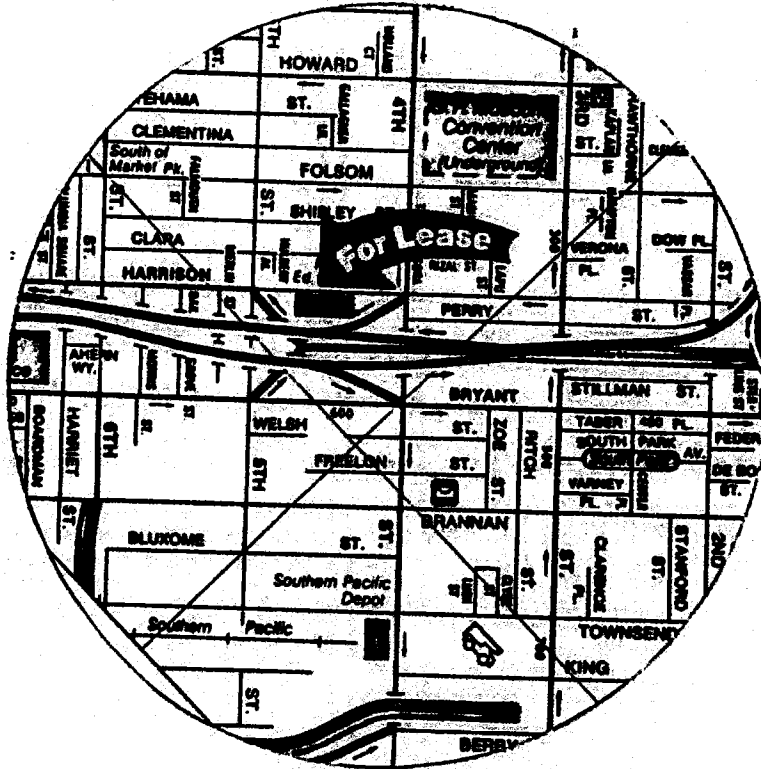


Tom Christian

TC:ccc

enclosure

**LOCATION!
 LOCATION!
 LOCATION!**



**859
 HARRISON
 STREET**

- * 27 FREE PARKING SPACES ON SITE
- * 15,000 SQUARE FEET OF HIGHLY IMPROVED OFFICE SPACE—EASILY DIVIDES INTO 12,000 AND 3,000 SQUARE FEET (BUILT OUT FOR AN OPEN-PLAN SECURITIES DEALER)
- * EXCELLENT FREEWAY ACCESS (ONE BLOCK FROM THE OFF-RAMP AT 4TH AND BRYANT STREET; ON-RAMP AT 4TH AND HARRISON BORDERS THE PROPERTY)
- * AIR-CONDITIONED AND SPRINKLERED; OPERABLE WINDOWS
- * OUTSTANDING IDENTITY AND SIGNAGE POTENTIAL
- * CALTRANS STATION TWO BLOCKS AWAY
- * ONE-HALF BLOCK FROM MUNI

LOCATION: 859 Harrison Street, San Francisco, between 4th and 5th Streets.

SPACE AVAILABLE: Approximately 15,000 square feet of office space on the second floor of this two-story, free-standing concrete building. This office space is presently occupied by a securities firm. It is highly improved with a mix of private offices and open space.

AVAILABLE: December 1987.

RENTAL RATE: 80¢/sq. ft./month, net of utilities and janitorial.

**For further information and to arrange a showing, please contact:
 Tom Christian, Damon Raike and Company, Exclusive Agents, 781-8100**

Clarke & Cramer

August 21, 1990

Doron Baruth
TRI Commercial Brokerage
100 Pine Street, #2300
San Francisco, CA 94111

Re: 859 Harrison Street - "City in the Hills"

Dear Doron,

As the exclusive agent for City in the Hills, Clarke and Cramer, Inc. has been authorized to deliver the following proposal to lease the space shown below:

PREMISES: Approximately 15,000 rentable square feet located on the 2nd floor of 859 Harrison Street, San Francisco, California. Space shall be measured using BOMA standards, subject to mutual approval.

LEASE TERM: 10 years.

LEASE COMMENCEMENT: Tenant Improvements will commence upon lease execution. Lease commencement will occur upon completion of tenant improvements or November 1, 1990, whichever occurs first.

CONTRACT RENTAL RATE: The contract rental rate for the premises shall be [redacted] per rentable square foot net of janitorial and utilities.

REAL ESTATE TAXES: 1991/92 (Real Estate Taxes). Tenant to pay proportionate share of any tax increases beyond the 1991/92 Base Year.

Doren Baruth
Page 2
August 31, 1990

**EXTENSION:
OPTION:**

Tenant shall have the option to extend the lease term under the following conditions.

1. Term: Five (5) years
2. Rental Rate: 90% of fair market value
3. Base Year: 2001 (Operating Expenses)
2001/02 (Real Estate Taxes)
4. Notice: Tenant to provide six (6) months prior written notice.

**OPTION
SPACE:**

Tenant shall have first right of refusal on any office space to come available in the building.

**SUBLEASE
AGREEMENT:**

Tenant shall have the right to sublease all or part of the Premises subject to Landlord's approval, which shall not be unreasonably withheld.

PARKING:

Nineteen parking spaces will be provided at a cost of \$35.00 per space, per month for the term of the lease.

**FINANCIAL
STATEMENTS:**

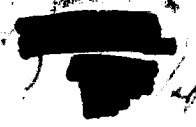
Tenant shall submit financial statements to Landlord for review and approval, immediately following acceptance of this Proposal by all parties.

**TENANT
IMPROVEMENTS:**

The office space will be provided as-is by Owner, any tenant improvements necessary will be paid by tenants. Owner warrants there is no asbestos containing material in the building which would inhibit or affect the cost of doing any tenant improvements. A space planner of the Tenant's choice will be used to do a preliminary space plan at the Owner's expense.

NO

Office



We must

No

Doron Baruth
Page 3
August 21, 1990

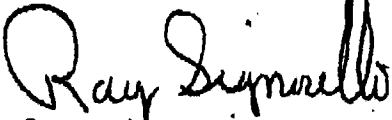
**REAL ESTATE
COMMISSION:**

Clarke & Cramer, Inc. shall be paid a full leasing commission of 5%, 5%, 5%, 4% 4% for the first five years and 2.5% for the duration of term. One-half (1/2) shall be paid upon lease execution and one-half (1/2) upon Lease commencement.

This letter shall not be construed as a binding agreement. Only a fully executed Lease shall bind the parties. Our Proposal is open until 5:00 p.m. ~~August 23, 1990~~
September 12, 1990

Sincerely,

CLARKE & CRAMER, INC.


Ray Signorello

AUTHORIZED BY:

City in the Hills


Ron Owens

ACCEPTED:

By: _____

Date: _____

RES:dhw-1858



STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE -- GROSS

(DO NOT USE THIS FORM FOR MULTI-TENANT BUILDINGS)

1. Basic Provisions ("Basic Provisions").

1.1 Parties: This Lease ("Lease"), dated for reference purposes only, August 27, 2002, is made by and between 855 Harrison Street Associates (Lessor) and Martin M. Ron Associates, Inc. (Lessee), collectively the "Parties," or individually a "Party".

