

Letter of Intent

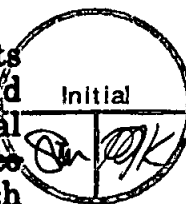
September 5, 1991

Between Kowa Real Estate California Inc. ("Landlord")
and
City of San Diego ("Tenant")

Landlord offers to lease to Tenant certain premises ("Premises"), as hereinafter described, in that certain office building ("Building") located at 600 "B" Street, San Diego, California 92101, upon all of the terms, covenants and conditions set forth in this Letter of Intent. This Letter of Intent is intended to set forth the basic business terms of the lease.

1. **PROJECT:** 600 "B" Street Building, San Diego, California ("Building").
2. **RENTABLE AREA AND LOCATION:** The initial space required by Tenant shall be up to a maximum of 155,386 rentable square feet. The actual amount of space to be occupied by Tenant may be less depending upon final space planning, "must take" space (i.e., future availability accommodating City departments vacating other buildings) and expansion options.

All usable square feet (USF) and rentable square feet (RSF) measurements shall be determined in accordance with the Building Owners and Managers Association (BOMA) Standards for Measurement of Commercial Office Space (ANSI Z65.1-1980). ~~All measurements shall be subject to remeasurement after Tenant moves into the Premises. After such remeasurement, all provisions of the lease which vary depending on square footage, shall be adjusted to reflect the actual square footage.~~



The space available in the Building to the Tenant includes the following locations and square footage:

<u>Floor</u>	<u>Rentable Square Feet</u>
3rd	13,413
4th	14,128
5th	14,128
6th	14,128
7th	14,128
8th	14,277
9th	14,277
10th	14,277
11th	14,277
12th	14,277
13th	<u>14,277</u>
Total:	<u>155,386</u>

3. **LEASE TERM AND COMMENCEMENT DATE:** The initial term of the lease shall be for ten (10) years. The commencement date shall occur upon substantial completion of tenant improvements and Tenant's occupancy of the first block of space. The balance of the space shall be occupied upon its availability and/or requirements by Tenant. In no event shall the term of the lease be extended for any additional space taken after the initial block of space. Tenant shall have no obligation to pay rent on any space until the tenant improvements for such space have been substantially completed pursuant to Tenant's final plans and specifications, and Tenant can reasonably conduct its business in said space.

There shall be a single lease encompassing the initial block of space and all future expansions including "must takes" and all other options.

4. **CANCELLATION PROVISION:** Tenant shall have the unilateral right to cancel the lease for the entire premises or any portion thereof at any time, and for any reason whatsoever, after the 7th year of the initial lease term. Tenant shall provide Landlord with at least eighteen (18) months' prior written notice of its intent to cancel the lease for the entire premises. If Tenant elects to cancel any portion thereof, such cancellation notice shall be decreased to twelve (12) months' prior notice and shall be limited to 25% of the then occupied space. Any portion above 25% that Tenant elects to cancel shall require Tenant to give eighteen (18) months notice.

Successive exercise of this provision in part shall not be used to circumvent the 18 month notice.

There shall be no termination penalty for any space occupied for five (5) years or more. If Tenant occupies additional space after the initial lease commences and occupies that space for less than five (5) years, then Tenant

INSERT A (PAGE 2, SECTION 3)

Within the contemplated Lease document, Tenant and Landlord shall agree upon an occupancy schedule for the Tenant as follows:

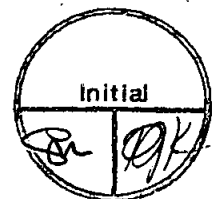
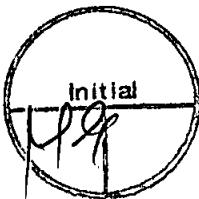
Tenant shall initially occupy, and pay rent on, not less than _____ RSF. The portion of the Premises not initially occupied by Tenant is referred to as the "must take" space. Tenant agrees to occupy the "must take" space as follows:

_____ RSF prior to _____ 12/31/92 _____

_____ RSF prior to _____ 12/31/93 _____

_____ RSF prior to _____ 12/31/94 _____

After the Building achieves a cumulative 95% occupancy on all floors of the Building other than the "must take" space, Landlord shall have the right to terminate the lease as to any or all "must take" space not then occupied by Tenant as follows. Landlord shall give Tenant thirty (30) days written notice of its intention to terminate the lease as to any or all of the unoccupied "must take" space. Tenant shall have the right to cancel the notice by giving Landlord written notice of its intention to occupy any or all "must take" space covered in Landlord's written notice. If Tenant gives such notice, the lease shall not terminate as to that space and Tenant, subject to the provisions of the lease, shall occupy and pay rent on that space. The lease shall terminate as to all "must take" space listed in the Landlord's termination notice that Tenant does not so elect to occupy.



shall pay as an early termination penalty any unamortized tenant improvement monies and real estate commissions spent specifically for that space, amortized on a five (5) year, straight-line basis.

for any purpose whatsoever

If Tenant utilizes the refurbishment allowance described in Section 21 of this Letter of Intent, there shall be no penalty if the space is occupied for a minimum of two (2) years after that expenditure. Otherwise, the penalty shall be calculated on a 24 month, straight line, basis.

If Tenant exercises either of its renewal options described in Section 12 of this Letter of Intent, Tenant may not exercise its cancellation right to be effective before the end of the third (3rd) year of each option period.

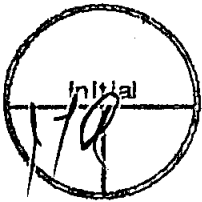
If Tenant exercises its contraction rights described in Section 14 of this Letter of Intent, the same penalties shall be incurred.

5. **BASE RENT:** The base rent for all space in the Building shall be fully serviced as follows:

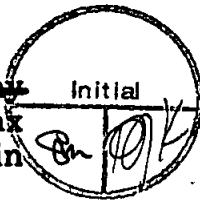
Year 1	\$1.00 per rentable square foot
Year 2	\$1.05 per rentable square foot
Year 3	\$1.10 per rentable square foot
Year 4	\$1.16 per rentable square foot
Year 5	\$1.22 per rentable square foot
Year 6	\$1.28 per rentable square foot
Year 7	\$1.34 per rentable square foot
Year 8	\$1.41 per rentable square foot
Year 9	\$1.48 per rentable square foot
Year 10	\$1.55 per rentable square foot

6. **OPERATING EXPENSE AND PROPERTY TAX ESCALATION:** The lease will contain an escalation clause (rent adjustment) with Tenant being responsible for its proportionate share of increases in direct operating expenses and property taxes above a base year which shall be defined as the Building's operating expenses and property taxes for calendar year 1992. If the Building does not have at least ninety-five percent (95%) of the rentable area occupied at any time during such base year, then the base year operating expenses and property taxes shall be increased to reflect what such costs would have been if they had been calculated on the basis of ninety-five percent (95%) occupancy and that amount shall serve as the base from which Tenant shall pay its pro rata share of any increases over and above said base.

For purposes of calculating Tenant's "pass-throughs" on increases in the Building's property taxes, Tenant shall receive a cap on the maximum increase of two percent (2%) of the previous twelve (12) months' property tax costs.



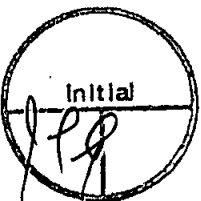
In the event the Building is sold during the initial term of this lease ~~or any extension thereof~~, Tenant shall be exempt from any increase in property tax pass-through relating to a "change in ownership" as that term is defined in California Revenue Taxation Code Sections 60 through 68.



Landlord shall cap the annual increases over the base year operating expense amount by five percent (5%). Such cap shall operate on a compounding but noncumulative basis. In other words, in no twelve (12) month period after the base year shall Tenant be liable for an increase in the operating expense amount per RSF in excess of the specified cap amount multiplied by the operating expense amount per RSF for the prior twelve (12) month period.

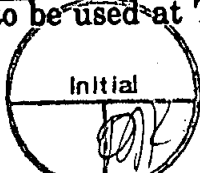
To be attached to the lease will be a list of exclusions from operating expenses, which sets forth those categories of expenses which should properly be excluded from operating expenses.

7. **RENTAL ABATEMENT:** The rental rate stated in Section 5 above does not include nor contemplate any rental abatement.
8. **PARKING:** Tenant shall have the right to lease up to one (1) parking space per 1,000 rentable square feet leased at the then prevailing market rates in the Building's parking garage. Tenant shall have a one-time right to waive all or any portion of the parking allotment prior to taking occupancy of the specified space. If Tenant waives its rights to any portion of this allotment, then Landlord will reduce the rent on the space qualifying Tenant for said parking allotment by \$.03 per rentable square foot per month. Tenant's right to waive the parking allotment will apply to all future space as well.
9. **SPRINKLER INSTALLATION:** Landlord, at Landlord's sole cost and expense, will provide sprinklered office space to Tenant. All additional space taken throughout the term of the lease and any extensions thereof shall be sprinklered prior to Tenant's occupancy and such costs shall be the sole expense of Landlord.
10. **TENANT IMPROVEMENT ALLOWANCE:** Landlord shall provide Tenant with a "turnkey" buildout of all tenant improvements. For purposes of determining this "turnkey" buildout, Landlord shall provide quantities of Building Standard improvements in accordance with Tenant's space plan and industry standards for tenants of downtown San Diego highrises. The quality of such Building Standard improvements shall be those to be used throughout the Building, which the Owner will provide the Tenant for their review prior to Lease execution.



all "must take" space including initial space

In addition to the above described "turnkey" buildout, Landlord shall provide Tenant with \$5.00 per usable square foot as a contribution to Tenant to be used at Tenant's option as rent abatement, lower base rent, or for the



Initial
[Signature]

for all "must take" space
including initial space.

purpose of purchasing furniture, with said furniture becoming the property of Tenant at the time of purchase.

11. **SPACE PLANNING:** Tenant has selected Interspace Design & Development, Inc. for their space planning and construction document needs. Interspace shall be under contract with Landlord for said services. The cost for such service shall not exceed \$.55 per usable square foot. This fee is in addition to the tenant improvement allowance previously described. A copy of Interspace's contract will be provided.

Initial
[Signature]

12. **RENEWAL OPTION:** Tenant shall have the right to two (2) five (5) years renewal options for the initial space and any additional space leased through expansion rights. Notice of the intention to exercise said renewal options shall be received by Landlord not less than six (6) months prior to the expiration of the initial term or first extension option period. The base rental rate applicable during the extension term shall be ninety percent (90%) of "Fair Market Rent". In the case of "Fair Market Rent," that term shall be defined to mean the fully serviced effective rental rate per RSF that will yield to Landlord or to landlords of comparable office buildings located in downtown San Diego, over the term in question, the net number of dollars that such Landlord would earn if such Landlord was to put the space in question in its then-existing condition (or comparable space in such comparable office buildings) on the market for lease to a new tenant or tenants, assuming a new tenant or tenants with comparable attributes to Tenant, after factoring in all typical concessions and expenses. In determining "Fair Market Rent," concessions shall include, but not be limited to, refurbishment allowance, tenant improvement upgrades, rental abatement, etc. but shall specifically exclude existing infrastructure building standard improvements already in place.

The parties shall have two (2) months, following notification of the Tenant's intention to resolve such rents, to reach agreement on the "Fair Market Rent". If they are unable to do so, each shall submit its determination of "Fair Market Rent" to a qualified appraiser knowledgeable in the leasing of high-rise office space in downtown San Diego. Said appraiser shall select one submittal as most clearly representing "Fair Market Rent" and such selection shall be binding upon both parties. If the parties cannot agree on the selection of the appraiser, each shall select one and those two shall select a third who will make the determination of the most representative submittal as addressed above.

Initial
[Signature]

13.

EXPANSION OPTIONS: ~~Tenant shall have the right to lease additional space of approximately three percent (3%) per year of space then occupied by Tenant.~~ Tenant will have a unilateral expansion option of a minimum of 3% $\pm$ 15% per year, plus additional rights as addressed in Section 15. All expansion space occupied by Tenant will contain sprinklers.

Initial
[Signature]

of the then occupied space

The location of such expansion space shall be determined by Landlord.

The tenant improvement allowance for all expansion space shall be "turnkey" and of the same quality with the same quantities as the initial space taken. For all additional space leased by Tenant under these expansion option rights, the base rental rate for such additional space shall commence at \$1.00 per square foot per month and escalate annually as addressed in Section 5 herein. Example: If Tenant exercises its option to expand in the eighth year, the rental rate for the expansion space will be \$1.00 and increase 5% thereafter. In addition to the base rent addressed, all operating expense and tax escalations shall be added to said base rent,

as if the expansion space had been occupied for a like term as the initial space occupied by Tenant.

Tenant shall provide Landlord with at least six (6) months' prior written notice of its intent to exercise expansion options. Landlord shall have 12 months from receipt of such written notice to deliver the expansion space with all required tenant improvements. The term for any expansion space shall expire upon the same date as the term expires for Tenant's initial space. All other terms and conditions of the lease will remain in full force and effect.

Regarding "must take" space, if Tenant opts to occupy "must take space" prior to January 1, 1995, the rent for said space shall commence at \$1.00 per square foot per month as addressed above. On January 1, 1995 or thereafter, the rent for said "must take" space shall be at Tenant's existing rent (plus expense and tax increases) at the time.

then on the initial space occupied as escalated

14. **CONTRACTION RIGHTS:** At any time throughout the lease term, Tenant shall have the right to reduce the amount of space then occupied by Tenant by giving Landlord nine (9) months' written notice. The reduction of space shall be limited to 10% of the occupied space per year and shall be non-cumulative. The contraction of Tenant's space shall be penalty free, except as it relates to the penalties due under Section 4 of this Letter of Intent.

15. **FIRST RIGHT TO LEASE:** During the initial term or any extension thereof, Tenant shall have a First Right to Lease any space that becomes available in the Building. Landlord shall provide written notification of all space that becomes available at least six months prior to their availability.

or as soon as feasible.

Thereafter,

Tenant shall have thirty (30) calendar days in which to elect to lease such space, or any portion thereof. The tenant improvement allowance for all space leased under these rights shall be "turnkey" and of the same quality with the same quantities as the initial space taken. The rental rate for such additional space shall commence at the same base rental rate as Tenant is then paying for the initial space taken, so long as Tenant does not exceed 155,386 square feet. If Tenant has exceeded such square footage, then such space shall be rented at "Fair Market Rates." Any space leased by Tenant under these rights shall be for a term which is coterminous with the initial term, or any renewal thereof, as applicable.

and terms.

So long as Tenant's occupancy does not exceed 155,386 square feet, the

16. **OPTION TO PURCHASE:** In the event Landlord elects to sell a 100% interest in the Project, then Landlord shall notify Tenant in writing and provide Tenant a current marketing package, if such is available. Thereafter, Tenant shall have thirty (30) days in which to notify Landlord in writing of Tenant's intent to negotiate to purchase the Project. If Tenant does not so notify Landlord of their intent to enter into negotiations to purchase the Project, then Landlord may proceed to negotiate with and sell the Project to other interested parties. If Tenant does express interest in purchasing the Project, then Tenant and Landlord shall enter into negotiations to reach an agreement. If within thirty (30) days Landlord and Tenant are unable to reach an agreement, then Landlord, in its sole discretion, may elect to proceed to negotiate with and sell the Project to other interested third parties.

17. **RELOCATION ALLOWANCE:** Landlord shall provide \$3.00 per rentable square foot to Tenant to offset the expense of relocation to the Building. Said relocation costs shall include, but not be limited to: moving consultants, moving costs, telecommunications systems and data processing systems cabling. Said relocation allowance shall apply to all space leased by Tenant in the first three (3) years of the lease term.

18. **STORAGE SPACE:** Tenant shall have the right to lease up to 600 usable square feet of storage space in the parking facility at the rate of \$.25 per usable square foot for the entire term and any extensions thereof. In addition, if at any time during the initial lease, or any extension thereof, additional storage space becomes available in the Building, Tenant shall have a First Right to Negotiate for such space. The term shall be coterminous with the initial lease and any extensions and the rental rate shall be at market for storage space in similar type office buildings in downtown San Diego.

19. **USE:** General office space for any City department and any other legally permitted uses comparable with a first-class office building.

20. **ASSIGNMENT AND SUBLETTING:** Tenant shall be permitted to sublease or assign all or any portion of Tenant's space at any time to any subsidiary, affiliate or related entity of Tenant ~~without having to obtain Landlord's approval or consent.~~ Tenant shall retain any and all profit realized from such subletting and assignment. In all other cases, Tenant shall be permitted to sublease or assign all or any portion of Tenant's space, subject to Landlord's consent, which consent shall not be unreasonably withheld, conditioned or delayed. Tenant and Landlord shall split any and all profit realized from such subletting or assignment equally after deducting all costs incurred in accomplishing said sublease, including, but not limited to, real estate commissions, rent abatement and tenant improvements. Landlord shall have no rights to recapture any space during the initial term or any renewal period.

subject to Landlord's consent which shall not be unreasonably withheld.

21. **REFURBISHMENT ALLOWANCE:** Tenant shall be provided a refurbishment allowance of \$5.00 per Modified Rentable square foot at the beginning of the sixth (6th) year of the initial term, and the first (1st) year of each renewal period, to refurbish Tenant's space. Due to the staggered occupancy of space, the timing of the refurbishment allowance for space occupied after the commencement date shall be at the commencement of the sixth (6th) year of occupancy of said additional space. In the event Tenant elects not to spend the \$5.00 allowance or any portion thereof, Landlord will credit Tenant in the form of rental abatement or give Tenant the option to use the money to buy additional furniture.

is considering the installation
of

22. **BUILDING CONFERENCE FACILITY:** Landlord ~~will use best efforts to~~ install a building conference facility which would accommodate 10 to 15 people. Said conference facility [^]would be on a first come, first served basis, free of charge to Tenant. , if constructed,

23. **ELECTRICITY:** At all hours, Landlord shall, at Landlord's expense, provide electricity for normal office purposes, including, but not limited to, fluorescent and incandescent lighting, duplicating machines, computers, communications equipment, etc. Tenant shall not be charged for electrical consumption for after-hours usage of said equipment.

24. **HEATING, VENTILATING AND AIR CONDITIONING:** Landlord shall, at Landlord's expense, furnish heating, ventilating and air conditioning (HVAC) for the general office space, Monday through Friday, from 7:00 a.m. to 6:00 p.m. and on Saturday from 8:00 a.m. to 1:00 p.m., except for New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas.

25. **ENGINEERING:** Landlord shall be responsible for the cost of all electrical, mechanical and structural engineering, including all permits, licenses and fees relative to the construction of Tenant's improvements.

26. **BUILDING SECURITY SYSTEMS AND ACCESS:** Landlord shall provide, Building security, and access to the Building and parking garage seven (7) days per week, twenty-four (24) hours per day, 365 days per year.

27. **HAZARDOUS MATERIALS:** Landlord will abate asbestos from approximately 235,000 square feet of the Project during the next three years and throughout the balance of the Project thereafter. The space Tenant occupies will be abated prior to Tenant's occupancy. Landlord will provide detailed information on the specific timing of the ongoing abatement program as well as the current Operations and Maintenance Program upon Tenant's request.

28. **SECURITY DEPOSIT:** Tenant shall not be responsible for providing a security deposit.

29. **SIGNAGE:** For those floors Tenant occupies in their entirety, Tenant shall have the right to place its name in the elevator lobby. In addition, for those floors Tenant occupies on a multi-tenant basis, Tenant shall have the right to place its name outside the entry doors to Tenant's space. Finally, Tenant shall have the right to place two (2) names per 1,000 rentable square feet on the Building directory.

30. **NONDISTURBANCE CLAUSE:** With respect to any first lien mortgages, deeds of trust or other liens or ground leases entered into by and between Landlord and any such mortgagees and/or any beneficiary of any deed of trust or ground lessors or other such lien granted by Landlord (collectively referred to as "Landlord's Mortgagee"), Landlord shall secure and deliver to Tenant a non-disturbance agreement in the form acceptable to Tenant and executed by Landlord's Mortgagee for the benefit of Tenant.

use its best efforts to

The nondisturbance agreement will be provided concurrently with Lease execution.

32. **TRANSPORTATION DEMAND MANAGEMENT ORDINANCE (TDMO):** Landlord agrees to comply with all present and future requirements and to notify Tenant in writing as to all such compliance.

33. **LEASE EXECUTION:** Landlord and Tenant agree to cooperate and devote such resources as may be necessary to have the lease executed within One (1) month after the date of this Letter of Intent or within a reasonable time thereafter.

34. **NONBINDING AGREEMENT:** The parties acknowledge that this Letter of Intent is a nonbinding expression of mutual agreement on selected issues to be set forth in a definitive lease along with other provisions not addressed in this proposal. This Letter of Intent is neither a definitive agreement nor a lease conferring any enforceable rights and is solely intended as guidance for the negotiation and preparation of a definitive lease by Landlord. The definitive lease shall be subject to mutual approval, and only a mutually executed definitive lease shall constitute the binding, mutual agreement for the lease of the premises.

Accepted and Agreed:

"LANDLORD"

Kowa Real Estate California Inc.

By: Bank of America NT & SA as Trustee

By: Stuart W England

Its: Vice President

Dated: September 9, 1991

By: Ronny Killy

Its: VICE PRESIDENT

Dated: SEPTEMBER 9, 1991

"TENANT"

City of San Diego

By: J. L. Geste

Its: Property Director

Dated: 9/10/91

DOCUMENT NO. 00-17718

FILED NOV 25 1991

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

ORIGINAL

O F F I C E L E A S E

between

**KOWA REAL ESTATE CALIFORNIA, INC.,
a California corporation**

(LANDLORD)

and

**THE CITY OF SAN DIEGO,
a municipal corporation**

(TENANT)

OFFICE LEASE
BASIC LEASE PROVISIONS

1. DATE OF LEASE: October 17, 1991
2. LANDLORD: Kowa Real Estate California, Inc., a California Corporation
3. TENANT: The City of San Diego. a Municipal corporation
4. BUILDING NAME AND ADDRESS: 600 B Street, San Diego, California, 92101
5. PREMISES: Defined in paragraph 2.1.
6. TERM: 120 months, plus any partial month at the commencement of the Term.
7. COMMENCEMENT DATE: The Term shall commence upon the earlier of Tenant's occupancy or thirty (30) days after Substantial Completion of the Premises (see paragraph 1.19).
8. BASE MONTHLY RENT: Defined in paragraph 1.2.
9. RENTAL ADJUSTMENTS: Intentionally Omitted
10. PREPAID RENT: Zero Dollars (\$0.00)
11. SECURITY DEPOSIT: Zero Dollars (\$0.00)
12. TENANT'S PERCENTAGE SHARE OF OPERATING EXPENSES:

Defined in paragraph 2.1.1. On the Commencement Date of this Lease, the Tenant's Percentage Share of Operating Expenses shall be 20.83% based upon the Rentable Area of the Premises which is 70,000 square feet and the Rentable Area of the Building which is 336,049 square feet.
13. BROKERS:

Landlord's Broker: CB Commercial Real Estate Group, Inc.
Tenant's Broker: Donovan/Irving Group, Inc.
Brokerage Commission Payable By: Landlord
14. ADDRESS FOR NOTICE:

Landlord: KOWA Real Estate California, Inc.
c/o Bank of America, NT&SA
560 Davis Street, San Francisco, CA 94111
Attn: Asset Manager

Tenant: City Manager
City Administration Building
202 C Street, MS 9B
San Diego, CA 92101-4155
Attn: Property Director
15. PARKING: Parking spaces shall be at the ratio of one (1) parking space per 1000 square feet of Rentable Area actually occupied by Tenant or subtenants. Parking shall be on a non-exclusive non-reserved basis.
16. TENANT'S PERMITTED USE: General office space for City Departments and any other lawful use consistent with the character

of the building.

17. GUARANTOR: (If none, so state)

None _____

18. TENANT IMPROVEMENT ALLOWANCE: Omitted

19. BASE YEAR: Calendar Year 1992.

20. EXHIBITS: The exhibits referenced in the Table of Contents are each attached to this Lease and are incorporated herein by this reference and made a part hereof.

21. RENEWAL OPTION: Defined in paragraph 2.5.

22. ARBITRATION: Any arbitrator provided in this agreement shall be selected pursuant to, and an arbitration conducted in accordance with, the rules of the American Arbitration Association. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Each Basic Lease Provision set forth above is a summary of the terms elsewhere in this Lease which relate to each such Basic Lease Provision. If there is any conflict between any Basic Lease Provision and any specific clause of the Lease, the more specific clause shall control.

TABLE OF CONTENTS

Basic Lease Provisions	2, 3
Table of Contents	4.1, 4.2, 4.3
Article 1. Definitions	5
1.1. Additional Rent	5
1.2. Base Monthly Rent	5
1.3. Building; Office Building	5
1.4. Building Common Areas	5
1.5. Building Lot	5
1.6. Business Days/Business Hours	5
1.7. Interest	6
1.8. Lease; Office Lease	6
1.9. Lease Year	6
1.10. Legal Holidays	6
1.11. Mortgage	6
1.12. Mortgagee	6
1.13. Operating Expenses	6
1.14. Prime [deleted]	10
1.15. Property Taxes	10
1.16. Rent	11
1.17. Rentable Area/Usable Area	11
1.18. Rules and Regulations	11
1.19. Substantial Completion	11
1.20. Tenant Improvements	11
1.21. Tenant Improvement Agreement	11
1.22. Tenant's Taxes	11
1.23. Term; Lease Term	11
1.24. Utility Costs	11
Article 2. Lease of Premises	12
2.1. Premises Leased	12
2.2. Lease Term	14
2.3. Delay in Commencement	14
2.4. Clean Water Department and Water Utilities Department Premises	14
2.5. Renewal Option	15
2.6. Options to Expand	16
2.7. First Right to Lease	17
2.8. Contraction Rights	18
2.9. Right to Cancel the Lease	19
Article 3. Rent	20
3.1. Monthly Rent	20
3.2. Additional Rent	20
3.3. Security Deposit [Intentionally Omitted]	23
3.4. Abatement of Rent When Tenant is Prevented From Using Premises	23
Article 4. Use of Premises	23
4.1. Permitted Use	23
4.2. Acceptance of Premises	23
4.3. Conduct of Business	24
4.4. Rules and Regulations	25
4.5. Signage	25
4.6. Hazardous Materials	26
Article 5. Services and Utilities	27
5.1. Landlord's Provision of Services	27
5.2. Excess Usage	28
5.3. Services To Be Provided	28
Article 6. Maintenance and Repair	29
6.1. Tenant to Maintain	29
6.2. Landlord's Maintenance	30
6.3. Landlord's Failure to Maintain	30

6.4. Waiver of Civil Code Sections	30
Article 7. Alterations and Improvements	30
7.1. Alterations by Tenant	30
7.2. General Contractor and Bonds	32
7.3. Builder's Insurance [Intentionally Omitted]	32
7.4. Written Notification Required	32
7.5. Freedom From Liens	32
Article 8. Rights of Landlord	33
8.1. Entry and Inspection	33
8.2. Transfer by Landlord	33
Article 9. Insurance and Indemnity	33
9.1. Tenant's Insurance	33
9.2. Indemnification	36
9.3. Damage to Tenant's Property	36
Article 10. Assignment and Subletting	37
10.1. Landlord's Consent	37
10.2. No Release	37
10.3. Excess Rent	37
Article 11. Damage or Destruction	38
11.1. Repair or Termination	38
11.2. Termination and Release	39
11.3. Temporary Abatement of Rent	39
11.4. Force Majeure	39
11.5. Uninsured Casualty	39
11.6. Limits of Landlord's Obligations	40
11.7. Damages at End of Term	40
11.8. Waiver of Civil Code Sections 1932(2) and 1933(4)	40
Article 12. Eminent Domain	40
12.1. Substantial or Total Taking	40
12.2. Temporary Taking	40
12.3. Waiver	41
Article 13. Default and Remedies	41
13.1. Covenants and Conditions	41
13.2. Events of Defaults	41
13.3. Landlord's Remedies	41
13.4. Re-Entry and Removal	42
13.5. Reletting the Premises	42
13.6. Remedies Cumulative; No Waiver	42
13.7. Landlord's Default	43
Article 14. Estoppel Certificates	43
14.1. Estoppel Certificates ✓	43
Article 15. Holding Over; Surrender of Premises	44
15.1. Holding Over	44
15.2. Surrender of Premises	44
Article 16. Quiet Enjoyment	45
Article 17. Subordination; NonDisturbance	45
Article 18. Liens	45
Article 19. Bankruptcy ✓	45
Article 20. Professional Fees	46

Article 21.	Performance by Tenant	46
Article 22.	Mortgagee Protection	46
Article 23.	Definition of Landlord	46
Article 24.	Waiver	47
24.1.	Waiver by Landlord	47
24.2.	Waiver by Tenant	47
Article 25.	Parking	47
25.1.	Lease of Space	47
25.2.	Conditions of Use	47
25.3.	Parking Rights	48
Article 26.	Force Majeure	48
Article 27.	Limitation on Liability	48
Article 28.	Modification for Lender	49
Article 29.	Option to Negotiate for Purchase of Building	49
Article 30.	Relocation Allowance	49
Article 31.	Storage Space	49
Article 32.	Refurbishment Allowance	50
Article 33.	Building Conference Facility	50
Article 34.	Transportation Demand Management	50
Article 35.	Miscellaneous	50
35.1.	Governing Law	50
35.2.	Headings and Titles	50
35.3.	Interpretation	50
35.4.	Successors and Assigns	51
35.5.	Time of the Essence	51
35.6.	Severability	51
35.7.	Integration	51
35.8.	Notices	51
35.9.	No Light, Air or View Easements	51
35.10.	Broker	51
35.11.	No Partnership	51
35.12.	Recording	52
35.13.	Consent/Duty to Act Reasonably	52
35.14.	Exhibits	52
35.15.	Compliance with the City of San Diego Equal Opportunity Contracting Program	52
35.16.	Disabled Access	52
35.17.	Authorized Persons	52
35.18.	Condition Precedent	53
Signatures		53
EXHIBITS		
Exhibit A		The Premises
Exhibit B		The Project
Exhibit C		Rules and Regulations
Exhibit D		Notice of Lease Terms Dates and Tenant's Percentage Share
Exhibit E		Standards for Utilities and Services
Exhibit F		Tenant Estoppel Certificate
Exhibit G		Tenant Improvement Agreement
Exhibit H		Nondisturbance Agreement
Exhibit I		Janitorial Specifications

GENERAL LEASE PROVISIONS

ARTICLE 1.