1.2 Premises: That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, and commonly known as 855 Harrison Street, located in the County of San Francisco, State of California, and generally described as (describe briefly the nature of the property and, if applicable, the "Project", if the property is located within a Project) a small portion of 2nd floor space consisting of approximately 3,564 square feet of which 64 sq. ft. is located in the lobby entrance and five (5) parking spaces located in the lot to the east of the building. ("Premises"). (See also Paragraph 2)

1.3 Term: 5 years and 0 months ("Original Term") commencing October 1, 2002 ("Commencement Date") and ending September 30, 2007 ("Expiration Date"). (See also Paragraph 3)

1.4 Early Possession: (See also Paragraphs 2.2 and 3.2) ("Early Possession Date").

1.5 Base Rent: month ("Base Rent"), payable on the first day of each month commencing November 1, 2002. (See also Paragraph 4)

[X] If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. (See Addendum 51)

1.6 Base Rent and Other Monies Paid Upon Execution:

- (a) Base Rent for the period November 1, 2002 - November 30, 2002
(b) Security Deposit: \$ ("Security Deposit"). (See also Paragraph 5)
(c) Association Fees: \$ for the period
(d) Other: \$ for
(e) Total Due Upon Execution of this Lease:

1.7 Agreed Use: General office use (See also Paragraph 6)

1.8 Insuring Party: Lessor is the "Insuring Party". The annual "Base Premium" is \$ (See also Paragraph 8)

1.9 Real Estate Brokers: (See also Paragraph 15)

(a) Representation: The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

- [] represents Lessor exclusively ("Lessor's Broker");
[] represents Lessee exclusively ("Lessee's Broker"); or
[] represents both Lessor and Lessee ("Dual Agency").

(b) Payment to Brokers: Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Broker the fee agreed to in their separate written agreement (or if there is no such agreement, the sum of or % of the total Base Rent) for the brokerage services rendered by the Brokers.

1.10 Guarantor. The obligations of the Lessee under this Lease are to be guaranteed by ("Guarantor"). (See also Paragraph 37)

1.11 Attachments. Attached hereto are the following, all of which constitute a part of this Lease:

- [] an Addendum consisting of Paragraphs 51 through 55;
[] a plot plan depicting the Premises;
[] a current set of the Rules and Regulations;
[] a Work Letter;
[] other (specify):

2. Premises.

2.1 Letting. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, 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 size set forth in this Lease, or that may have been used in calculating Rent, is an approximation which the Parties agree is reasonable and any payments based thereon are not subject to revision whether or not the actual size is more or less. Note: Lessee is advised to verify the actual size prior to executing this Lease.

2.2 Condition. Lessor shall deliver the Premises to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), loading doors, sump pumps, if any, and all other such elements in the Premises, other than those constructed by Lessee, shall be in good operating condition on said date and that the surface and structural elements of the roof, bearing walls and foundation of any buildings on the Premises (the "Building") shall be free of material defects. If a non-compliance with said warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such

Initials

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non-compliance, malfunction or failure, rectify, and Lessor's expense. The warranty periods shall be: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Building. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense, except for the roof, foundations, and bearing walls which are handled as provided in paragraph 7. (See Addendum 52)

2.3 Compliance. Lessor warrants that the improvements on the Premises comply with the building codes, applicable laws, covenants or restrictions of records, regulations, and ordinances ("Applicable Requirements") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 60), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are appropriate for Lessee'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, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. 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 and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and an amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor and Lessee shall allocate the obligation to pay for such costs pursuant to the provisions of Paragraph 7.1(d); provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessee's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of the Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not, however, have any right to terminate this Lease.

2.4 Acknowledgements. Lessee acknowledges that: (a) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use; (b) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises; and (c) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises; and (ii) it is Lessee's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 Lessee as Prior Owner/Occupant. The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 Early Possession. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Lease (including but not limited to the obligations to pay Real Property Taxes and insurance premiums and to maintain the Premises) shall, however, be in effect during such period. Any such early possession shall not affect the Expiration Date.

3.3 Delay in Possession. Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 Lessee Compliance. Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.


4. Rent.

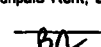
4.1 Rent Defined. All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 Payment. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States on or before the day on which it is due, without offset or deduction (except as specifically permitted in this Lease). Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future payments to be made by Lessee to be by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Operating Expense Increase, and any remaining amount to any other outstanding charges or costs.

4.3 Association Fees. In addition to the Base Rent, Lessee shall pay to Lessor each month an amount equal to any owner's association or condominium fees levied or assessed against the Premises. Said monies shall be paid at the same time and in the same manner as the Base Rent.

5. Security Deposit. Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due Lessor or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional moneys with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 14 days after the expiration or termination of this Lease, if Lessor elects to apply the Security Deposit only to unpaid Rent, and


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Initials

otherwise within 30 days after the Premises have been vacated pursuant to Paragraph 7.4(c) below, Lessee shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. Use.

6.1 Use. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the Improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 Hazardous Substances.

(a) Reportable Uses Require Consent. The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) Duty to Inform Lessor. If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) Lessee Remediation. Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) Lessee Indemnification. Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from adjacent properties not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) Lessor Indemnification. Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) Investigations and Remediations. Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) Lessor Termination Option. If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor'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 Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not 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 Lessor's notice of termination.

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the such Requirements, without regard to whether such Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements.

6.4 Inspection; Compliance. Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see paragraph 9.1) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of a written request therefor.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations. (See Paragraph 5.4)

(a) In General. Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fire protection system, fixtures, walls (interior and exterior), ceilings, floors, windows, doors, plate glass, skylights, landscaping, driveways, parking lots, fences, retaining walls, signs, sidewalks and parkways located in, on, or adjacent to the Premises. Lessee is also responsible for keeping the roof and roof drainage clean and free of debris. Lessor


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shall keep the surface and structural elements of the roof, foundations, and bearing walls in good repair (see Paragraph 7.2). Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.4(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. Lessee shall, during the term of this Lease, keep the exterior appearance of the Building in a first class condition (including, e.g. graffiti removal) consistent with the exterior appearance of other similar facilities of comparable age and size in the vicinity, including, when necessary, the exterior repainting of the Building.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler, and pressure vessels, (iii) fire extinguishing systems, including fire alarm and/or smoke detection, (iv) landscaping and irrigation systems, (v) elevators, (vi) basic utility feed to the perimeter of the Building, and (vii) any other equipment, if reasonably required by Lessor. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and if Lessor so elects, Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.4, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 145% of the cost thereof.

(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.4(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance at a rate that is commercially reasonable in the judgment of Lessor's accountants. Lessee may, however, prepay its obligation at any time.

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 8 (Damage or Destruction) and 14 (Condemnation), it is intended by the Parties hereto that Lessor have no obligation, in any manner whatsoever, to repair and maintain the Premises, or the equipment therein, all of which obligations are intended to be that of the Lessee, except for the surface and structural elements of the roof, foundations and bearing walls, the repair of which shall be the responsibility of Lessor upon receipt of written notice that such a repair is necessary. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises, and they expressly waive the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 months' Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialman's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days' notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notice of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom 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 practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises, or if applicable, the Project) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

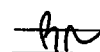
8. Insurance; Indemnity.

8.1 Payment of Premium Increases.

(a) Lessee shall pay to Lessor its Pro-Rata Share, any insurance cost increase ("Insurance Cost Increase") occurring during the term of this Lease. Insurance Cost Increase is defined as any increase in the actual cost of the insurance required under Paragraph 8.2(b), 8.3(a) and 8.3(b) ("Required Insurance"), over and above the Base Premium as hereinafter defined calculated on an annual basis. Insurance Cost Increase shall include but not be limited to increases resulting from the nature of Lessee's occupancy, any act or omission of Lessee, requirements of the holder of mortgage or deed of trust covering the Premises, increased valuation of the Premises and/or a premium rate increase. The parties are encouraged to fill in the Base Premium in paragraph 1.9 with a reasonable premium for the Required Insurance based on the Agreed Use of the Premises. If the parties fail to insert a dollar amount in Paragraph 1.9, then the Base Premium shall be the lowest annual premium reasonably obtainable for the Required Insurance as of the commencement of the Original Term for the Agreed Use of the Premises. In no event, however, shall Lessee be responsible for any portion of the increase in the premium cost attributable to liability insurance carried by Lessor under Paragraph 8.2(b) in excess of \$2,000,000 per occurrence.