DEFINITIONS

Unless the context otherwise specifically requires, the following terms shall have the meaning set forth below.

1.1. Additional Rent. "Additional Rent" means all fees, assessments, expenses and charges, however denominated, required to be paid by Tenant pursuant to this Lease in addition to the Base Monthly Rent, including, but not limited to, Tenant's Percentage Share of Operating Expenses.

1.2. Base Monthly Rent. The "Base Monthly Rent" for all space occupied by Tenant in the Building, excluding floors 14 through 16 (and assuming that Tenant's total occupancy is less than 155,386 square feet as amended pursuant to Tenant's expansion rights in paragraph 2.6, below) shall be in the following amounts:

Year 1	\$1.00 for each square foot of Rentable Area
Year 2	\$1.05 for each square foot of Rentable Area
Year 3	\$1.10 for each square foot of Rentable Area
Year 4	\$1.16 for each square foot of Rentable Area
Year 5	\$1.22 for each square foot of Rentable Area
Year 6	\$1.28 for each square foot of Rentable Area
Year 7	\$1.34 for each square foot of Rentable Area
Year 8	\$1.41 for each square foot of Rentable Area
Year 9	\$1.48 for each square foot of Rentable Area
Year 10	\$1.55 for each square foot of Rentable Area

Base Monthly Rent shall be subject to adjustment as provided in this Lease.

1.3. Building; Office Building. "Building" or "Office Building" means the existing office building located on the Building Lot, in which the Premises are located as delineated on Exhibit B.

1.4. Building Common Areas. "Building Common Areas" means the following: all areas within the Building and the Project which are not now or hereafter held for exclusive use by persons entitled to occupy space in the Building. Building Common Areas include parking areas, driveways, truckways, delivery passages, loading docks, sidewalks, ramps, landscaped and planted areas, exterior stairways, hallways and interior stairwells not located within the premises of any tenant, ground floor lobby, elevators, elevator lobbies not located within the premises of any tenant, retaining walls, restrooms not located within the premises of any tenant, existing fountains, existing statues, any and all monument signs situated on the Building Lot, common pipes, conduits, wires and appurtenant equipment serving the Premises and all other areas and improvements within the Building and/or the Building Lot provided by Landlord from time to time for the common use of Landlord and tenants of the Building and their respective employees and invitees as reasonably determined by Landlord from time to time.

1.5. Building Lot. "Building Lot" means the real property upon which the Building is located which is more particularly described on Exhibit B hereto.

1.6. Business Days/Business Hours. "Business Days" means all days in any given year other than Saturdays, Sundays and Legal Holidays. "Business Hours" means Monday through Friday from 7:00 a.m. to 6:00 p.m. and Saturdays from 8:00 a.m. to 1:00 p.m. All references herein and in the Lease to less than ten (10) "days" shall mean Business Days, and all references to "notice" shall mean written notice given in compliance with the provisions of the Lease.

1.7. Interest. "Interest Rate" means interest at the rate publicly announced from time to time by Bank of America as its "Reference Rate" or "Prime Rate". Interest shall not be due and payable until the sum bearing the Interest Rate remains unpaid for thirty (30) days after written notice of default in payment of that sum is given. No interest or any other amount paid or agreed to be paid to any party under this Lease for the use, forbearance, or detention of money shall exceed the highest lawful rate permissible under any applicable usury law.

1.8. Lease; Office Lease. "Lease" or "Office Lease" means the Basic Lease Provisions, General Lease Provisions, Tenant Improvement Agreement, Rules and Regulations in their present form or as modified subsequent to the execution of the Lease, and any and all addenda, amendments and exhibits, to this Lease.

1.9. Lease Year. "Lease Year" means each period of twelve (12) consecutive full calendar months beginning on the first day of the first calendar month next following the Commencement Date (or beginning on the Commencement Date, if the Commencement Date falls on the first day of a month) provided, however, that the first Lease Year shall also include any partial month from the Commencement Date through the last day of the month in which the Commencement Date falls and the last Lease Year shall end on the Date the Term expires or terminates.

1.10. Legal Holidays. "Legal Holidays" means only New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and such other national holidays which now exist or may be established after the date of this Lease by the U.S. Government.

1.11. Mortgage. "Mortgage" means any mortgage or deed of trust which constitutes a lien on the Building and/or the Building Lot given for the purpose of securing indebtedness to purchase or improve the Building and/or the Building Lot.

1.12. Mortgagee. "Mortgagee" means the holder of the beneficial interest in any Mortgage. The term "Beneficiary" shall be synonymous with the term "Mortgagee."

1.13. Operating Expenses.

1.13.1. "Operating Expenses" mean with respect to each full or partial calendar year during the Term all reasonable costs of managing, operating, overhauling, repairing and maintaining the existing Building, the Building Common Areas, and the Building Lot (sometimes hereinafter collectively referred to as the "Project") consistent with comparable office buildings in downtown San Diego determined as if the Building were not less than ninety-five percent (95%) occupied for an entire calendar year, limited to the following items:

1.13.1.1. Payroll costs, including all salaries, wages, payroll and similar taxes, social security taxes, federal and state unemployment taxes, unemployment insurance costs, workers' compensation, disability and other insurance, medical and other health benefits or payments, welfare, retirement, vacation, holiday and other paid absences and other employee benefits applicable to persons engaged in the management, operation, maintenance, or repair of the Project whether employed by Landlord or another party with whom Landlord contracts for such services;

1.13.1.2. Premiums, deductible payments in accord with comparable buildings in downtown San Diego, and other charges for fire and extended coverage insurance (all risk, full replacement cost), including at Landlord's election earthquake (only if included in the Base Year Direct Operating Expense), flood, windstorm, hail, explosion or riot, broad form comprehensive public liability and property damage insurance, contractual liability insurance, plate glass insurance, owned and non-owned automobile insurance, elevator insurance, boiler and machinery insurance, sprinkler leakage and water damage insurance, legal

liability insurance, burglary and hold-up insurance, fidelity and pilferage insurance, rental loss and business interruption insurance, excess and umbrella insurance and any other insurance Landlord deems necessary or desirable;

1.13.1.3. Service contracts, including but not limited to contracts for outside maintenance or repair, security, janitorial, landscaping and replanting, gardening and cleaning services, window cleaning, rubbish removal, pest control, water treatment, non-structural roof repairs, servicing of elevators and escalators and electrical, plumbing and mechanical equipment;

1.13.1.4. The cost of materials, tools, supplies and equipment held for use or used for the benefit of the Project, if the cost for tools is in excess of Ten Thousand and No/100 Dollars (\$10,000.00), said cost to be amortized over their useful life in accord with generally accepted accounting principles;

1.13.1.5. The fair market rental value of Landlord's managing agent's office in the Project not to exceed 2000 square feet of Rentable Area, if any;

1.13.1.6. The costs of all capital improvements and replacements to the Project its contents or any portion thereof, made to comply with any present or future law, ordinance, rule or regulation or made to improve or add Building life-safety or security systems or made to reduce other Building Expenses, such costs to be amortized over the applicable recovery period for federal tax purposes or the estimated useful life as determined by Landlord and utilized by Landlord in its financial and tax reporting, and to include a return on capital at such rate as Landlord may pay on funds borrowed for the purpose of constructing such improvements or replacements;

1.13.1.7. License, permit and inspection fees;

1.13.1.8. Management fees and expenses not exceeding fees and charges normally incurred with respect to comparable first class office buildings;

1.13.1.9. Legal, accounting and consulting fees and expenses;

1.13.1.10. Property Taxes levied against the Project whether assessed against Landlord or assessed against Tenant and paid by Landlord, or any combination of the foregoing;

1.13.1.11. Utility Costs (defined below);

1.13.1.12. Any and all other expenses related to the Project however denominated which, in accordance with generally accepted accounting principles consistently applied, could fairly be treated as an operating expense by landlords of comparable office buildings in downtown San Diego.

1.13.2. Notwithstanding the definition of Operating Expenses, operating expenses shall not include the items listed below as "Excluded Items", except to the extent specifically permitted below:

1.13.2.1. Costs of Capital Repairs. Costs of capital repairs, improvements and equipment except for those acquired to reduce Operating Expenses (amortized at an annual rate reasonably calculated to equal the amount of Operating Expenses to be saved in each calendar year throughout the Term (as determined at the time Landlord elected to proceed with the capital improvement or acquisition of the capital equipment to reduce Operating Expenses), together with interest at the actual interest rate incurred by Landlord;

1.13.2.2. Rental of Capital Items. Rental for items (except when needed in connection with normal repairs and

maintenance of permanent systems) which if purchased, rather than rented, would constitute a capital improvement which is specifically excluded in Subsection (2) above (excluding, however, equipment not affixed to the Building which is used in providing janitorial or similar services);

1.13.2.3. Costs of Repairs Covered by Insurance. Costs incurred by Landlord for the repair of damage to the Building, to the extent that Landlord is reimbursed by insurance proceeds;

1.13.2.4. Tenant Decorating Costs. Costs, including permit, license and inspection costs, incurred with respect to the installation of tenant or other occupant improvements made for tenants or other occupants in the Building or Project or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for tenants or other occupants of the Building or Project. This paragraph 1.13.2.4 does not apply to Building Common Areas;

1.13.2.5. Marketing Costs. Marketing costs, including leasing commissions, attorneys' fees in connection with the negotiation and preparation of letters, deal memos, letters of intent, leases, subleases and/or assignments, space planning costs, and other costs and expenses incurred in connection with lease, sublease and/or assignment negotiations and transactions with present or prospective tenants or other occupants of the Building or Project;

1.13.2.6. Capital Alterations. Costs incurred by Landlord for alterations which are considered capital improvements and replacements under generally accepted accounting principles, consistently applied, except as may be permitted in section 1.13.2.1 and 1.13.2.2 above;

1.13.2.7. Capital Costs Generally. Costs of a capital nature, including, without limitation, capital improvements, capital repairs, capital equipment and capital tools, all as determined in accordance with generally accepted accounting principles, consistently applied, except as may be permitted in 1.13.2.1 and 1.13.2.2 above;

1.13.2.8. Exclusive Services to Tenants. Expenses in connection with services or other benefits which are not offered to Tenant or for which Tenant is charged directly, but which are provided to another tenant or occupant of the Building or Project the cost of which is included as an Operating Expense;

1.13.2.9. Costs of Lease Violations. Costs incurred by Landlord due to the violation by Landlord or any other tenant of the terms and conditions of any other lease of space in the Building or Project;

1.13.2.10. Profit on Related Party Transactions. Overhead and profit increment paid to Landlord or to subsidiaries or affiliates of Landlord for goods and/or services in the Building or Project, to the extent the same exceeds the costs of such goods and/or services rendered by unaffiliated third parties on a competitive basis;

1.13.2.11. Loan Costs. Interest, principal, points and fees on debts or amortization on any mortgage or mortgages or any other debt instrument encumbering the Building or the Project;

1.13.2.12. Landlord's Overhead. Landlord's general corporate off-site overhead and general and administrative expenses;

1.13.2.13. Leasing Building System Equipment. Except for making repairs or keeping permanent systems in operation while repairs are being made, rentals and other related expenses incurred in leasing air conditioning systems, elevators

or other equipment ordinarily considered to be of a capital nature, except equipment not affixed to the Building which is used in providing janitorial or similar services;

1.13.2.14. Advertising Expenses. Advertising and promotional expenditures, and costs of signs in or on the Building or Project identifying the owner of the Building or other tenants' signs;

1.13.2.15. Direct Contract Electricity. Electric power costs for which any other tenant directly contracts with the local public service company;

1.13.2.16. Costs of Certain Business Operations. Services provided, taxes attributable to, and business costs incurred in connection with the operation of retail, restaurant, garage, and any shuttle services;

1.13.2.17. Costs to Comply with Pre-Existing Building Codes. Costs incurred in connection with upgrading the Building to comply with handicap, life, fire and safety codes in effect prior to the Commencement Date;

1.13.2.18. Tax Penalties. Tax penalties incurred as a result of Landlord's negligence, inability, or unwillingness to make payments and/or file any Property Taxes, income tax or informational returns when due;

1.13.2.19. Payment of Assessments and Premiums in Installments. All assessments and premiums which are not specifically charged to Tenant because of what Tenant has done, which can be paid by Landlord in installments, shall be paid by Landlord in the maximum number of installments permitted by law and not included as Operating Expenses except in the year in which the assessment or premium installment is actually paid; provided, however, that if the prevailing practice in other comparable office buildings in the immediate market area of the Building is to pay such assessments or premiums on an earlier basis, and Landlord pays on such basis, such assessments or premiums shall be included in Operating Expenses as paid by Landlord. In no event, however, shall Landlord include any accrued interest (resulting from such assessments or premiums) in its computation of Operating Expenses;

1.13.2.20. Proposition 13 Reassessments. During the Term (including any extensions thereof), the portion of operating costs allocable to Property Taxes shall not increase by more than two percent (2%) per annum (on a noncumulative basis) over the Property Taxes for the immediately preceding calendar year. In the event the Building is sold or otherwise transferred during the initial Term of this Lease, Tenant shall be exempt from the payment of any increase in Property Taxes as a result of a "change in ownership" as that term is currently defined in California Revenue and Taxation Code Sections 60 through 68, and amendments thereto or any successor statutes or regulations.;

1.13.2.21. No Double Dipping. Costs for which Landlord has been compensated by a management fee;

1.13.2.22. Cost Due to Negligence in Construction. Costs arising from the negligence or fault of Landlord or its agents or any vendors, contractors, or providers of materials or services selected, hired or engaged by Landlord or its agents including, without limitation, the selection of building materials;

1.13.2.23. Costs of Abating Hazardous Materials. Notwithstanding any contrary provision of this Lease, including, without limitation, any provision relating to capital expenditures, costs arising from the presence of Hazardous Materials in or about the Building or Project including, without limitation, hazardous substances in the ground water or soil, not placed in the Premises or Building by Tenant;

1.13.2.24. Costs Due to Negligence of Others. Costs arising from Landlord's or another tenant's negligence or intentional acts;

1.13.2.25. Landlord Contributions. Costs arising from Landlord's charitable or political contributions;

1.13.2.26. Artwork. Costs for sculpture, paintings or other objects of art;

1.13.2.27. Litigation Costs. Unreasonable costs (including in connection therewith all attorneys' fees and costs of settlement, judgments and payments in lieu thereof) arising from claims, disputes or potential disputes in connection with potential or actual claims litigation or arbitrations pertaining to the Landlord and/or the Building and/or the Project which are not related to Tenant's use and occupancy of the Premises; and

1.13.2.28. Landlord's Business Expenses. Costs associated with the operation of the business of the partnership or entity which constitute Landlord as the same is distinguished from the costs of operation of the Building, including partnership accounting and legal matters, costs of defending any lawsuits with any mortgagee (except as the actions of Tenant may be in issue), costs of selling, syndicating, financing, mortgaging or hypothecating any of Landlord's interest in the Building, costs of any disputes between Landlord and its employees (if any) not engaged in Building operation, disputes of Landlord with Building management, or outside fees paid in connection with disputes with other tenants.