(b) Lessee shall pay any such Insurance Cost Increase to Lessor within 30 days after receipt by Lessee of a copy of the premium statement or other reasonable evidence of the amount due. If the insurance policies maintained hereunder cover other property besides the Premises, Lessor shall also deliver to Lessee a statement of the amount of such Insurance Cost Increase attributable only to the Premises showing in reasonable detail the manner in which such amount was computed. Premiums for policy periods commencing prior to, or extending beyond the term of this Lease, shall be prorated to correspond to the term of this Lease.


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8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon 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, an "Additional Insured-Managers or Lessors 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 policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. All insurance carried by Lessee shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. If Lessor is the Insuring Party, however, Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee under Paragraph 8.4 rather than by Lessor. If the coverage is available and commercially appropriate, such 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 or included in the Base Premium), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of 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. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$1,000 per occurrence, and Lessee shall be liable for such deductible amount in the event of an insured loss.

(b) **Rental Value.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value Insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period. Lessee shall be liable for any deductible amount in the event of such loss.

(c) **Adjacent Premises.** If the Premises are part of a larger building, or of a group of buildings owned by Lessor which are adjacent to the Premises, the Lessee shall pay for any increase in the premiums for the property insurance of such building or buildings if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

8.4 Lessee's Property, Business Interruption Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Lessee shall provide Lessor with written evidence that such insurance is in force.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 Insurance Policies. Insurance required herein shall be by companies duly licensed or admitted to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, V, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor 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.

8.6 Waiver of Subrogation. Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of 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 carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 Exemption of Lessor from Liability. Lessor shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's 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, HVAC or lighting fixtures, or from any other cause, whether the 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, or from other sources or places. Lessor shall not be liable for any damages arising from any act or neglect of any other tenant of Lessor nor from the failure of Lessor to enforce the provisions of any other lease in the Project. Notwithstanding Lessor's negligence or breach of this Lease, Lessor shall under no circumstances be liable for injury to Lessee's business or for any loss of income or profit therefrom.

8.9 Failure to Provide Insurance. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/ costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 Definitions.

(a) "**Premises Partial Damage**" shall mean damage or destruction to the Improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) "**Premises Total Destruction**" shall mean damage or destruction to the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

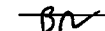
(c) "**Insured Loss**" shall mean damage or destruction to Improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) "**Replacement Cost**" shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) "**Hazardous Substance Condition**" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2(a), in, on, or under the Premises which requires repair, remediation, or restoration.

9.2 Partial Damage - Insured Loss. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense,


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repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the insuring Party shall promptly contribute the shortage in proceeds (except as to the deductible which is Lessee's responsibility) as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 Partial Damage - Uninsured Loss. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 Total Destruction. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 Damage Near End of Term. If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 Abatement of Rent; Lessee's Remedies.

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value Insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor shall be obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 Termination; Advance Payments. Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

9.8 Waive Statutes. Lessor and Lessee agree that the terms of this Lease shall govern the effect of any damage to or destruction of the Premises with respect to the termination of this Lease and hereby waive the provisions of any present or future statute to the extent inconsistent herewith.

10. Real Property Taxes.

10.1 Definition. As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Premises or the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Building address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Premises are located. Real Property Taxes shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Premises, and (ii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2

(a) **Payment of Taxes.** Lessor shall pay the Real Property Taxes applicable to the Premises provided, however, that Lessee shall pay to Lessor its Pro-Rata Share the amount, if any, by which Real Property Taxes applicable to the Premises increase over the fiscal tax year during which the Commencement Date Occurs ("Tax Increase"). Payment of any such Tax Increase shall be made by Lessee to Lessor within 30 days after receipt of Lessor's written statement setting forth the amount due and computation thereof. If any such taxes shall cover any period of time prior to or after the expiration or termination of this Lease, Lessee's share of such taxes shall be prorated to cover only that portion of the tax bill applicable to the period that this Lease is in effect. In the event Lessee incurs a late charge on any Rent payment, Lessor may estimate the current Real Property Taxes, and require that the Tax Increase be paid in advance to Lessor by Lessee monthly in advance with the payment of the Base Rent. Such monthly payment shall be an amount equal to the amount of the estimated installment of the Tax Increase divided by the number of months remaining before the month in which said installment becomes delinquent. When the actual amount of the applicable Tax Increase is known, the amount of such equal monthly advance payments shall be adjusted as required to provide the funds needed to pay the applicable Tax Increase. If the amount collected by Lessor is insufficient to pay the Tax Increase when due, Lessee shall pay Lessor, upon demand, such additional sums as are necessary to pay such obligations. Advance payments may be intermingled with other moneys of Lessor and shall not bear interest. In the event of a Breach by Lessee in the performance of its obligations under this Lease, then any such advance payments may be treated by Lessor as an additional Security Deposit.

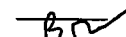
(b) **Additional Improvements.** Notwithstanding anything to the contrary in this Paragraph 10.2, Lessee shall pay to Lessor upon demand thereof the entirety of any increase in Real Property Taxes assessed by reason of Alterations or Utility Installations placed upon the Premises by Lessee or at Lessee's request.

10.3 Joint Assessment. If the Premises are not separately assessed, Lessee's liability shall be an equitable proportion of the Tax Increase for all of the land and improvements included within the tax parcel assessed, such proportion to be conclusively determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available.

10.4 Personal Property Taxes. Lessee shall pay, prior to delinquency, all taxes assessed against and levied upon Lessee Owned Alterations, Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. Utilities and Services. Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered or billed to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered or billed. There shall be no abatement of rent and Lessor 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 cause beyond Lessor's reasonable control or in cooperation with governmental request or directions. Lessor shall pay for all janitorial, trash


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disposal, and water furnished to the Premises.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor 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 to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% 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 Lessee shall be subject to similar adjustment to 110% 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 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee 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 Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor'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 Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor'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 fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(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 Lessee 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 Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee 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) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to atton to Lessor, in which event Lessor 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, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

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

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

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default; Breach.

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

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee.

(c) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 42, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(d) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 40 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(e) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. §101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph (e) is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(f) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(g) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.


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13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) 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 Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee'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 leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover damages under Paragraph 12. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision 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 Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor 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 Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The Parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest ("Interest") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

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

(b) Performance by Lessee on Behalf of Lessor. In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor. Lessee shall document the cost of said cure and supply said documentation to Lessor.

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 (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the Building, or more than 25% of that portion of the Premises not occupied by any building, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee 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 shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

15.1 Additional Commission. In addition to the payments owed pursuant to Paragraph 1.9 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee acquires any rights to the Premises or other premises owned by Lessor and located within the same Project, if any, within which the Premises is located, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the schedule of the Brokers in effect at the time of the execution of this Lease.

15.2 Assumption of Obligations. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.9, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 Representations and Indemnities of Broker Relationships. Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.


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16. **Estoppel Certificates.**

(a) Each Party (as "Responding Party") shall within 10 days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Estoppel Certificate" form published by the American Industrial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate.

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

17. **Definition of Lessor.** The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Except as provided in Paragraph 15, upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **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.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **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.

22. **No Prior or Other Agreements; Broker Disclaimer.** 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. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party. The liability (including court costs and attorneys' fees), of any Broker with respect to negotiation, execution, delivery or performance by either Lessor or Lessee under this Lease or any amendment or modification hereto shall be limited to an amount up to the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

23. **Notices.**

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **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. If sent by regular mail the notice shall be deemed given 48 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

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

25. **Disclosures Regarding The Nature of a Real Estate Agency Relationship.**

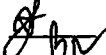
(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:


(i) **Lessor's Agent.** A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: **To the Lessor:** A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. **To the Lessee and the Lessor:** a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) **Lessee's Agent.** An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. **To the Lessee:** A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. **To the Lessee and the Lessor:** a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) **Agent Representing Both Lessor and Lessee.** A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. b. Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The liability (including court costs and attorneys' fees), of any Broker with respect to any breach of duty, error or omission relating to this Lease shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.


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(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

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

28. **Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. **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 in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. **Subordination; Attornment; Non-Disturbance.**

30.1 **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 upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "Lender") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of such new owner, this Lease shall automatically become a new Lease between Lessee and such new owner, upon all of the terms and conditions hereof, for the remainder of the term hereof, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations hereunder, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor. (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "Non-Disturbance Agreement") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect to Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "for sublease" signs, Lessee shall not place any sign upon the Premises without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.


36. **Consents.** Except 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. Lessor'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 Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee 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 Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor 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. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. **Guarantor.**

37.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in the form most recently published by the American Industrial Real Estate Association, and each such Guarantor shall have the same obligations as Lessee under this Lease.

37.2 **Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. **Quiet Possession.** Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.


Initials


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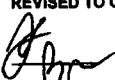
39. Options. If Lessee is granted an Option defined below, then the following provisions shall apply.
- 39.1 Definition. "Option" shall mean: (a) the right to extend the term of or renew this Lease or to extend or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase or the right of first refusal to purchase the Premises or other property of Lessor.
- 39.2 Options Personal To Original Lessee. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.
- 39.3 Multiple Options. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.
- 39.4 Effect of Default on Options.
- (a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.
- (b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).
- (c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.
40. Multiple Buildings. If the Premises are a part of a group of buildings controlled by Lessor, Lessee agrees that it will abide by and conform to all reasonable rules and regulations which Lessor may make from time to time for the management, safety, and care of said properties, including the care and cleanliness of the grounds and including the parking, loading and unloading of vehicles, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessee also agrees to pay its fair share of common expenses incurred in connection with such rules and regulations.
41. Security Measures. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.
42. Reservations. Lessor reserves to itself the right, from time to time, to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, and to cause the recording of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate any such easement rights, dedication, map or restrictions.
43. 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 recovery 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.
44. Authority; Multiple Parties; Execution.
- (a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, 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. Each party shall, within 30 days after request, deliver to the other party satisfactory evidence of such authority.
- (b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.
- (c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
45. Conflict. Any conflict between the printed provisions of this Lease and typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.
46. Offer. Preparation of this Lease by either Party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.
47. Amendments. This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.
48. Waiver of Jury Trial. **THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.**
49. Mediation and Arbitration of Disputes. An Addendum requiring the Mediation and/or the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease is is not attached to this Lease.
50. Americans with Disabilities Act. Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

- SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
- RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES IS LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES IS LOCATED.


Initials


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

Executed at: San Francisco
on: 6/11/02

Executed at: San Francisco
on: 9-30-02

By LESSOR:
855 Harrison Street Associates

By LESSEE:
Martin M. Ron and Associates

By: [Signature]
Name Printed: Joshua Silb
Title: Agent

By: [Signature]
Name Printed: Benjamin Ron
Title: President

By: _____
Name Printed: _____
Title: _____
Address: _____
Telephone/Facsimile: _____
Federal ID No. _____

By: _____
Name Printed: _____
Title: _____
Address: 855 Harrison Street
San Francisco, CA 94103
Telephone/Facsimile: 415-543-4500 / 415 543-6255
Federal ID No. 94-2679619

BROKER: _____
Attn: _____
Title: _____
Address: _____
Telephone/Facsimile: _____
Federal ID No. _____

BROKER: _____
Attn: _____
Title: _____
Address: _____
Telephone/Facsimile: _____
Federal ID No. _____

NOTE: These forms are often modified to meet the changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION, 700 So. Flower Street, Suite 600, Los Angeles, California 90017. (213) 687-8777. Fax No. (213) 687-8616

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[Signature]
Initials

[Signature]
Initials

ADDENDUM TO THE STANDARD INDUSTRIAL/COMMERCIAL SINGLE - TENANT LEASE - GROSS DATED FOR REFERENCE PURPOSES AUGUST 27, 2002 FOR THE PREMISES COMMONLY KNOWN AS 855 HARRISON STREET LOCATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA WHEREIN 855 HARRISON STREET ASSOCIATES IS KNOWN AS "LESSOR" AND MARTIN M. RON ASSOCIATES, INC. IS KNOWN AS "LESSEE" ("AGREEMENT").

The following provision are hereby incorporated into the above referenced Agreement by this reference:

51. Base Rent for the Premises shall be according to the following schedule:
- | | | | |
|--------------------|--------------------|---|----------------|
| October 1, 2002 - | October 31, 2002 | - | Base Rent free |
| November 1, 2002 - | September 30, 2003 | - | \$ [REDACTED] |
| October 1, 2003 - | September 30, 2004 | - | \$ [REDACTED] |
| October 1, 2004 - | September 30, 2005 | - | \$ [REDACTED] |
| October 1, 2005 - | September 30, 2006 | - | \$ [REDACTED] |
| October 1, 2006 - | September 30, 2007 | - | \$ [REDACTED] |
52. In reference to Paragraph 2.2, Lessor at Lessor's sole cost and expense, shall install a new HVAC unit to the space prior to the Commencement Date.
53. Lessee at Lessee's sole cost and expense shall construct a wall which shall demise the Premises along the exit column line which is located on the west wall of the Premises. This wall shall be taped and painted on both sides.
54. (a) By entry hereunder Lessee accepts the Premises as being in the condition in which Lessor is obliged to deliver the Premises under the terms of this Lease. Lessee shall, at all times during the term hereof and at Lessee's sole cost and expense, keep the Premises and every part thereof in good condition and repair, ordinary wear and tear, damage thereto by fire, earthquake, act of God or the elements excepted, with Lessee hereby waiving all rights to make repairs at the expense of Lessor or in lieu thereof to vacate the premises as provided by California Civil Code Section 1941 and 1942 or any other law, statute or ordinance now or hereinafter in effect. Lessee shall at the end of the term hereof surrender to Lessor the Premises and all alterations, additions and improvements thereto in the same condition as when received, ordinary wear and tear and damage by fire, earthquake, act of God or the elements excepted. Lessor has no obligation ad has made no promise to alter, remodel, improve, repair, decorate or paint the premises or any part thereof. Furthermore, no representatives regarding the condition of the premises or the Building have been made by Lessor to Lessee, except as specifically set forth elsewhere in this Lease.
- (b) Notwithstanding the provisions of Section 11, Lessor shall repair and maintain the structural portions of the Building, including the basic plumbing, heating, and electrical systems, elevator, HVAC, outside walls and entrance doors installed or furnished by Lessor, unless the necessity for such maintenance and repairs are in any way caused by the act, neglect, fault or omission of any duty by Lessee, its agents, servants, employees or invitees, in which case Lessee shall pay to Lessor the reasonable cost of such maintenance and repairs. Lessor shall not be liable for any failure to make any such repairs or to perform any maintenance unless Lessor receives written notice of the need for such repairs or maintenance from Lessee and fails to make such repairs or perform such maintenance for a reasonable period of time following such notice by Lessee. There shall be no abatement of rent and no liability of Lessor by reason of any injury to or interference with Lessee's business arising from the making of any repairs, alterations or improvements in or to any portion of the Building or the Premises or in or to fixtures, appurtenances and/or equipment therein. Lessee waives the right to make repairs at Lessor's expense under any law, statute or ordinance now or hereafter in effect.
55. Lessee's pro-rata share is defined as eight and seventy-six hundredth percent (8.76%).