1.13.2.29. Tenant Improvement Taxes. Taxes and assessments attributable to the tenant improvements of tenants other than Tenant or the property of tenants other than Tenant if such taxes or assessments are separately paid.

1.13.2.30. Groundlease Rent. Any groundlease rental.

1.13.2.31. Compensation Paid to Employees of Concessionaires. Any compensation paid to clerks, attendants, or other persons in commercial concessions operating by Landlord or in the parking garage of the Building or Project or wherever Tenant is granted its parking privileges and/or all fees paid to any parking facility operator (on or off-site); provided, however, if Landlord provides such parking free of charge to Tenant, these expenses may be included as Operating Expenses.

1.13.2.32. Latent Defects. Costs arising from repair of latent defects in improvements installed since January 15, 1982.

Landlord further agrees that since one of the purposes of Operating Expenses and the gross up provision is to allow the Landlord to require the Tenant to pay for the expenses attributable to its Premises, Landlord agrees that (i) Landlord will not collect or be entitled to collect Operating Expenses from all of its tenants in an amount which is in excess of one hundred percent (100%) of the Operating Expenses actually paid by Landlord in connection with operation of the Building and (ii) Landlord shall make no profit from Landlord's collection of Operating Expenses but shall not preclude the collection of management fees.

1.14. Prime. [deleted]

1.15. Property Taxes. "Property Taxes" means and shall include any form of real property tax, assessment, license fee, license tax, special tax, business license fee, commercial rental tax, levy, charge, penalty (not resulting from failure of the Landlord), tax or similar imposition, imposed by any authority having the direct power to tax, including any city, county, state

or federal government, or any school, agricultural, lighting, drainage or other improvement assessment or special district thereof, as against any legal or equitable interest of Landlord in the Premises or the Project. Any reduction in taxes due to any exemption available for personal or real property taxes because Tenant is a municipality shall accrue to the benefit of the Landlord.* See Page 11A.

Notwithstanding any contrary provision of this Section 1.15, Property Taxes shall not include Landlord's federal or state income, franchise, inheritance or estate taxes. Property Taxes constitute a portion of the Operating Expenses.

1.16. Rent. "Rent", as used in this Lease, means and includes the Base Monthly Rent, Additional Rent, and all other amounts Tenant is required to pay pursuant to this Lease.

1.17. Rentable Area/Usable Area. The terms "Rentable Area" and "Usable Area" as used in the Lease in reference to the Building, the Premises, or any other portion of the Building shall mean the number of rentable square feet or usable square feet (as applicable) as determined in accordance with the Building Owners and Managers Association Standard of Measurement ANSI Z65.1-1980 ("BOMA Standard"). All measurements shall be made to the outside surface of interior shaft walls.

1.18. Rules and Regulations. "Rules and Regulations" means and refers to the Rules and Regulations set forth in Exhibit C attached hereto, together with any and all reasonable and non-discriminatory amendments and modifications thereto made by Landlord from time to time.

1.19. Substantial Completion. As used in this Lease and the Tenant Improvement Agreement, the term "Substantial Completion of the Tenant Improvements" shall mean that (i) Landlord has procured an Authorization to Occupy/Certificate of Occupancy (or an equivalent from the City for such work) and (ii) such work has been performed substantially in accordance with this Agreement except for finishing details of construction, decoration, mechanical, and other adjustments and other items of the type commonly found on an architectural "punch list", none of which materially interfere with Tenant's use or occupancy of the Premises for normal business operations.

1.20. Tenant Improvements. The term "Tenant Improvements" refers to all improvements to the Premises shown on the plans and specifications approved by Landlord to be constructed pursuant to the terms of the Tenant Improvement Agreement attached to this Lease as Exhibit G.

1.21. Tenant Improvement Agreement. The term "Tenant Improvement Agreement" refers to the agreement attached hereto as Exhibit G.

1.22. Tenant's Taxes. The term "Tenant's Taxes" shall include any and all taxes, special taxes, assessments, levies, fees, and other governmental charges of every kind or nature levied or assessed by municipal, county, state, federal or other taxing or assessing authorities with respect to those items referenced in Section 3.2.2 of this Lease.

1.23. Term; Lease Term. "Term" or "Lease Term" means the entire period during which the Lease is in effect, commencing with the Commencement Date and continuing for the period specified in Section 6 of the Basic Lease Provisions plus any extension or renewal period.

1.24. Utility Costs. "Utility Costs" means for any calendar year, the utility costs for the Project (excluding those Utility Costs, if any, which are separately metered to the Premises and paid for by Tenant directly to the public utility providing the same) as follows: (i) the costs of all fuel, power (including without limitation electricity costs for air conditioning),

*"Property Taxes" shall also mean and shall include any assessment, tax, special tax, fee, levy or charge, in substitution or addition, partial or total, to or regarding any real property tax, assessment, tax, special tax, fee, levy or charge previously included or not included within the definition of Property Taxes, including but not limited to, any assessments, taxes, fees, levies and charges that may be imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, refuse removal and for other governmental services formerly provided with or without charge to property owners or occupants. Tenant and Landlord intend that all such new and increased assessments, taxes, special taxes, fees, levies and charges be included within the definition of Property Taxes for the purposes of this Lease.

light, heat, chilled water and ventilation serving the Project or consumed or used in the Project or any portion thereof; (ii) all sewer and water charges incurred in the operation of the Project; (iii) all charges incurred for off-site disposal of solid waste from the Project; (iv) any and all fees, charges or expenses otherwise imposed as part of any billing by a regulated utility supplying any services or commodities to the Project including without limitation all rentals for equipment and pass-throughs of government mandated charges; and (v) the annual amortization of the cost of any energy conservation equipment installed subsequent to the commencement of the Term, amortized (in the same manner as described in paragraph 1.13.1.6 above) over the applicable recovery period for federal tax purposes or the estimated useful life as determined by Landlord and utilized by Landlord in its financial and tax reporting.

ARTICLE 2.

LEASE OF PREMISES

2.1. Premises Leased. Landlord leases to Tenant and Tenant hereby leases from Landlord the following (the "Premises"): The initial Premises to be occupied by Tenant shall be located on the floors and in the square footage as designated on the following floors:

<u>Floor</u>	<u>Rentable Square Feet</u>
3rd	13,413
4th	14,128
5th	14,128
6th	14,128
7th	14,128
8th	14,277
9th	14,277
10th	14,277
11th	14,277
12th	14,277
13th	14,277
Total:	155,386

Landlord acknowledges that the actual amount of space to be occupied by Tenant may be more or less than the 155,386 square feet of Rentable Area depending upon space planning, "Must Take Space" (defined below), and expansion options.

Tenant's occupancy schedule for the Premises shall be as follows:

Tenant shall initially occupy, and pay rent on approximately 70,000 square feet of Rentable Area ("RSF"). The date for Substantial Completion of the initial space is estimated to be July 1, 1992. The portion of the Premises not initially occupied by Tenant is referred to as the "Must Take Space". Tenant agrees to occupy the "Must Take Space" as follows:

70,000 RSF prior to 7/1/92
70,000 RSF prior to 5/1/93

Tenant has committed to take initial Premises of 70,000 RSF and the Premises scheduled above of 70,000 RSF, or a total of 140,000 RSF. Tenant may occupy the difference between that total committed space and 155,386 RSF as follows. Tenant shall provide Landlord with written notice of Tenant's election to take additional Must Take Space. Landlord shall have twelve (12) months from receipt of any such notice to deliver the applicable Must Take Space to Tenant. After Tenant has occupied 155,386 RSF, it may expand beyond that amount only by exercise of its First Right to Lease rights.

After the Building achieves a cumulative ninety-five

percent (95%) occupancy on all floors of the Building other than the "Must Take Space", Landlord shall have the right to terminate the Lease as to any or all "Must Take Space" not then occupied by Tenant as follows: Landlord shall give Tenant thirty (30) days written notice of its intention to terminate the Lease as to any or all of the unoccupied "Must Take Space". Tenant shall have the right to cancel the notice by giving Landlord written notice of its intention to occupy any or all "Must Take Space" covered in Landlord's written notice. If Tenant gives such notice, the Lease shall not terminate as to that space and Tenant, subject to the provisions of the Lease, shall occupy and pay rent on that space commencing on the date of Substantial Completion of the Tenant Improvements for said space. The Lease shall terminate as to all "Must Take Space" listed in the Landlord's termination notice that Tenant does not so elect to occupy. Notwithstanding anything to the contrary in this paragraph, Landlord recognizes Tenant's commitment to lease approximately 70,000 square feet for its Water Utilities Department in May of 1993.

The Rentable Area and Usable Area shall be determined by Landlord's space planner upon completion of the working plans and specifications for the construction of the Tenant Improvements. Such determination shall be made in accordance with the BOMA Standard. Base Monthly Rent and Tenant's Percentage Share of Operating Expenses shall be adjusted upon the final determination of the Rentable Area of the Premises. Landlord or Tenant shall have the right, exercisable during the space planning process, to remeasure the Premises at the sole cost and expense of the requesting party. In the event that subsequent remeasurement of the Premises by Tenant, during the space planning process, indicates that the square footage measurement prepared by the Landlord produces a square footage number in excess of or lower than the square footage number which would have resulted had the BOMA Standard been properly utilized, any payments due to Landlord from Tenant based upon the amount of square feet contained in the Premises shall be proportionally and prospectively reduced or increased, as appropriate, to reflect the actual number of square feet, as properly remeasured under the BOMA Standard. If Landlord disagrees with Tenant's remeasurement and if a dispute occurs regarding the final accuracy of such measurements, such dispute will be resolved by an arbitrator.

The parties agree that so long as Landlord does not interfere with the rights of Tenant under this Lease, Landlord may allow existing leases to continue or directly lease to another tenant or to other tenants all or any portion of floors three through thirteen that are not then actually occupied by Tenant with the same force and effect as if this Lease was not executed. Landlord shall be entitled to collect and retain all rents from all such leases. Landlord shall be solely responsible for the performance of all obligations of the landlord under all such leases.

2.1.1. Tenant's Percentage Share of Operating Expenses. Tenant's Percentage Share shall be adjusted upon the final determination of the Rentable Area of the Premises to equal a fraction, the numerator of which is the Rentable Area of the Premises and the denominator is the Rentable Area of the Building all as determined by Landlord's space planner in accordance with the BOMA Standard.

2.1.2. Use of Building Common Area. Tenant shall have the nonexclusive right to use in common with Landlord and other tenants and occupants of the Building, the Building Common Area subject, however, to Tenant's prior compliance with all applicable provisions of this Lease.

2.1.3. Landlord's Rights with Respect to Building Common Areas and the Project. Landlord reserves the right from time to time without unreasonable interference with Tenant's use of the Premises or parking facilities and with prior written notice from Landlord to Tenant:

2.1.3.1. To install, use, maintain, repair and replace pipes, ducts, conduits, wires, meters and equipment for service to other parts of the Building above the ceiling surfaces, below the floor surfaces, within the walls and in the central core areas, and to relocate any pipes, ducts, conduits, wires and appurtenant meters and equipment included in the Premises which are located in the Premises or located elsewhere outside the Premises;

2.1.3.2. To make or permit changes and deletions to the Building Common Areas so long as such changes do not adversely affect Tenant's use of the Premises or limit the amount of Usable Area of the Premises;

2.1.3.3. To close temporarily any of the Building Common Areas for maintenance, repair, improvement and/or construction purposes so long as reasonable access to the Premises remains available and so long as Landlord diligently and continuously pursues such maintenance and repairs to completion:

2.1.3.4. To change the address of the Building and/or the Project provided Landlord shall give Tenant at least sixty (60) days prior written notice of the same and shall reimburse Tenant for its actual and documented costs incurred as a result of such change, including but not limited to stationary printing charges, telephone directory charges, and other similar charges;

2.1.3.5. To use the Building Common Areas while engaged in making additional improvements, repairs or alterations to the Building, or any portion thereof; so long as such use by Landlord does not adversely affect Tenant's use of the Premises or limit the amount of Usable Area of the Premises.

2.2. Lease Term. The Lease Term is for one hundred twenty (120) months and shall commence on the Commencement Date. Commencement Date, the date upon which the term of this Lease shall end, the Rentable Area and Usable Area of the Premises, and Tenant's Percentage Share of Operating Expenses shall be specified in Landlord's Notice of Lease Term Dates and Tenant's Percentage Share ("Notice"), in the form of Exhibit D and which shall be given to Tenant by Landlord as provided in Section 35.8. The Notice shall be binding upon Tenant unless Tenant objects to the Notice in writing, within sixty (60) days of Tenant's receipt of the Notice.

2.3. Delay in Commencement. Tenant agrees that if Landlord is unable to deliver possession of the Premises to Tenant with Tenant Improvements substantially completed in accordance with the Tenant Improvement Agreement on the scheduled Commencement Date, this Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom, but in such event Tenant shall not be liable for any Rent until Landlord tenders possession of the Premises to Tenant with the Tenant Improvements substantially completed. If Landlord completes construction of the Tenant Improvements prior to any scheduled Commencement Date, Landlord may deliver possession of the Premises to Tenant and if the Tenant desires to accept possession then this Lease shall thereupon commence. Notwithstanding the foregoing, if Landlord is unable to substantially complete the initial Premises or any Additional Premises within one hundred eighty (180) days of any scheduled Commencement Date for such Premises, then Tenant shall have the right to terminate this Lease with respect to the Premises in question upon ten (10) days prior written notice to Landlord, except in the event of Force Majeure or Tenant delays.

2.4. Clean Water Department and Water Utilities Department Premises. Landlord specifically acknowledges that possession of the Premises within the Building which Tenant intends to lease for use by the Clean Water Department and the Water Utilities Department, must be delivered with Tenant Improvements

substantially completed on or before June 1, 1993 (Water Utilities premises anticipated to be on floors 8 to 12). If Landlord fails to deliver the subject premises to Tenant on or before the required delivery date for such premises, then Tenant shall be entitled to one (1) day of abated Base Monthly Rent for each day beyond the required delivery date Tenant is delayed from occupying such premises (except for delays caused by Tenant) until the premises are ready for occupancy with Tenant Improvements substantially completed.

2.5. Renewal Option. Provided that at the time of exercise and at the time of commencement of each Renewal Term (hereinafter defined), there is no continuing and uncured default in existence under this Lease by Tenant, Tenant shall have the option to renew (the "Renewal Option") this Lease for two (2) separate, additional terms of five (5) years each (each such additional term hereinafter referred to as a "Renewal Term"). To exercise the Renewal Option, Tenant must deliver written notice of exercise ("Exercise Notice") to Landlord at least six (6) months prior to (i) the date of expiration of the initial Term in the case of the first Renewal Option and (ii) the date of expiration of the first Renewal Term in the case of the second Renewal Option. During each Renewal Term, all of the terms and provisions of this Lease shall apply, except that, after the second Renewal Term, there shall be no further right of renewal. The Base Monthly Rent payable during each Renewal Term shall be determined in accordance with the following provisions.