AGREED & ACCEPTED
LESSOR
855 Harrison Street Associates

Signed: [Signature]
Name Printed: Sorden Sills
Date: 10/1/02

AGREED & ACCEPTED
LESSEE
Martin M. Ron Associates, Inc.

Signed: [Signature]
Name Printed: BENJAMIN RON
Date: 9-30-02

DEC. 8. 2004 2:29PM MARTIN M RON ASSOC.

NO. 2783 P. 2/2

AMENDMENT TO THE STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE - GROSS ("AGREEMENT") DATED FOR REFERENCE PURPOSES AUGUST 17, 2002 WHEREIN 855 HARRISON STREET ASSOCIATES IS KNOWN AS "LESSOR" AND MARTIN M. RON ASSOCIATES, INC. IS KNOWN AS "LESSEE" FOR THE PREMISES COMMONLY KNOWN AS 855 HARRISON STREET LOCATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

The following provisions are hereby incorporated into the above referenced Agreement:

1. Commencing January 1, 2005, the Premises shall be expanded an approximately seven hundred and ninety (790) square feet along the rear western wall of the Premises in the adjacent space. Lessee shall pay for all costs of construction associated with the expansion space.
2. Base Rent shall be increased according to the following schedule:

January 1, 2005	-	September 30, 2005	-	██████████
October 1, 2005	-	September 30, 2006	-	██████████
October 1, 2006	-	September 30, 2007	-	██████████
3. Prior to January 1, 2005, Lessor at Lessor's sole cost and expense, shall perform the following improvements:
 - A. Recarpet the entire elevator.
 - B. and repair leak in the south east corner of the Premises. Lessor shall disclose with Lessee the exact location of said leak.
4. Prior to January 1, 2005, at Lessee's sole cost and expense, Lessee shall paint the entire lower lobby area at the street entrance to the Premises.

Attention: No representation or recommendation is made by Citivision Commercial Real Estate, Inc. as to the legal sufficiency, legal effect, or tax consequences of this Agreement or the transaction to which it relates. The parties are urged to:

1. Seek advice of counsel as to the legal and tax consequences of this Agreement.
2. Retain appropriate consultants to review and investigate the condition of the property for Lessee's intended use.

AGREED & ACCEPTED
Lessor: 855 Harrison Street Associates

Signed: [Signature]

Name Printed: John S. Sills

Dated: 11/3/04

AGREED & ACCEPTED
Lessee: Martin M. Ron Associates, Inc.

Signed: [Signature]

Name Printed: Martina B. Ron

Dated: 12-8-04

002/002 CITIVISION COMMERCIAL 12/08/2004 12:42 FAX 925262720

SECOND AMENDMENT TO LEASE

This **SECOND AMENDMENT TO LEASE** (this "Amendment") is dated as of this 10th day of August, 2007 by and between 855 Harrison Street Associates ("Landlord") and Martin M. Ron Associates, Inc., ("Tenant").

RECITALS

- A. Landlord and Tenant entered into that certain Lease Agreement dated August 27th, 2002 for premises located in the City of San Francisco, County of San Francisco, State of California, commonly known as 855 Harrison St., Second Floor, and comprised of approximately 3,564 rentable square feet of floor area ("Premises"); and
- B. Landlord and Tenant entered into that certain First Amendment to Lease dated November 25th, 2002 and
- C. Landlord and Tenant now desire to amend the Lease according to the terms and conditions set forth herein. Capitalized terms used in this Amendment and not otherwise defined shall have the meanings assigned to them in the Lease.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

- 1. **Term.** The term of this Lease shall be extended for sixty (60) months, and is hereby extended to September 30th, 2012.
- 2. **Rent.** Tenant shall pay Landlord as monthly base rental (gross) for the Premises the sum of [REDACTED] (\$ [REDACTED]), which will increase every year starting on October 1st, 2008 by 3%.

2. Except as modified hereby, the Lease shall remain unmodified and in full force and effect.

1. Miscellaneous.

(a) **Voluntary Agreement.** The parties have read this Amendment and on the advice of counsel they have freely and voluntarily entered into this Amendment.

(b) **Attorney's Fees.** If either party commences an action against the other party arising out of or in connection with this Amendment, the prevailing party shall be entitled to recover from the losing party reasonable attorney's fees and costs of suit.

(c) **Successors.** This Amendment shall be binding on and inure to the benefit of the parties and their successors.

(d) Counterparts. This Amendment may be signed in two or more counterparts. When at least one such counterpart has been signed by each party, this Amendment shall be deemed to have been fully executed, each counterpart shall be deemed to be an original, and all counterparts shall be deemed to be one and the same agreement.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date first written above.

LANDLORD:

855 HARRISON STREET ASSOCIATES

By: _____
Name: _____
Its: _____

TENANT:

MARTIN M. RON ASSOCIATES, INC.

By: Ben-B. Ron
Name: BENJAMIN B. RON
Its: President

THIRD AMENDMENT TO LEASE

This **THIRD AMENDMENT TO LEASE** (this "Amendment") is dated as of this 14th day of August, 2012 by and between 855 Harrison Street Associates ("Landlord") and Martin M. Ron Associates, Inc., ("Tenant").

RECITALS

A. Landlord and Tenant entered into that certain Lease Agreement dated August 27th, 2002 for premises located in the City of San Francisco, County of San Francisco, State of California, commonly known as 855 Harrison St., Second Floor, and comprised of approximately 3,564 rentable square feet of floor area ("Premises"); and

B. Landlord and Tenant entered into that certain First Amendment to Lease dated November 25th, 2002 and

C. Landlord and Tenant entered into that certain Second Amendment to Lease dated August 10th, 2007 and

C. Landlord and Tenant now desire to amend the Lease according to the terms and conditions set forth herein. Capitalized terms used in this Amendment and not otherwise defined shall have the meanings assigned to them in the Lease.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. **Term.** The term of this Lease shall be extended for sixty (60) months, and is hereby extended to September 30th, 2017.

2. **Rent.** Tenant shall pay Landlord as monthly base rental (gross) for the Premises the sum of [REDACTED] (\$ [REDACTED]), which will increase every year starting on October 1st, 2013 by 3%.

3. **Parking.** Tenant's parking spaces shall increase from 5 un reserved spaces in the lot to the east of the building to 6 un reserved parking spaces.

4. Except as modified hereby, the Lease shall remain unmodified and in full force and effect.

1. **Miscellaneous.**

(a) **Voluntary Agreement.** The parties have read this Amendment and on the advice of counsel they have freely and voluntarily entered into this Amendment.

(b) **Attorney's Fees.** If either party commences an action against the other party arising out of or in connection with this Amendment, the prevailing party shall be entitled to recover from the losing party reasonable attorney's fees and costs of suit.