Base Monthly Rent shall be payable during the Renewal Term in accordance with Section 3.1 of this Lease, except that the amount of Base Monthly Rent payable for each month of the Renewal Term shall be equal to one-twelfth (1/12) of that amount determined by multiplying the Rentable Area of the Premises by ninety percent (90%) of the "Market Rental Rate" for the Premises at the time Tenant delivers Exercise Notice. The "Market Rental Rate" shall mean the fully serviced effective rental rate, on a rentable square foot per year basis, that will yield to Landlord (and then being obtained by landlords of similar and comparable first-class office buildings located in downtown San Diego, over the term in question) the net number of dollars that such landlord would earn if such landlord was to put the premises in question in its then existing condition (or comparable space in comparable office buildings) on the market for lease to a new commercial tenant or tenants seeking office space in downtown San Diego. It is agreed by Tenant that in determining the Market Rental Rate, (a) the rental rates per rentable square foot then being obtained by Landlord for comparable space in the Building, with appropriate adjustments for floor location, may be considered, and (b) all typical concessions and expenses shall be considered, including but not limited to, refurbishment allowances, tenant improvement upgrades and rental abatements but shall specifically give Landlord credit for existing infrastructure building standard tenant improvements currently in place.

Landlord and Tenant shall have sixty (60) days after Landlord's receipt of Tenant's Exercise Notice (the "Negotiating Period") within which to negotiate a Market Rental Rate for the then applicable Renewal Term acceptable to both Landlord and Tenant.

If no agreement can be reached as to the Market Rental Rate within the Negotiating Period, then, within seven (7) days after the Negotiating Period expires, Landlord shall select a certified M.A.I. appraiser qualified and knowledgeable in the leasing of high-rise office space in downtown San Diego who is on Tenant's list of approved appraisers used generally in matters affecting the City. Concurrently with the appointment of the appraiser, Tenant shall submit to the appraiser a written determination of the then Market Rental Rate as determined by Tenant using the criteria set forth above ("Tenant's Determination") and Landlord shall submit to the appraiser a written determination of the then Market Rental Rate as

determined by Landlord using the criteria set forth above ("Landlord's Determination"). If Landlord and Tenant are unable to agree on an appraiser, either of the parties to this Lease, after giving five (5) days prior written notice to the other party, may apply to the then presiding judge of the San Diego Superior Court for the selection of an appraiser who meets the foregoing qualifications, which selection shall be made within three (3) days. The appraiser shall, within ten (10) days of his appointment, review the Landlord's Determination and Tenant's Determination of the Market Rental Rate and such other information as he shall deem necessary and shall determine which of the two is closer to the actual Market Rental Rate. The appraiser shall be instructed, in deciding whether the Landlord's Determination or the Tenant's Determination of the Market Rental Rate is closer to the actual Market Rental Rate, to use the criteria as to Market Rental Rate set forth above. The appraiser shall not establish his own Market Rental Rate, and must select either Landlord's or Tenant's Determination and shall immediately notify the parties of his selection. The Market Rental Rate determined by Landlord or Tenant and selected as the one closer to the actual Market Rental Rate by the appraiser shall be the Market Rental Rate used to determine the Base Monthly Rent payable for each month of the Renewal Term. Each of the parties shall bear one-half the cost of the appraiser.

If the Market Rental Rate shall not have been determined by the commencement of the Renewal Term, Tenant shall continue to pay the Base Monthly Rent payable as of the month immediately preceding such commencement until the Market Rental Rate is established at which time there shall be an adjustment between the parties so that the Base Monthly Rent established for the Renewal Term using the Market Rental Rate shall be retroactive to the commencement of the Renewal Term.

2.6. Options to Expand. During each Lease Year, Tenant shall have the unilateral option ("Expansion Option") to lease additional space in the Building consisting of a minimum of three percent (3%) (plus or minus fifteen percent (15%)) of the Rentable Area of the Premises then occupied by Tenant in the Building. All such space ("Expansion Space") shall be at a location within the Building designated by Landlord. Landlord shall use its best efforts to provide such space contiguous to Tenant's existing space. The term for each block of Expansion Space shall commence upon the earlier of Tenant's occupancy or thirty (30) days after Substantial Completion of such space by Tenant and shall end contemporaneously with the expiration of the Term (as the same may be extended). All terms and conditions of the Lease will apply to any Expansion Space except that the Base Monthly Rent payable for each block of Expansion Space shall be payable in accordance with Section 2.6.3 below.

2.6.1. Notice. Tenant shall provide Landlord with prior written notice ("Expansion Notice") of Tenant's election to exercise any Expansion Option provided for herein. The failure of Tenant to exercise an Expansion Option in any one Lease Year shall not preclude Tenant from exercising any subsequent Expansion Option(s) (but not cumulatively) and Landlord may then lease such space on which Tenant has not exercised its Expansion Option to a third party.

2.6.2. Delivery and Improvement of Expansion Space. Landlord shall have twelve (12) months from receipt of any Expansion Notice to deliver the applicable Expansion Space to Tenant. All Expansion Space to be occupied by Tenant shall be sprinklered by Landlord at Landlord's sole cost and expense. All Expansion Space will be improved by Landlord on a "turnkey" basis in the same manner and with the same quality and quantity of improvements outlined in Landlord's Tenant Improvement Agreement attached hereto as Exhibit G.

2.6.3. Expansion Space Rent. The Base Monthly Rent for each block of Expansion Space shall be in the initial amount of One and No/100 Dollar (\$1.00) per square foot of Rentable Area

per month and shall thereafter be increased at the rate of five percent (5%) per annum on each anniversary of the commencement date for each such block of Expansion Space. In addition to the Base Monthly Rent payable for each block of Expansion Space, Tenant shall also pay an additional amount equal to Tenant's Percentage Share of Operating Expenses applicable to such Expansion Space per square foot of Rentable Area (hereinafter "Expense Escalations") determined as if such Expansion Space was occupied from the initial commencement of the Term. For purposes of illustration only, if Tenant occupies Expansion Space on the commencement of the fourth (4th) Lease Year, and at that time Tenant's percentage Share of Operating Expenses over and above the Base Year Operating Expenses is Twenty Cents (\$0.20) per square foot of Rentable Area, then in addition to the One and No/100 Dollar (\$1.00) per square foot Base Monthly Rent for the Expansion Space, Tenant shall also pay Twenty Cents (\$0.20) per square foot of Rentable Area for the Expansion Space. Landlord and Tenant specifically acknowledge and agree that the five percent (5%) annual increases apply only to the Base Monthly Rent then in effect for the applicable block of Expansion Space and not to Expense Escalations applicable to such space.

2.6.4. "Must Take Space". With respect to any Must Take Space as identified in Paragraph 2.1, above. Base Monthly Rent shall be payable as follows: For all Must Take Space occupied by Tenant prior to January 1, 1995, the Base Monthly Rent applicable to such space shall be initially determined and subject to increase in the same manner as set forth in Section 1.2, above. For any Must Take Space occupied by Tenant after January 1, 1995, the Rent applicable to such space shall be in the same amount as the then current Base Monthly Rent applicable to the initial Premises in the Building occupied by Tenant pursuant to this Lease as if such Must Take Space was occupied as of the commencement of the Term. In either event, Additional Rent applicable to such Must Take Space shall be payable as if such Must Take Space was occupied as of the commencement of the initial term.

2.6.5. Documentation of Expansions. Upon the exercise of any Expansion Option by Tenant and/or the occupancy of any Must Take Space by Tenant, Landlord and Tenant shall enter into a written agreement that the applicable space is a part of the Premises under this Lease and containing other appropriate provisions relating to the addition of such space to this Lease (including specifically any increase or adjustment of Rent and Tenant's Percentage Share of Operating Expenses).

2.7. First Right to Lease. Provided there is no continuing and uncured default by Tenant under this Lease, Tenant shall have a continuing first right to lease ("First Right To Lease") any additional space ("First Right to Lease Space") in the Building as it becomes available from time to time during the initial Term and any extension thereof. Such availability shall be determined by Landlord's review of existing lease termination dates and all subsequently negotiated interim leases and Landlord shall provide Tenant with at least six (6) months prior written notice of such availability, or, in the case of unscheduled lease terminations or uncertain tenant renewals, Landlord shall provide Tenant with written notice as soon as practicable. Tenant shall have thirty (30) calendar days from receipt of such notice within which to notify Landlord of its election to either (i) lease the First Right to Lease Space on the terms and conditions hereinafter set forth or (ii) decline to lease the First Right to Lease Space. The term for each block of First Right to Lease Space shall commence upon the earlier of Tenant's occupancy or thirty (30) days after Substantial Completion of such space by Landlord and shall end contemporaneously with the expiration of the Term (as the same may be extended). All terms and conditions of the Lease will apply to any First Right to Lease Space except that the amount of Base Monthly Rent payable for each block of First Right to Lease Space shall be determined in accordance with Section 2.7.2 below.

2.7.1. Delivery and Improvement of First Right to Lease Space. If Tenant desires to lease the First Right to Lease Space, Landlord shall have twelve (12) months from receipt of such notice from Tenant to deliver the applicable First Right to Lease Space to Tenant. All First Right to Lease Space to be occupied by Tenant shall be sprinklered by Landlord at Landlord's sole cost and expense. So long as Tenant leases less than 155,386 square feet, all First Right to Lease Space will be improved by Landlord on a "turnkey" basis in the same manner and with the same quality and quantity of improvements as outlined in Landlord's Tenant Improvement Agreement attached hereto as Exhibit G.

2.7.2. First Right to Lease Space Rent. The Base Monthly Rent for each block of First Right to Lease Space shall be determined as follows:

2.7.2.1. Provided Tenant's occupancy of Premises in the Building does not exceed 155,386 square feet of Rentable Area, as amended pursuant to Tenant's expansion rights in paragraph 2.6, above, the Rent applicable to such block of First Right to Lease Space shall be in the same amount as the then current Base Monthly Rent applicable to the initial Premises in the Building occupied by Tenant pursuant to this Lease plus the Expense Escalations applicable to such First Right to Lease Space as if such First Right to Lease Space was occupied as of the commencement of the initial Term.

2.7.2.2. If Tenant's occupancy of Premises in the Building exceeds 155,386 square feet of Rentable Area, as amended pursuant to Tenant's expansion rights in paragraph 2.6, above, the Base Monthly Rent applicable to each such block of First Right to Lease Space shall be in an amount and under such terms equal to the then current fair market rental rate and terms for such First Right to Lease Space which shall be determined as follows:

The amount of Base Monthly Rent payable for the First Right to Lease Space for each month of the Term shall be equal to one-twelfth (1/12) of that amount determined by multiplying the Rentable Area of the First Right to Lease Space by the fair market rental rate as established by Landlord as that rental rate which Landlord will offer such Premises to third party tenants. Tenant shall have thirty (30) calendar days in which to elect to lease such space or any portion thereof. In the event that Tenant and Landlord cannot mutually agree as to the fair market rental rate for such First Right to Lease Space during this thirty (30) day period, then Landlord has the right to offer such First Right to Lease Space to third party tenants in the general market on an unrestricted basis. Landlord agrees to provide Tenant with executed leases by other Tenants of the Building immediately prior to Landlord's determination in order to substantiate Landlord's determination of the particular fair market rent. If Landlord has not recently negotiated any leases, the rental rates for comparable space in comparable buildings shall be used to determine the rental rates for such First Right to Lease Space.

2.7.3. Documentation. Upon the exercise of any First Right To Lease by Tenant, Landlord and Tenant shall enter into a written agreement that the applicable space is a part of the Premises under this Lease and containing other appropriate provisions relating to the addition of such space (including specifically any increase or adjustment of Rent and Tenant's Percentage Share of Operating Expenses).

2.8. Contraction Rights. Provided there is no continuing and uncured default by Tenant under this Lease, Tenant shall have a

continuing right to reduce the amount of space then occupied by Tenant in the Building (hereinafter the "Contraction Right"). The Contraction Right may be exercised by Tenant any time during the Term (including any extension thereof) provided Tenant gives Landlord at least nine (9) months prior written notice of its election to exercise such right. If Tenant elects to exercise its Contraction Right, the amount of reduction of space in any consecutive twelve (12) month period shall be limited to ten percent (10%) (on a non-cumulative basis) of the total Rentable Area then occupied by Tenant in the Building at the time of Tenant's Notice. Upon the exercise of any Contraction Right by Tenant, the applicable space shall no longer be a part of the Premises and not subject to First Right to Lease under this Lease. Furthermore, if applicable to the space in question, Tenant shall pay Landlord a Fee (defined below) in the amount and at the time specified in Section 2.9.2. If, within six (6) months after the Contraction Right in this paragraph 2.8 is exercised, Tenant exercises its Expansion right under paragraph 2.6 to expand the Premises, the Rent applicable to that space shall be the same rate as if the Contraction Notice was not given. Any combination of exercise of Expansion and Contraction rights granted to Tenant under this Lease shall not be used as a subterfuge to lower Tenant's Rent.

2.9. Right to Cancel the Lease. Provided there is no continuing and uncured default by Tenant under this Lease, Tenant shall have the continuing unilateral right to cancel this Lease for the entire Premises or any portion thereof for any reason whatsoever ("Cancellation Right") in accordance with the provisions of this Section 2.9.

2.9.1. Notice/Effective Date. If Tenant elects to exercise the Cancellation Right with respect to the entire Premises then occupied by Tenant, Tenant shall provide Landlord with written notice thereof ("Cancellation Notice") at least eighteen (18) months prior to the effective date of such termination ("Termination Date") specified in the Cancellation Notice. If Tenant elects to exercise the Cancellation Right with respect to only a portion of the Premises not exceeding twenty-five percent (25%) of the Rentable Area of the Building then occupied by Tenant, the Cancellation Notice shall be given at least twelve (12) months prior to the Termination Date specified in the Cancellation Notice. With respect to any portion of the Premises exceeding twenty-five percent (25%) of the Rentable Area of the Building then occupied by Tenant, the Cancellation Notice shall be given at least eighteen (18) months prior to the Termination Date specified in the Cancellation Notice. Tenant agrees that successive exercises of its Cancellation Right(s) shall not be used as a subterfuge to avoid the eighteen (18) month notice requirement. The Termination Date for all or any portion of the Premises may be any date specified by Tenant after the expiration of the eighty fourth (84th) month of the Term; provided however, if Tenant has exercised its Renewal Option(s) as provided herein, then the Termination Date shall be any date specified by Tenant after the expiration of the thirty-sixth (36th) month of the then applicable Renewal Term.

2.9.2. Termination Fee.

2.9.2.1. There shall be no early termination fee ("Fee") for any portion of the Premises occupied by Tenant for five (5) years or more.

2.9.2.2. For any portion of the Premises subject to a Cancellation Notice or notice of Contraction which has been occupied for less than five (5) years, Tenant shall pay to Landlord a Fee in an amount equal to (i) the unamortized portion of leasing commissions paid by Landlord applicable to the Premises in question plus (ii) the unamortized value of the Tenant Improvements made by Landlord to the Premises in question. The amortization shall be made on a five (5) year, straight line basis.

2.9.2.3. In the event Tenant utilizes the Refurbishment Allowance provided for in Article 32 and Tenant continues to occupy the Premises or portion thereof for which the Refurbishment Allowance was used for a period of two (2) years or more, then no penalty shall be payable by Tenant upon cancellation of this Lease with respect to such Premises. For any portion of the Premises subject to a Cancellation Notice or notice of Contraction which for which Tenant has utilized the Refurbishment Allowance and has been occupied for less than two (2) years, Tenant shall pay to Landlord a penalty in an amount equal to the unamortized value of the Refurbishment Allowance by Landlord to the Premises in question. The amortization shall be made on a two (2) year, straight line basis.

2.9.2.4. Any penalty required to be paid by Tenant hereunder shall be paid on the applicable Termination Date.

2.9.3. Documentation/Delivery of Premises. Upon the exercise of any Cancellation Right by Tenant, Landlord and Tenant shall enter into a written agreement that the applicable space is no longer a part of the Premises under this Lease and containing other appropriate provisions relating to the reduction of such space to this Lease (including specifically any decrease or adjustment of Rent and Tenant's Percentage Share of Operating Expenses). Such agreement shall provide that Landlord and Tenant shall be relieved of all obligations under this Lease with respect to the Premises or portion thereof (as applicable) except for those accruing prior to the Termination Date and that Tenant shall no longer have any rights (other than expansion option rights but not first right to lease rights) with respect to the premises relinquished. On the Termination Date, Tenant will deliver possession of the Premises to Landlord in accordance with the provisions of this Lease, as if the Termination Date were the expiration date of this Lease.

ARTICLE 3.

RENT

3.1. Monthly Rent.

3.1.1. Payment of Rent. Rent shall be payable in equal monthly installments in advance on the first day of each consecutive month during the Term and without any deduction, offset (except as otherwise provided in this Lease), prior demand or notice whatsoever, commencing on the Commencement Date and continuing on the first day of each calendar month of the Term thereafter. All Rent and other charges due for any partial month shall be calculated by dividing the number of days for which Rent is due by the actual number of days in the month and multiplying the result thereof by the applicable monthly rate. All Rent shall be paid by Tenant to Landlord at 600 B Street, San Diego, California 92101, Attn: Management Office of the Building or such other place as Landlord may designate in writing from time to time. All Rent shall be payable in lawful currency of the United States of America. The Base Monthly Rent shall be subject to adjustment to reflect any difference between the amount of the Rentable Area of the Premises shown in Section 5 of the Basic Lease Provisions and the actual Rentable Area as determined by Landlord's space planner. Despite anything in this Section 3.1.1 to the contrary, the first installment of Base Monthly Rent shall be payable by Tenant upon the earlier of Tenant's occupancy or thirty (30) days after Substantial Completion of the initial Premises in the Building.

3.1.2. Rent Adjustments. See Rent Schedule attached hereto and incorporated herein by this reference. The failure of Landlord to deliver timely notice of any rent adjustment shall not constitute a waiver by Landlord of its rights hereunder.

3.2. Additional Rent. The sums, if any, required to be paid

by Tenant pursuant to the terms of this Section 3.2, and all other fees, assessments, expenses, and charges required to be paid by Tenant under this Lease (except Base Monthly Rent), however denominated, including but not limited to Tenant's Percentage Share of Operating Expenses, shall be deemed to be Additional Rent. If any Additional Rent is not paid at the time provided in the Lease, such Additional Rent nevertheless shall be payable with the next monthly installment of Base Rent and when due, together with interest thereon at the Interest Rate.

3.2.1. Operating Expenses.

3.2.1.1. Tenant's Percentage Share of Operating Expenses. Operating Expenses shall be determined and calculated on a calendar year basis. If Tenant's Percentage Share of Operating Expenses ("Tenant's Percentage Share") paid or incurred by Landlord for any calendar year during the Term exceeds Tenant's Percentage Share for the Base Year (hereinafter defined), then Tenant shall pay such excess as Additional Rent in the manner specified in subparagraphs 3.2.1.2, 3.2.1.3 and 3.2.1.4 below. Tenant's Percentage Share shall be adjusted upon the determination of the Rentable Area of the Premises to equal a fraction, the numerator of which is the Rentable Area of the Premises and the denominator is the Rentable Area of the Building, all as determined by Landlord's space planner. If the Rentable Area of the Premises changes during the Term then Tenant's Percentage Share shall be recomputed by dividing the Rentable Area of the Premises for the calendar year in question by the total Rentable Area of the Building for the same year. If the Rentable Area of the Premises changes during the year in question, there shall be a proration for the partial year applicable to the changed space. For purposes of this Lease, "Base Year" means calendar year 1992.

3.2.1.2. Expense Statements. Landlord shall provide to Tenant a written estimate, showing in reasonable detail, Operating Expenses for the Base Year. Landlord shall also provide to Tenant a written estimate of the amount by which the Operating Expenses for each succeeding calendar year will exceed the Operating Expense for the Base Year on or before December 1 of each calendar year during the Term and an estimate of Tenant's Percentage Share thereof for the ensuing calendar year or portion thereof. With respect to each such calendar year or partial calendar year, Tenant shall pay to Landlord, monthly, in advance, without deduction or offset and concurrently with the installments of Base Monthly Rent then due, one-twelfth (1/12th) of the estimate of Tenant's Percentage Share of Operating Expenses as Additional Rent. If for any reason Landlord is unable to provide to Tenant the estimate of Operating Expenses prior to December 1 of any calendar year during the Term, then Tenant shall continue to pay monthly the same amount for Tenant's Percentage Share of Operating Expenses as was applicable for the most recent previous month until thirty (30) days after receipt of such estimate; such delay shall not be deemed a waiver of any such Additional Rent which Tenant is otherwise obligated to pay for Tenant's Percentage Share of Operating Expenses for such preceding months during the new calendar year, all of which shall be paid within thirty (30) days after receipt of the estimate from Landlord.

3.2.1.3. Year-End Adjustments. Within one hundred five (105) days after the end of each calendar year during the Term, or as soon thereafter as reasonably practicable, Landlord will prepare and deliver to Tenant a statement showing the actual Operating Expenses incurred by Landlord during such calendar year and showing the amount of Tenant's Percentage Share of Operating Expenses based thereon. Such statement will be final and binding on the Tenant unless Tenant objects in writing within forty-five (45) days after the statement is delivered to Tenant. If in any calendar year Tenant's Percentage Share of Operating Expenses is less or greater than the amount which Tenant has paid for that year, then upon receipt of Landlord's statement, any overpayment made by Tenant shall be credited

against (i.e., a reduction of) the next installment of Base Monthly Rent falling due or Tenant shall pay the amount of any underpayment to Landlord with the next installment of Base Monthly Rent falling due, as the case may be. The estimated monthly installments of Tenant's Percentage Share of Operating Expenses thereafter shall be adjusted to reflect such lower or higher Operating Expenses for the most recent calendar year. The annual determination and statement shall be prepared by Landlord in accordance with generally accepted accounting principles.

3.2.1.4. Adjustment Upon Termination of Lease.

In the event of the termination or expiration of this Lease prior to the final determination of Tenant's Percentage Share of Operating Expenses, and even though Tenant has vacated the Premises, Tenant's agreement to pay Tenant's Percentage Share of Operating Expenses up to the time of termination shall survive termination of this Lease, and Tenant shall pay all amounts due to Landlord within sixty (60) days after receipt of a statement therefor (provided however, no such assessment may be made against Tenant after the expiration of two (2) years following the expiration of the Lease; and conversely any overpayment made in the event that estimated Operating Expenses paid by Tenant exceed actual Operating Expenses due from Tenant shall be rebated by Landlord to Tenant within sixty (60) days of such determination.

3.2.1.5. Audit Rights.

Tenant shall have the right at any time, after reasonable notice and at reasonable times, to audit, inspect and photocopy Landlord's accounting records by a staff auditor of Tenant at Landlord's office in San Diego. If, after such audit, inspection and photocopying, Tenant still disputes the amount of Tenant's Percentage Share of Operating Expenses as set forth in Landlord's statement ("Statement"), Tenant shall be entitled to retain an independent, certified public accountant to audit Landlord's records to determine the proper amount of Tenant's Percentage Share of Operating Expenses. If such audit reveals that Landlord has overcharged Tenant, then within ten (10) days after the results of such audit are made available to Landlord, Landlord shall reimburse Tenant the amount of such overcharge plus interest thereon at the Interest Rate. If the audit reveals that Tenant was undercharged, then within ten (10) days after the results of the audit are made available to Tenant, Tenant shall reimburse Landlord the amount of such undercharge plus interest thereon at the Interest Rate. Tenant agrees to pay the cost of such audit, provided that Landlord shall pay Tenant's actual and documented cost of such audit within ten (10) days of delivery of a statement therefor from Tenant if the audit reveals that Landlord's determination of Tenant's Percentage Share of Operating Expenses as set forth in the Statement was in error in Landlord's favor by more than two percent (2%). Landlord shall be required to maintain records of all Operating Expenses and other Rent adjustments for the entirety of the three-year period following delivery of each Statement. The payment by Tenant of any amounts pursuant to this paragraph shall not preclude Tenant from questioning the correctness of any Statement provided by Landlord, but the failure of Tenant to object thereto within one (1) year after its receipt hereof shall be conclusively deemed Tenant's approval thereof.

3.2.1.6. Limitation on Operating Expense Increases. Notwithstanding anything in this Lease to the contrary, during the Term (including any extensions thereof) (i) Operating Expenses shall not increase by an amount which is more than five percent (5%) per annum of the Operating Expenses for the immediately preceding calendar year, on a noncumulative basis; and (ii) Tenant shall not be obligated to pay Tenant's Percentage Share of Operating Expenses, if any, during the Base Year.

3.2.2. Tenant's Taxes.

3.2.2.1. Tenant shall be liable for and shall pay all taxes levied against any personal property or trade fixtures

placed by Tenant in or about the Premises. If any such taxes on Tenant's personal property or trade fixtures are levied against Landlord or Landlord's property or if the assessed value of the Premises, Building, the Building Lot, or Project is increased by the inclusion therein of a value placed upon such personal property or trade fixtures of Tenant and if Landlord, after written notice to Tenant, pays the taxes based upon such increased assessment, which Landlord shall have the right to do regardless of the validity thereof, but only under proper protest if requested by Tenant, Tenant shall, upon demand, repay to Landlord the taxes so levied against Landlord, or the portion of such taxes resulting from such increase in the assessment.

3.2.2.2. If the Tenant Improvements in the Premises, are assessed for Property Tax purposes at a valuation higher than the valuation of building standard tenant improvements for other space in the Building, then the Property Taxes levied against the Building, the Building Lot or Project by reason of such excess assessed valuation shall be deemed to be taxes levied against personal property of Tenant and shall be governed by the provisions of paragraph 3.2.2.1. If the records of the County Assessor are not available or sufficiently detailed to serve as a basis for making said determination, the actual cost of construction of the Tenant Improvements shall be used.

3.3. Security Deposit. Intentionally Omitted

3.4. Abatement of Rent When Tenant is Prevented From Using Premises. Subject to Articles 5 and 6, in the event that Tenant is prevented from using the Premises or any portion thereof as a result of any damage, or destruction to the Premises, or any failure of Landlord to provide services or access to the Premises, then Tenant's rent shall be abated or reduced, as the case may be, in the proportion that the rentable area of the portion of the Premises that Tenant is prevented from using bears to the total rentable area of the Premises during the period Tenant is prevented from conducting its business from the Premises. However, in the event that Tenant is prevented from conducting its business in any portion of the Premises, and the remaining portion of the Premises is not sufficient to allow Tenant to effectively conduct its business therein, then the rent for the entire Premises shall be abated during said period; provided, however, if Tenant reoccupies and conducts its business from any portion of the Premises during such period, the rent allocable to such reoccupied portion, based on the proportion that the rentable area of such reoccupied portion of the Premises bears to the total rentable area of the Premises, shall be payable by Tenant from the date such business operations commence.

ARTICLE 4.

USE OF PREMISES

4.1. Permitted Use. The Tenant shall use and occupy the Premises only for general office space and other uses consistent with the character of the building.

4.2. Acceptance of Premises. The taking of possession or use of the Premises by Tenant for any purpose shall conclusively establish that the Premises, the Building, and the Project were at such time in satisfactory condition and in conformity with the provisions of this Lease, subject to Landlord's obligations under the Tenant Improvement Agreement and except for defects with respect to the Premises which Tenant knows of or should reasonably know of, provided that such defects are listed in a notice from Tenant to Landlord given within thirty (30) days from the date Tenant takes possession of the Premises. Landlord shall give to Tenant written notice of the anticipated date that the Premises will be ready for occupancy; it being understood that said notice shall be sent (1) close enough to the actual date of substantial completion of the work described in the Tenant Improvement Agreement so that Landlord's estimate shall be

reasonably accurate, and (ii) early enough so that Tenant shall be afforded at least thirty (30) days to complete its move into the Premises. When Landlord has substantially completed the work described in the Tenant Improvement Agreement, and prior to the delivery of the Premises to Tenant, Landlord shall give Tenant at least five (5) days prior written notice of a meeting for Tenant to inspect the Premises and the Tenant Improvements. Tenant and/or Tenant's representative shall completely examine the Premises and the Tenant Improvements and prepare with Landlord's representative and contractor a list of all visible items to be completed by the contractor to finish the Tenant Improvements. The list (the "Punchlist") shall be signed and dated by Tenant, Landlord, and the contractor and all items on the Punchlist shall be completed by Landlord's contractor within thirty (30) days of the date of the Punchlist. Landlord further acknowledges that the Commencement Date shall be extended one (1) day for each day Tenant is actually delayed in installing its furniture, fixtures and equipment and moving into the Premises (as provided herein) as a result of Force Majeure delays or delays caused by Landlord.

4.2.1. Construction/Standard For Maintenance and Repair. Landlord hereby warrants, to the best of its knowledge, that the Building and that portion of the Premises constructed by Landlord or Landlord's Contractor have been constructed in full compliance with Tenant's approved working drawings, all governmental regulations, ordinances, and laws existing at the time of construction in order to make the Building and the Premises suitable for occupancy by Tenant utilizing the space for business offices. Landlord will be fully responsible for making all alterations and repairs to the Building and the Premises at its cost (which shall not be included as Operating Expenses) resulting from or necessitated by the failure by Landlord and/or Landlord's Contractor to comply with governmental regulations, ordinances and laws in effect at the time of construction. Otherwise, Landlord shall maintain the Building, and subject to Tenant's repair obligations set forth in this Lease, the Premises, in good condition and repair in a manner consistent with competitive high-rise office buildings in downtown San Diego, the cost of which shall be included in Operating Expenses, or paid directly by Tenant (with respect to repairs to and maintenance of the Premises) if not normally included in Operating Expenses. In addition to the Tenant Improvements to be constructed by Landlord pursuant to the Tenant Improvement Agreement attached to this Lease as Exhibit G, Landlord shall, at Landlord's sole cost and expense and prior to Tenant's occupancy, install in the Premises (and any expansions thereto which may from time to time occur pursuant to this Lease) fully operational fire sprinkler systems in accordance with the applicable Building Code requirements.