(c) **Successors.** This Amendment shall be binding on and inure to the benefit of the parties and their successors.

(d) **Counterparts.** This Amendment may be signed in two or more counterparts. When at least one such counterpart has been signed by each party, this Amendment shall be deemed to have been fully executed, each counterpart shall be deemed to be an original, and all counterparts shall be deemed to be one and the same agreement.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date first written above.

LANDLORD:

855 HARRISON STREET ASSOCIATES

By: _____
Name: _____
Its: _____

TENANT:

MARTIN M. RON ASSOCIATES, INC.

By: B. B. Ron
Name: BENJAMIN B. RON
Its: PRESIDENT



**AIR COMMERCIAL REAL ESTATE ASSOCIATION
STANDARD INDUSTRIAL/COMMERCIAL
MULTI-TENANT LEASE - GROSS**

1. Basic Provisions ("Basic Provisions").

1.1 **Parties:** This Lease ("Lease"), dated for reference purposes only January 30, 2009 is made by and between Harrison Street Associates, A General Partnership and Nationwide Legal, Inc ("Lessor")

1.2(a) **Premises:** That certain portion of the Project (as defined below), including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known by the street address of 859 Harrison Street, Suite A located in the City of San Francisco, County of San Francisco State of California, with zip code 94107, as outlined on Exhibit attached hereto ("Premises") and generally described as (describe briefly the nature of the Premises): Office Suite A consisting of approximately 3500+/- Square Feet

In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to any utility raceways of the building containing the Premises ("Building") and to the Common Areas (as defined in Paragraph 2.7 below), but shall not have any rights to the roof, or exterior walls of the Building or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project" (See also Paragraph 2)

1.2(b) **Parking:** 7 unreserved vehicle parking spaces (See also Paragraph 2.6)
1.3 **Term:** 5 years and 0 months ("Original Term") commencing April 1, 2009 ("Commencement Date") and ending March 31, 2014 ("Expiration Date"). (See also Paragraph 3)

1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing Upon Mutual execution of this lease agreement ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** [REDACTED] per month ("Base Rent"), payable on the 1st day of each month commencing May 1, 2009 (See also Paragraph 4)

If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 5.0
1.6 **Lessee's Share of Common Area Operating Expenses:** Twenty Eight and a half percent (28.5 %) ("Lessee's Share").

In the event that the size of the Premises and/or the Project are modified during the term of the Lease, Lessor shall recalculate Lessee's Share to reflect such modification.

1.7 Base Rent and Other Monies Paid Upon Execution.

- (a) **Base Rent:** \$ [REDACTED] for the period April 2009
- (b) **Common Area Operating Expenses:** \$ N/A for the period N/A
- (c) **Security Deposit:** \$ [REDACTED] ("Security Deposit"). (See also Paragraph 5)
- (d) **Other:** \$ N/A for N/A
- (e) **Total Due Upon Execution of this Lease:** \$ [REDACTED]

1.8 **Agreed Use:** General Office Use

(See also Paragraph 6)

1.9 **Insuring Party:** Lessor is the "Insuring Party". (See also Paragraph 8)

1.10 **Real Estate Brokers:** (See also Paragraph 15)

(a) **Representation:** The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

- Citivation Commercial Real Estate represents Lessor exclusively ("Lessor's Broker");
- HC&M Commercial Real Estate represents Lessee exclusively ("Lessee's Broker"), or
- represents both Lessor and Lessee ("Dual Agency")

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of N/A or N/A % of the total Base Rent for the brokerage services rendered by the Brokers)

1.11 **Guarantor:** The obligations of the Lessee under this Lease are to be guaranteed by _____ ("Guarantor"). (See also Paragraph 2.7)

1.12 **Attachments:** Attached hereto are the following, all of which constitute a part of this Lease:

- an Addendum consisting of Paragraphs 5.0 through 5.3
- a site plan depicting the Premises;
- a site plan depicting the Project;
- a current set of the Rules and Regulations for the Project.

INITIALS

[Handwritten Signature]
INITIALS

- a current set of the Rules and Regulations adopted by the owners' association;
 a Work Letter,
 other (specify): _____

2 **Premises.**

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease**

2.2 **Condition.** Lessor shall deliver that portion of the Premises contained within the Building ("Unit") to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and, ~~so long as the required notice contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date,~~ warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), loading doors, sump pumps, if any, and all other such elements in the Unit, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Unit does not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with such warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations, and/or bearing walls - see Paragraph 7)

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises and the Common Areas comply with the building codes that were in effect at the time that each such improvement, or portion thereof, was constructed, and also with all applicable laws, covenants or restrictions of record, regulations, and ordinances in effect on the Start Date ("Applicable Requirements"). Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning are appropriate for Lessee'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, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. 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 Unit, Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof; provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days hereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/44th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease and if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs has been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective

work

2.6 **Vehicle Parking** Lessee shall be entitled to use the number of Parking Spaces specified in Paragraph 1.2(b) on those portions of the Common Areas designated from time to time by Lessor for parking. Lessee shall not use more parking spaces than said number. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called "Permitted Size Vehicles." Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Paragraph 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Area without the prior written permission of Lessor. In addition:

- (a) Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.
- (b) Lessee shall not service or store any vehicles in the Common Areas.
- (c) If Lessee permits or allows any of the prohibited activities described in this Paragraph 2.6, then Lessor 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 to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.7 **Common Areas - 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 and installations within the Unit that are provided and designated by the Lessor from time to time for the general non-exclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 **Common Areas - Lessee's Rights.** Lessor grants to Lessee, for the benefit of Lessee 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 Lessor under the terms hereof or under the terms of any rules and regulations 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 by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur, then Lessor 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 Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 **Common Areas - Rules and Regulations.** Lessor or such other person(s) as Lessor 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 and Regulations") 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. Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the non-compliance with said Rules and Regulations by other tenants of the Project.

2.10 **Common Areas - Changes.** Lessor shall have the right, in Lessor's sole discretion, from time to time:

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

3 Term.

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay in Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession as agreed, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of the delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. Except as otherwise provided, if possession is not tendered to Lessee by the Commencement Date and Lessee does not terminate this Lease, as aforesaid, any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession of the Premises is not delivered within 4 months after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. Rent

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 ~~Common Area Operating Expenses~~ Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share (as specified in Paragraph 4.1) of all Common Area Operating Expenses, as hereinafter defined, during each calendar year of the term of this Lease, in accordance with the following provisions:

- (a) The following costs relating to the ownership and operation of the Project are defined as "Common Area Operating Expenses":
 - (i) Costs relating to the operation, repair and maintenance, in neat, clean, good order and condition, but not the replacement (see subparagraph (e)) of the following:
 - (aa) ~~Janitorial expenses to the Common Areas and Common Area improvements, including parking areas, loading and unloading areas, truck areas, roadways, parkways, walkways, driveways, landscaped areas, bumpers, irrigation systems, Common Area lighting facilities, fences and gates, elevators, roofs, and roof drainage systems.~~
 - (bb) ~~Exterior signs and any tenant directories.~~
 - (cc) ~~Any fire sprinkler systems.~~
 - (ii) ~~The cost of water, gas, electricity and telephone to service the Common Areas and any utilities not separately metered.~~
 - (iii) ~~The cost of trash disposal, pest control services, property management, security services, owner's association dues and fees, the cost to repaint the exterior of any structures and the cost of any environmental inspections.~~
 - (iv) ~~Reserves set aside for maintenance and repair of Common Areas and Common Area equipment.~~
 - (v) ~~Any increase above the Base Real Property Taxes (as defined in Paragraph 4.0).~~
 - (vi) ~~Any "Insurance Cost Increase" (as defined in Paragraph 8).~~
 - (vii) ~~Any deductible portion of an incurred loss concerning the Building or the Common Areas.~~
 - (viii) ~~Auditors', accountants' and attorneys' fees and costs related to the operation, maintenance, repair and replacement of the Project.~~
 - (ix) ~~The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided, however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such capital improvement in any given month.~~
 - (x) ~~The cost of any other services to be provided by Lessor that are stated elsewhere in this Lease to be a Common Area Operating Expense.~~
 - (b) ~~Any Common Area Operating Expenses and Real Property Taxes that are specifically attributable to the Unit, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Unit, Building or other building. However, any Common Area Operating Expenses and Real Property Taxes that are not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.~~
 - (c) ~~The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(a) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.~~
 - (d) ~~Lessee's Share of Common Area Operating Expenses is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the annual Common Area Operating Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses incurred during the preceding year. If Lessee's payments during such year exceed Lessee's Share, Lessor shall credit the amount of such over payment against Lessor's future payments. If Lessee's payments during such year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of the statement.~~
 - (e) ~~Common Area Operating Expenses shall not include the cost of replacing equipment or capital components such as the roof, foundations, exterior walls or Common Area capital improvements, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.~~
 - (f) ~~Common Area Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or insurance proceeds.~~

4.3 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any statement or invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any late charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. **Security Deposit** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. **Use**
6.1 **Use** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable

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thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the Building or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Project. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 Hazardous Substances

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either (i) potentially injurious to the public health, safety or welfare, the environment or the Premises; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier, toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the efforts of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which suffered as a direct result of Hazardous Substances on the Premises prior to Lessee taking possession or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee taking possession, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor'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 Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not 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 Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to such Requirements, without regard to whether said Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's

compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 Inspection; Compliance Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of written request therefor.

7 Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations

(a) **In General** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, ~~Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repair, or the means of repairing the same, are reasonably or readily accessible to Lessee) and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as above ground plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights but excluding any items which are the responsibility of Lessor pursuant to Paragraph 7.2. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.~~

~~(b) **Service Contracts** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, and when installed on the Premises: (i) HVAC equipment, (ii) boiler and pressure vessels, and (iii) clarifiers. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.~~

(c) **Failure to Perform** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

(d) **Replacement** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance but may prepay its obligation at any time.

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Common Area Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, Common Area fire alarm and/or smoke detection systems, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the Common Areas and all parts thereof, as well as providing the services for which there is a Common Area Operating Expense pursuant to Paragraph 4.2. Lessor shall not be obligated to paint the exterior or interior surfaces of exterior walls nor shall Lessor be obligated to maintain, repair or replace windows, doors or plate glass of the Premises. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 Utility Installations; Trade Fixtures; Alterations

(a) **Definitions** The term "Utility Installations" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 months' Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and

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Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration**

(a) **Ownership** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom 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 practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8 **Insurance; Indemnity**

8.1 **Payment of Premium Increases.**

~~(a) As used herein, the term "Insurance Cost Increase" is defined as any increase in the actual cost of the insurance applicable to the Building and/or the Project and required to be carried by Lessor, pursuant to Paragraphs 8.2(b), 8.2(a) and 8.2(b), ("Required Insurance"), over and above the Base Premium, as hereinafter defined, calculated on an annual basis. Insurance Cost Increase shall include, but not be limited 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. The term Insurance Cost Increase shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. The "Base Premium" shall be the annual premium applicable to the 12-month period immediately preceding the Start Date. If, however, the Project was not insured for the entirety of such 12-month period, then the Base Premium shall be the lowest annual premium reasonably obtainable for the Required Insurance as of the Start Date, assuming the most normal use possible of the Building. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$2,000,000 procured under Paragraph 8.2(b).~~

~~(b) Lessee shall pay any Insurance Cost Increase to Lessor pursuant to Paragraph 4.2. Premiums for policy periods commencing prior to or extending beyond the term of this Lease shall be prorated to coincide with the corresponding Start Date or Expiration Date.~~

8.2 **Liability Insurance.**

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon 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. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 **Property Insurance - Building, Improvements and Rental Value.**

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such 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 debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of 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. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$1,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value Insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12-month period.

(c) **Adjacent Premises.** Lessee 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 Lessee's acts, omissions, use or occupancy of the Premises.

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(d) **Lessee's Improvements** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease

8.4 Lessee's Property; Business Interruption Insurance

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Lessee shall provide Lessor with written evidence that such insurance is in force.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 Insurance Policies. Insurance required herein shall be by companies duly licensed or admitted to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least A-, VI, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor 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.

8.6 Waiver of Subrogation. Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of 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 carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 Exemption of Lessor and its Agents from Liability. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's 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, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places; (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project; or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 Failure to Provide Insurance. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease. The extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9 Damage or Destruction.

9.1 Definitions.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total. Notwithstanding the foregoing, Premises Partial Damage shall not include damage to windows, doors, and/or other similar items which Lessee has the responsibility to repair or replace pursuant to the provisions of Paragraph 7.1.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 Partial Damage - Insured Loss. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's

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exclusive enjoyment of such other Tenants. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Common Area Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

10.4 Joint Assessment — If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 Personal Property Taxes. Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11 Utilities and Services. Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. Notwithstanding the provisions of Paragraph 4.2, if at any time in Lessor's sole judgment, Lessor determines that Lessee is using a disproportionate amount of water, electricity or other commonly metered utilities, or that Lessee is generating such a large volume of trash as to require an increase in the size of the trash receptacle and/or an increase in the number of times per month that it is emptied, then Lessor may increase Lessee's Base Rent by an amount equal to such increased costs. There shall be no abatement of Rent and Lessor 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 cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12 Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor 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 to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% 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 Lessee shall be subject to similar adjustment to 110% 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 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, i.e. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee 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 Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor'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 Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor'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 fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, 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 Lessee 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 Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 Additional Terms and Conditions Applicable to Subletting The following terms and conditions shall apply to any subletting by Lessee 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) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance



of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations, any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to atton to Lessor, in which event Lessor 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, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

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

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

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13 Default; Breach; Remedies.

13.1 **Default; Breach.** A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period.

(a) The abandonment of the Premises, or the vacating of the Premises for a period of thirty (30) without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. **THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.**

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material data safety sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors, (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days, or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 **Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) 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 Lessee proves could be reasonably avoided, and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee'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 leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (ii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover damages under Paragraph 12. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover

in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions", shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision 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 Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor 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 Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest ("Interest") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

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

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

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 (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the floor area of the Unit, or more than 25% of the parking spaces is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee 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 shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15 Brokerage Fees.

15.1 Additional Commission. In addition to the payments owed pursuant to Paragraph 1.10 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then Lessor shall pay Brokers a fee in accordance with the schedule of the Brokers in effect at the time of the execution of this Lease.

15.2 Assumption of Obligations. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15.1, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

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15.3 **Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. **Estoppel Certificates.**

(a) Each Party (as "Responding Party") shall within 10 days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Estoppel Certificate" form published by the AIR Commercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17 **Definition of Lessor.** The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **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.

19 **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

20 **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21 **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.