4.3. Conduct of Business.

4.3.1. Nuisances. Tenant shall not do or permit anything to be done in or about the Premises and/or the Building which will obstruct or interfere with the rights of other tenants or occupants of the Building and the Project. Landlord reserves the right to prescribe the weight and position of all files, safes, and heavy equipment which Tenant desires to place in the Premises so as to properly distribute the weight thereof and to require all such heavy equipment, furniture and similar items to be moved into and out of the Building and Premises only at such times and in such manner as Landlord shall direct in writing. Tenant's business machines and mechanical equipment which cause vibration or noise that may be transmitted to the building structure or to any other space in the Building or Project shall be so installed, maintained and used by Tenant as to eliminate such vibration or noise. Landlord represents to Tenant that the structural loads for the Building are sufficient to accommodate a live load of 50 lbs/s.f. and dead load of .

4.3.2. Noxious Activities. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance in the Premises, nor shall any animals or birds (except

seeing-eye dogs) be brought in or kept in or about the Premises or the Building. No cooking shall be done or permitted by Tenant on the Premises (except as may be specifically permitted by the Rules and Regulations), nor shall the Premises be used for the storage of merchandise, for washing clothes or for lodging. Tenant shall not use or keep in the Premises or the Building any kerosene, gasoline or inflammable or combustible fluid or material or use any method of heating or air conditioning other than that supplied by Landlord.

4.3.3. Compliance with Law, Recorded Covenants, and Project Documents.

4.3.3.1. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules and regulations now in force or which may hereafter be in force, and with the requirements of the certificate of occupancy (or its equivalent) for the Building and the requirements of Landlord's insurance company relating to or affecting the condition, use or occupancy of the Premises, the Building and/or the Project.

4.3.3.2. If the Building, Building Lot, and/or the Project are presently governed or burdened by any easements, covenants, conditions and/or restrictions of record agreed to, granted, and/or imposed by Landlord and/or any other third party, then this Lease and all of Tenant's rights and interest in the leasehold estate created by this Lease is and shall be subject and subordinate thereto and to any and all amendments or modifications at any time thereafter made thereto. Tenant shall promptly upon written request execute and deliver to Landlord any documents or instruments required to evidence the subordination of this Lease hereunder, but failure to do so shall not affect the automatic subordination specified herein.

4.4. Rules and Regulations. Tenant and its employees, agents and visitors shall comply with the Rules and Regulations, attached hereto as Exhibit C. Tenant agrees to abide by and comply with such Rules and Regulations and any and all reasonable and nondiscriminatory amendments, modifications, and/or additions thereto. Landlord shall not be liable to Tenant for any violation of the Rules and Regulations, or nonperformance by, or the breach in any provision in any lease, by any other tenant or occupant of the Building or Project, but Landlord shall use its best efforts to enforce compliance with the same. Landlord agrees that the rules and regulations of the Building, attached to and made a part of the Lease, shall not be changed, revised or enforced in any unreasonable way by Landlord nor enforced or changed by Landlord in such a way as to interfere with the Tenant's intended use of the Premises as permitted under this Lease.

4.5. Signage. Tenant shall not place, or permit to be placed or maintained, on any exterior door, wall or window of the Premises any sign, awning or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door, or that can be seen through the glass, of the Premises except as specifically approved in advance, in writing by Landlord. If approved by Landlord, Tenant further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter, or thing as may be approved in good condition and repair at all times at Tenant's sole cost and expense. Tenant agrees at Tenant's sole cost, that any Tenant sign will be maintained in strict conformance with all applicable governmental regulations and Landlord's sign program for the Project. Notwithstanding anything in this Section 4.5 to the contrary, for those floors which Tenant occupies in their entirety, Tenant shall have the right to place its name in the elevator lobby of such floor. In addition, for those floors upon which Tenant occupies only a portion of such floors, Tenant shall have the right to place its name on the entry doors to its premises. Tenant shall also have the right to place two (2)

names per 1000 square feet of Rentable Area on the Building directory. Finally, Tenant shall have the right to approve any and all signs on the exterior of the Building, which consent shall not be unreasonably withheld, conditioned or delayed.

4.6. Hazardous Materials.

NOTICE TO TENANT. Asbestos is known to exist at the following locations in the Building: (1) in the spray-applied insulation fire proofing on the steel structural members; (2) the "cottage cheese" ceiling areas on levels P2, P3, and floors three through six in the elevator lobby area; (3) in the exterior shell of the Building; (4) exterior columns, (5) interface with the interior Premises, and (6) elevator shaft and core. PCBs are known to exist in lighting ballasts. An above ground diesel storage tank is located in the basement of the Building. Landlord and tenants use Hazardous Materials that are commonly used in comparable buildings in downtown San Diego, such as typical office supplies and products.

For the safety of other tenants of the Building, invitees, the Landlord, and the Landlord's authorized representatives, the Tenant shall comply strictly with all building rules and regulations related to asbestos maintenance and control.

Landlord is proceeding with asbestos abatement work in compliance with applicable laws and regulations. Tenant shall not cause or permit any Hazardous Materials (defined below) to be brought upon, kept or used in or about the Premises or Project by Tenant, its agents, employees, contractors or invitees. Tenant shall not disturb any of the existing asbestos which has been left in place and abated by Landlord in compliance with applicable laws and regulations. Tenant recognizes that (1) asbestos will be left on some exterior columns and will be encapsulated at the interface with the interior Premises and (2) the elevator shaft and core of the Building will not be abated. If Tenant breaches the obligation stated above, or if the presence of Hazardous Materials on the Premises or Project caused or permitted by Tenant results in contamination to the Premises or Project, or if contamination of the Premises or Project by Hazardous Materials otherwise occurs for which Tenant is legally liable to Landlord for damages resulting therefrom, then Tenant shall be liable and responsible for, without limitation, (i) removal from the Premises and Project of any Hazardous Materials and the cost of such removal; (ii) damages to persons or property in or on the Premises and Project; (iii) claims resulting therefrom; (iv) fines imposed by any governmental agency; and (v) any other liability as provided by law. In addition to the foregoing, Tenant shall indemnify, defend and hold Landlord, its agents, and contractors harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses, damages for the loss or restriction on use of rentable space or of any amenity of the Premises and Project, damages arising from any adverse impact on marketing of space in the Project, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees, which arise during or after the Lease Term as a result of such contamination. All Premises to be occupied by Tenant within the Building shall be abated of Asbestos prior to Tenant's occupancy, however, such abatement may leave asbestos in place. Landlord shall provide Tenant access to all information reasonably requested by Tenant regarding the specific timing of the asbestos abatement program for the Building as well as the current Operations and Maintenance program for the Building.

Landlord represents and warrants to its best knowledge and except as disclosed in this Lease that neither Landlord nor, to the best of Landlord's knowledge, any third party has used, generated, built with, manufactured, stored or disposed of on, under or above the Building and/or the Premises (and the real

property on which the Building and/or the Premises are located), or transported to or from the Building and/or the Premises (or the real property on which the Building and/or the Premises are located) any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials (collectively, "Hazardous Materials"). For the purpose of this Lease, Hazardous Materials shall include, but not be limited to, substances defined as "Hazardous Substances", "Hazardous Materials", or "Toxic Substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; The Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; The Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; and those substances defined as "Hazardous Wastes" in Section 25117 of the California Health and Safety Code or as "Hazardous Substances" in Section 25316 of the California Health and Safety Code; and the regulations adopted and publications promulgated pursuant to said laws.

Except in the event of Tenant's violation of Landlord's generally applicable Building rules and regulations as they relate to Hazardous Materials, negligence or willful misconduct, Landlord hereby agrees to indemnify and hold harmless Tenant, its directors, officers, employees, and agents, and any successors, from and against any and all liability (i) including all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the use, generation, construction, manufacturing, storage, or disposal of Hazardous Materials by Landlord or any prior owner, tenant or operator of the Building and/or the Premises (or real property in which the Premises is located), and (ii) including, without limitation, costs of any required or necessary repair, cleanup, or detoxification and the preparation of an enclosure or other required plans, whether such action is required or necessary prior to or following execution of this Lease to the full extent that such action is attributable, directly or indirectly, to the presence or use, generation, storage, release, threatened release, or disposal of Hazardous Materials by any person at the Building or on the Premises (or real property on which the Building and/or the Premises are located) prior to execution of this Lease.

ARTICLE 5.

SERVICES AND UTILITIES

5.1. Landlord's Provision of Services. Landlord agrees to furnish or cause to be furnished to the Premises the utilities and services described in the Standards for Utilities and Services, attached hereto as Exhibit E, subject to the conditions and in accordance with the standards set forth therein. Landlord's failure to furnish any of the foregoing items when such failure is caused by (i) accident, breakage or repairs; (ii) strikes, lockouts or other labor disturbance or labor dispute of any character; (iii) governmental regulation, moratorium or other governmental action; (iv) inability despite the exercise of reasonable diligence to obtain electricity, chilled water, water or fuel; or by (v) any other cause beyond Landlord's reasonable control, shall not result in any liability to Landlord. Except as otherwise specifically provided in this Lease, Tenant shall not be entitled to any abatement or reduction of Rent by reason of such failure and Tenant shall not be relieved from the performance of any covenant or agreement in this Lease because of such failure. In the event of any failure, stoppage or interruption thereof, Landlord shall diligently attempt to resume service promptly. Notwithstanding the foregoing, if the utilities and services necessary for the conduct of Tenant's business are not available on business days during business hours for more than two (2) consecutive days (hereinafter an "Interruption"), then on the third (3rd) consecutive business day of the Interruption, Base Monthly Rent shall abate if Tenant is prevented by the Interruption from using the Premises or portion thereof and does not use the Premises or portion thereof.

5.1.1. Tenant's Obligation to Pay for Premises Utilities/Separate Metering. Tenant shall pay for all utilities used by Tenant on the Premises (except as included in Base Year Operating Expenses). Tenant shall pay directly to the appropriate utility company the cost of any utilities used on the Premises and not provided by Landlord. Landlord or Tenant may, at their discretion, install separate meter(s) or monitors for the Premises. If Landlord or Tenant separately meters or monitors any utility costs being utilized by Tenant, such cost shall be paid by Tenant separate from the computation of the Operating Expenses and such payments shall be made directly to the utility company.

5.2. Excess Usage. Tenant shall not use any apparatus or device in the Premises, including without limitation, electronic data processing machines, punch card machines, and other similar machines, which will materially increase the amount of electricity or water usually furnished or supplied for use of the Premises for normal office use; nor connect with electric current, except through existing outlets in the Premises or water pipes, any apparatus or device, for the purposes of using electric current or water. If Tenant shall require water or electric current in excess of that usually furnished or supplied for use of the Premises, Tenant shall first procure the consent of Landlord and Landlord or Tenant may cause a water meter or electric current meter to be installed in the Premises, so as to measure the amount of water and electric current consumed for any such other use. The cost of any such meters and of installation, maintenance, and repair thereof shall be paid for by Tenant and Tenant agrees to pay to Landlord promptly upon written demand therefor by Landlord for all such water and electric current consumed as shown by said meters, at the rates charged for such services by the local public utility furnishing the same. If heat generating machines or equipment are used in the Premises (other than typical and normal office machines, equipment and personal computers) by Tenant which affect the temperature otherwise maintained by the air conditioning system, Landlord reserves the right but is under no obligation to install supplementary air conditioning units in the Building and/or the Premises and the cost thereof, including the cost of installation and the cost of operation and maintenance thereof, shall be paid by Tenant to Landlord within thirty (30) days of written demand by Landlord. Any additional costs provided for hereunder shall be separate and apart from the calculations for and sharing of Operating Expenses as specified in Article 3 above.

5.3. Services To Be Provided. Notwithstanding anything set forth in this Article 5 to the Lease, Landlord shall provide on the Premises the following services consistent with the quality and quantity of such services provided in other comparable buildings in the vicinity of the Building: (a) heat, ventilation and other cooling (collectively "HVAC") as required for the comfortable use and occupancy of the Premises as reasonably determined by Tenant including an adequate number of HVAC controls, zones and thermostats within the Premises at locations within the Premises designated by Tenant sufficient for Tenant to alter the temperature of the Premises so that it is comfortable for Tenant's use and occupancy as reasonably determined by Tenant; (b) janitorial services in accordance with the specifications attached hereto as Exhibit I (c) all electrical power for Tenant's normal fluorescent and incandescent lighting and business office equipment (including but not limited to duplicating machines, computers, and communications equipment) required for the normal functioning of a business office; (d) Building security services (which will require the presence of a security guard twenty-four (24) hours per day); and (e) window washing services comparable with other comparable office buildings in downtown San Diego.

Landlord also grants Tenant twenty-four (24) hour access to the Premises, the Building, and the parking facilities within the Building, and shall provide Tenant, upon Tenant's request, utilities and services, twenty-four (24) hours per day,

seven (7) days per week, three hundred sixty-five (365) days per year (after-hours access may require the use of a magnetic card or compliance with other reasonable security devices required by Landlord). Capacity for supplemental (i.e., after Business Hours) HVAC to the Premises will be made available to Tenant upon demand.

In the event that Tenant regularly requires utilities and/or services in excess of what Landlord is required to provide during Business Hours or at times other than during Business Hours, Landlord agrees to provide such extra utilities and services and Tenant agrees to reimburse to Landlord its reasonable estimate of its actual costs of providing such extra service and/or utilities, without profit to Landlord, but inclusive of additional maintenance costs, if any, caused by any extra usage or over-usage of any equipment of the Building systems.

ARTICLE 6.

MAINTENANCE AND REPAIR

6.1. Tenant to Maintain. Except to the extent of the services which are included as part of Landlord's maintenance obligations pursuant to this Lease and except for the routine and customary cleaning and janitorial services furnished by Landlord, Tenant shall, at its own expense, keep and maintain the Premises in a clean, sanitary and safe condition and shall, when and if needed, at Tenant's cost and expense, make all repairs to the Premises and every part thereof, including the interior surfaces of all windows, ceilings, walls, and floors, all doors, all exposed plumbing, pipes and fixtures, electrical wiring, switches and fixtures, all items installed pursuant to the Improvement Agreement, and all special items and equipment installed by or at the expense of the Tenant. The Tenant shall not change the locks on doors or add, disturb, or in any way change any mechanical, plumbing, structural, heating, ventilating, or air-conditioning system or wiring without first obtaining the consent of the Landlord. Except as otherwise provided herein, the Landlord shall have no obligation to maintain the interior of the Premises or any improvements therein.