22 **No Prior or Other Agreements; Broker Disclaimer.** 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. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. **Notices.**

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **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. If sent by regular mail, the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.**

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. **Disclosures Regarding The Nature of a Real Estate Agency Relationship.**

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) Lessor's Agent. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A

Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) Lessee's Agent: An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations: To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) Agent Representing Both Lessor and Lessee: A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. b. Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease, provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26 **No Right To Holdover**: Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27 **Cumulative Remedies**: No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28 **Covenants and Conditions; Construction of Agreement**: All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29 **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 in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30 **Subordination; Attornment; Non-Disturbance**

30.1 **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 upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "Lender") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment**: In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3 attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership, (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 **Non-Disturbance**: With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "Non-Disturbance Agreement") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing**: The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents, provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31 **Attorneys' Fees**: If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense.


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The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs.** Showing Premises, Repairs Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises, provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. **Consents.** Except 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. Lessor'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 Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee 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 Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor 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. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

~~37. Guarantor~~

~~37.1 Execution. The Guarantor, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association.~~

~~37.2 Default. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Escrow Certificate, or (d) written confirmation that the guaranty is still in effect.~~

~~38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.~~

~~39. Options. If Lessee is granted an option, as defined below, then the following provisions shall apply.~~

~~39.1 Definition. "Option" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.~~

~~39.2 Options Personal To Original Lessee. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.~~

~~39.3 Multiple Options. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.~~

~~39.4 Effect of Default on Options.~~

~~(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.~~

~~(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).~~

~~(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase: (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.~~

40. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

41. **Reservations.** Lessor reserves the right, (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, and (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights.

42. **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 recovery 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. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.


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43. **Authority. Multiple Parties; Execution**

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, 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. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. **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.

45. **Offer** Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. **Amendments** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. **Waiver of Jury Trial.** THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

48. **Arbitration of Disputes** An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease is is not attached to this Lease.

49. **Americans with Disabilities Act** Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

- SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
- RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

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

Executed at: SF Executed: Los Angeles
 On: 2/11/07 On: 2-9-07

By LESSOR: Harrison Street Associates By LESSEE: Nationwidw Legal, Inc

By: [Signature] By: [Signature]
 Name Printed: Jessy Gills Name Printed: _____
 Title: partner Title: _____

By: _____ By: _____
 Name Printed: _____ Name Printed: _____
 Title: _____ Title: _____

Address: C/O J3 Properties Address: 207 S. Broadway, 6th Floor
1929 Van Ness Avenue Los Angeles, CA 90012
San Francisco, CA 94109

Telephone: (415) 441-6507 Telephone: () _____
 Facsimile: (415) 441-6508 Facsimile: () _____
 Federal ID No. _____ Federal ID No. _____

INITIALS

[Signature]
 INITIALS
 FORM MTG-8-0708E

BROKER:

Division Commercial Real Estate

BROKER:

BCSM Commercial Properties

All: Edward Maiello

Title: 1452 Stockton Street

Address: San Francisco, CA 94133

Telephone: (415) 543-2002

Facsimile: (415) 543-1010

Federal ID No _____

All: Markus Shayeb

Title: _____

Address: 1734 Mariposa Street

San Francisco, CA 94107

Telephone: (415) 865-6109

Facsimile: (____) _____

Federal ID No _____

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 800 W 6th Street, Suite 800, Los Angeles, CA 90017. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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ADDENDUM TO THE STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE-GROSS ("AGREEMENT") DATED FOR REFERENCE PURPOSES JANUARY 30,2009 WHEREIN HARRISON STREET ASSOCIATES IN KNOWN AS "LESSOR" AND NATIONWIDE LEGAL ,INC IS KNOWN AS "LESSEE" FOR THE PREMISES COMMONLY KNOWN AS 859 HARRISON STREET LOCATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA

The following Terms and Conditions are hereby incorporated into this Agreement by this reference.

50. Base rent shall increase annually by three (3) percent on every April 1st after the Commencement Date until the Expiration Date.

51. Prior to the Lease Commencement Date Lessor at Lessor's sole cost and expense shall construct a wall to demise the Premises to approximately 3500 square feet.

52. Lessee shall have the right to terminate this lease at anytime after March 31, 2011 by giving Lessor Sixty (60) prior written notice along with a cashier's check in the amount which includes the unamortized portion of leasing fees and the unamortized cost of demising wall. As an example, if 60 days prior written notice is given to Lessor, effective on April 1, 2011, then Lessee shall pay to Lessor, 3/5ths of the total of the leasing commissions paid by Lessor for this lease and the cost of the demising wall.

53. If Lessor does not provide consent and approval of a proposed assignment or sublease, within 15 business days from receipt of all information and money required pursuant to the terms of Par. 12, such proposal assignment or sublease shall be deemed approved.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date and year first below written at San Francisco, California.



LESSOR Harrison Street Associates	LESSEE Nationwide Legal, Inc
Signed: <u>[Signature]</u>	Signed: <u>[Signature]</u>
Name Printed: <u>Jason Silts</u>	Name Printed: <u>Harman Davordi</u>
Date: <u>2/11/09</u>	Title: <u>President</u>
Signed: _____	Date: <u>2-10-09</u>
Name Printed: _____	Signed: _____
Date: _____	Name Printed: _____
	Title: _____
	Date: _____

FIRST AMENDMENT TO LEASE

This **FIRST AMENDMENT TO LEASE** (this "Amendment") is dated as of this 17th day of December, 2013 by and between 855 Harrison Street Associates ("Landlord") and Nationwide Legal, Inc. ("Tenant").

RECITALS

A. Landlord and Tenant entered into that certain Lease Agreement dated January 30, 2009 for premises located in the City of San Francisco, County of San Francisco, State of California, commonly known as 855 Harrison St., Second Floor, and comprised of approximately 3,500 +/- rentable square feet of floor area ("Premises"); and

B. Landlord and Tenant now desire to amend the Lease according to the terms and conditions set forth herein. Capitalized terms used in this Amendment and not otherwise defined shall have the meanings assigned to them in the Lease.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. **Term.** The term of this Lease shall be extended for three (3) years, and is hereby extended to March 31, 2017. Tenant shall have two three (3) year options to extend this Lease. Tenant shall provide to Landlord written notice of their desire to exercise their option no more than six (6) months and no less than three (3) months prior to the end of the lease term. Failure to provide said notice shall result in said option and all subsequent options becoming void.
2. **Rent.** Commencing on April 1, 2014, Tenant shall pay Landlord as monthly base rental (gross) for the Premises the sum of [REDACTED] Base Rent shall be increased every subsequent April 1st by 3% (three percent).
3. **Abated Rent.** Upon full execution of this lease, Landlord will waive rent for the month of April 2014.
4. Except as modified hereby, the Lease shall remain unmodified and in full force and effect.
5. **Voluntary Agreement.** The parties have read this Amendment and on the advice of counsel they have freely and voluntarily entered into this Amendment.
6. **Attorney's Fees.** If either party commences an action against the other party arising out of or in connection with this Amendment, the prevailing party shall be entitled to recover from the losing party reasonable attorney's fees and costs of suit.

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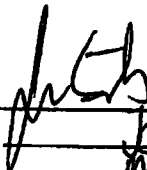
7. Successors. This Amendment shall be binding on and inure to the benefit of the parties and their successors.

8. Counterparts. This Amendment may be signed in two or more counterparts. When at least one such counterpart has been signed by each party, this Amendment shall be deemed to have been fully executed, each counterpart shall be deemed to be an original, and all counterparts shall be deemed to be one and the same agreement.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date first written above.


LANDLORD:

855 HARRISON STREET ASSOCIATES

By: 
Name: Debra Sims
Its: Member

TENANT:

NATIONWIDE LEGAL, INC.

By: 
Name: Tony Davooj
Its: CEO