The Tenant shall be responsible, at its cost, for all repairs and alterations in and to the Premises, the Building, and the Project and the facilities and systems thereof, the need for which arises out of (i) the Tenant's use or occupancy of the Premises, (ii) the installation, removal, use, or operation of the Tenant's movable machinery and equipment, office furniture, and other movable personal property placed in the Premises by the Tenant (the "Tenant's Property"), (iii) the moving of the Tenant's Property into or out of the Building, or (iv) the act, omission, misuse, or negligence of the Tenant, its agents, contractors, employees, or invitees, except to the extent of reimbursement by insurance proceeds from insurance carried by Landlord and paid for by Tenant as part of operating expenses.

If the Tenant fails to maintain the Premises in good order, condition, and repair, the Landlord shall give the Tenant notice to do such acts as are required to so maintain the Premises. If the Tenant fails to commence such work within thirty (30) days and diligently prosecute it to completion, the Landlord shall have the right to do such acts and expend such funds at the expense of the Tenant as are required to perform such work. Any actual and documented amount so expended by the Landlord shall be paid within thirty (30) days by the Tenant after written demand with interest thereon at the Interest Rate. The Landlord shall have no liability to the Tenant for any damage, inconvenience, or interference with the use of the Premises by the Tenant as a result of performing any such work except for Landlord's negligence or willful misconduct.

The Tenant shall, upon the expiration or sooner termination of the term hereof, surrender the Premises to Landlord in the same good condition as when received, usual and ordinary wear

and tear excepted. Landlord shall have no obligation to alter, remodel, improve, repair, decorate or paint the Premises or any part thereof, except as specifically herein set forth.

6.2. Landlord's Maintenance. If known by Tenant, Tenant shall give the Landlord prompt notice of any damage to, or defective condition in, any part of the Building's structural mechanical, electrical, plumbing, heating, ventilating, and air-conditioning system, or other systems serving, located in, or passing through the Premises. Landlord shall repair and maintain the structural portions of the Building, the Building Common Areas, and the building systems installed or furnished by Landlord as "Building Standard" connecting to and servicing the Premises with heating, ventilating, air conditioning, plumbing, fire sprinklers, and electrical services in the manner in which a prudent Landlord of a comparable building in downtown San Diego would undertake. Except as otherwise provided in this Lease, there shall be no abatement of Rent and no liability of Landlord by reason of interference with Tenant'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 equipment therein. Tenant shall pay to Landlord within thirty (30) days after request therefor by Landlord, the reasonable cost (or portion thereof equitably allocated to Tenant, in Landlord's best judgment) of such maintenance and repair. Concurrently with the execution of this Lease, Landlord shall provide Tenant with a copy of its current preventative maintenance schedule for all mechanical systems, elevator systems and other operating systems of the Building.

6.3. Landlord's Failure to Maintain. If Tenant provides written notice to Landlord of an event or circumstance relative to the Premises which requires the action of Landlord with respect to repair and/or maintenance, and Landlord fails to commence repairs within a reasonable period of time and diligently pursued same, after the receipt of such written notice, but in no event later than ten (10) days after receipt of such written notice, unless Landlord is specifically required to act in less than ten (10) days pursuant to a specific provision of this Lease or because of an emergency by any provision hereof, then Tenant may proceed to take the required action upon delivery of an additional written notice to Landlord specifying Tenant is taking such required action with interest thereon at the Interest Rate. In such event Tenant shall be entitled to prompt reimbursement by Landlord of Tenant's reasonable, actual, documented costs and expenses in taking such action. In the event Tenant takes such action, and such work in the Premises will affect the Building's life safety system, heating, ventilating and air conditioning systems and elevator systems, Tenant shall use only those contractors used by Landlord in the Building for work on such systems or other contractors approved by Landlord. Further, if Landlord does not deliver a detailed written objection to Tenant within thirty (30) days after receipt of an invoice by Tenant of its costs of taking action which Tenant claims should have been taken by Landlord, and if such invoice from Tenant sets forth a reasonably particular breakdown of its costs and expenses in connection with taking such action on behalf of Landlord, then Tenant shall be entitled to deduct from rental payable by Tenant under this Lease, the amount set forth in such invoice.

6.4. Waiver of Civil Code Sections 1941 and 1942. Except as otherwise provided in this Lease, Tenant waives the provisions of Civil Code section 1941 and 1942 with respect to Landlord's obligations for tenantability of the Premises and Tenant's right to make repairs and deduct the expenses of such repairs from Rent.

ARTICLE 7.

ALTERATIONS AND IMPROVEMENTS

7.1. Alterations by Tenant.

7.1.1. Landlord's Approval Required. Tenant shall make no alterations, additions or improvements in or to the Premises ("Alterations") without Landlord's prior written consent which consent shall not be unreasonably withheld, conditioned or delayed. No approval from Landlord shall be required for cosmetic alterations to the interior of the Premises, provided that Tenant shall obtain Landlord's prior written consent for any alteration (a) with a total cost of more than Five Thousand and No/100 Dollars (\$5,000.00), (b) penetrating any wall or ceiling, (c) which is above any ceiling, or (d) affects any of the asbestos in the Building. All alterations shall, at Tenant's option, be made by Landlord or a contractor selected by Tenant and approved by Landlord. Tenant shall submit to Landlord plans and specifications for any proposed Alterations, and no such Alterations, additions or improvements shall be made until Landlord has approved of such plans and specifications. All Alterations, shall be constructed in accordance with the plans and specifications approved by Landlord, and no amendments or modifications thereto shall be authorized without Landlord's prior written consent. No construction of partitions or other obstructions shall interfere with Landlord's free access to mechanical installations or service facilities of the Building or interfere with the moving of Landlord's equipment to or from the enclosures containing said installations or facilities. All such work shall be done at such times and in such manner as Landlord may reasonably designate. Tenant covenants and agrees that all work done on behalf of or by Tenant shall be performed in full compliance with all laws, rules, orders, ordinances, regulations and requirements of all governmental agencies, offices and boards having jurisdiction over the Building. All Alterations to the Premises made by either party or its agent, including (without limiting the generality of the foregoing) all wall covering, built-in cabinet work, paneling and the like, shall, unless Landlord elects otherwise written by notice to Tenant at the time of installation, become the property of Landlord, and shall remain upon, and be surrendered, with the Premises as a part thereof at the end of the Term hereof, except that Landlord may, by written notice to Tenant at the time Landlord approves such Alterations, require Tenant to remove some or all Alterations installed by or on behalf of Tenant, and Tenant shall repair all damage resulting from such removal or, at Landlord's option, shall pay to Landlord all costs arising from such removal.

7.1.2. Free Standing Partitions. Tenant will have the right to install free standing work station partitions, without Landlord's prior written consent, so long as no building or other governmental permit is required for their installation or relocation; however if a permit is required, Landlord will not unreasonably withhold its consent to such relocation or installation. The free-standing work station partitions for which Tenant pays either directly or as provided in the Tenant Improvement Agreement will be part of Tenant's trade fixtures for all purposes under this Lease. All permanently installed partitions (i.e., drywall) which are installed in the Premises by Tenant are and will be Landlord's property for all purposes under this Lease, unless Landlord elects, at the time Landlord grants approval for Tenant to construct such improvement, to require Tenant to remove such partitions at termination of this Lease. Tenant shall repair, at its cost, all damages caused by such removal or, at Landlord's option, shall pay to Landlord all costs arising from such removal.

7.1.3. Removal of Trade Fixtures. All articles of personal property and all business and trade fixtures, machinery and equipment, furniture and movable partitions owned by Tenant and installed by Tenant at its expense in the Premises shall be and remain the property of Tenant and may be removed by Tenant at any time during the Term provided Tenant shall repair and restore all damages to the Premises caused by such removal. If Tenant shall fail to remove all of its effects from the Premises upon termination of this Lease, Landlord may, at its option following at least ten (10) days written notice to Tenant, remove the same and store said effects without liability to Tenant for loss

thereof. In such event, Tenant agrees to pay Landlord within thirty (30) days of written demand, any and all actual and documented expenses incurred in such removal, including court costs and attorneys' fees and storage charges on such effects, for any length of time that the same shall be in Landlord's possession.

7.2. General Contractor and Bonds. The work necessary to make any repairs required pursuant to this Lease, or to make any Alterations to the Premises to which Landlord may consent, shall be done by employees or contractors employed by Landlord or by Tenant using licensed contractors approved by Landlord in writing and subject to all conditions Landlord may reasonably impose. If Landlord allows Tenant to use its own contractor, Tenant shall, if required by any Mortgagee, secure at Tenant's cost and expense a completion and lien indemnity bond satisfactory to Landlord for said work. All such bonds to be obtained by Tenant shall be California private work bonds issued by an admitted corporate surety reasonably acceptable to Landlord and shall name Landlord as a dual obligee. All bonds obtained by Tenant shall be recorded in accordance with California Civil Code Section 3235 et seq., or any successor statute or law. Upon obtaining each bond required pursuant to this Lease, Tenant shall promptly submit a copy thereof to Landlord. Upon completion of any Alterations by Tenant, Tenant shall supply Landlord with "as-built" plans.

7.3. Builder's Insurance. Intentionally Omitted

7.4. Written Notification Required. Tenant will notify Landlord in writing not less than ten (10) days prior to commencing any Alterations, which have been approved by Landlord. Landlord shall have the right to record and post notices of non-responsibility on the Premises.

7.5. Freedom From Liens. Tenant shall pay to Landlord or to a contractor approved by Landlord, as the case may be, when due, all claims for labor and materials furnished or alleged to have been furnished to or for Tenant at or for use in the Premises, which claims are or may be secured by any mechanic's or materialman's lien against the Premises or any interest therein, and upon completion, deliver to Landlord (if payment is made directly to a contractor approved by Landlord), evidence of payment and waivers of all liens for labor, services, or materials. Tenant shall, at its sole cost and expense, keep the Premises, all other property therein and the Building free from any liens arising out of any work performed. Materials furnished or obligations incurred by Tenant, and shall indemnify, defend and hold Landlord harmless from any liens and encumbrances arising out of any work performed or materials furnished by or at the direction of Tenant. If Tenant shall, in good faith, contest the validity of any such lien, claim or demand, then Tenant shall at its sole expense defend itself and Landlord against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Landlord, the Premises, and the Project upon the condition that if any Mortgagee shall reasonably require, Tenant shall furnish to Landlord a surety bond satisfactory to Landlord in an amount equal to such contested lien claim or demand indemnifying Landlord against liability for the same and holding the Premises and the Project free from the effect of such lien or claim. In the event that Tenant shall not, within thirty (30) days following the imposition of any such lien, cause such lien to be released of record by payment or posting of a proper bond, Landlord shall have, in addition to all other remedies provided herein and by law, the right, but not the obligation, upon not less than ten (10) days prior written notice to Tenant to cause the same to be released by such means as it shall deem proper, including payment of and/or defense against the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith, including reasonable attorneys' fees and costs, shall be payable as Additional Rent to Landlord by Tenant on demand with interest thereon at the

Interest Rate.

ARTICLE 8.

RIGHTS OF LANDLORD

8.1. Entry and Inspection. Landlord reserves and shall at any and all reasonable times have the right to enter the Premises to inspect the same, to supply janitor service and any other service to be provided by Landlord to Tenant pursuant to this Lease, to show the Premises to prospective purchasers or tenants, to post notices of non-responsibility, to alter, improve or repair the Premises or any other portion of the Building, to serve, post, or keep posted any notices required or allowed under the provisions of this Lease, to investigate and take appropriate action concerning toxic and hazardous materials, all without being deemed an eviction of Tenant and without abatement of rent. Landlord may, to carry out such purposes, erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, provided the business of Tenant shall be interfered with as little as reasonably practicable. Landlord shall at all times have and retain a key with which to unlock all doors in the Premises, excluding Tenant's vaults and safes. Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency to obtain entry to the Premises. Any entry to the Premises obtained by Landlord by any of said means, or otherwise, shall not be construed or deemed to be a forcible or unlawful entry into the Premises, or an eviction of Tenant from the Premises or any portion thereof. The Landlord shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of the Landlord's or its authorized representatives' reasonable entry on the Premises as provided in this paragraph except for Landlord's negligence or willful misconduct.

8.2. Transfer by Landlord. In the event of a transfer of all of any Landlord's ownership interest in the Building, other than a transfer for security purposes only, Landlord shall be automatically relieved of any and all obligations and liabilities of Landlord pursuant to this Lease accruing from and after the dosing of such transfer provided such transferee expressly assumes Landlord's obligations as Landlord under this Lease. Tenant's right to quiet possession of the Premises shall not, however, be disturbed on account of any such transfer, so long as Tenant shall pay Rent and observe and perform all the provisions of this Lease unless this Lease is otherwise terminated.

ARTICLE 9.

INSURANCE AND INDEMNITY

9.1. Tenant's Insurance. The City of San Diego is currently self-insured for its public liability insurance, and budgets annually for its self-administered claims program handled through the Risk Management Department. Except as provided in Section 13.6, claims are processed and administered in accordance with the California Government Code 900 Series. In accordance with section 13.6, the City of San Diego agrees to pay any and all claims or judgments that it may become legally obligated to pay (a) under the California Government Code, or (b) under this Lease arising out of any negligence on the part of the City of San Diego.

9.1.1. Required Insurance. When (1) neither Tenant nor any of its Affiliates is the tenant under this Lease or (2) the financial rating of Tenant's obligations by Standard & Poor's or equivalent rating service is less than "A" or equivalent rating (unless Tenant elects to continue self-insurance in which case Landlord may terminate this Lease by giving one (1) year written notice), Tenant shall at its own expense keep in full force and effect the following insurance:

INITIAL HERE
PK

INITIAL HERE
LH

9.1.1.1. Worker's Compensation and Employers' Liability Insurance's required by State law;

9.1.1.2. Standard form property insurance insuring against the perils of fire, extended coverage, vandalism, malicious mischief, special extended all risk coverage and sprinkler leakage. This insurance policy shall be upon all property owned by Tenant, for which Tenant is legally liable or that was installed at Tenant's expense, and which is located in the Building including, without limitation, furniture, fittings, installations, fixtures, equipment and any other personal property, in an amount not less than the full replacement cost thereof with an "agreed amount" or "stipulated value" endorsement. In the event of a dispute as to the amount which comprises full replacement cost, the decision of Landlord or any mortgagees of Landlord shall be conclusive. Such policy shall name Landlord and any mortgagees of Landlord as loss payees, as their respective interest may appear.

9.1.1.3. Any combination of a Commercial General Liability Insurance Policy, excess Liability Policy and for Umbrella Liability Policy insuring Tenant on an occurrence basis against any liability arising out of the leasing, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of Two Million and No/100 Dollars (\$2,000,000.00) Combined Single Limit for injury to, or death of one or more persons in an occurrence. The first One Million and No/100 Dollars (\$1,000,000.00) of such coverage shall be specific, primary insurance covering only the risks required by this Lease and the balance may be provided under an umbrella policy. The policy shall insure the hazards of the Premises and Tenant's operations thereon, independent contractors, contractual liability (covering the indemnity contained in Sections 9.3.1 and 9.4 hereof) and shall (i) name Landlord and any Mortgagee(s) designated by Landlord as additional insured, (ii) contain a cross liability provision and (iii) contain a provision that the insurance provided the Landlord hereunder shall be primary and non-contributing with any other insurance available to the Landlord.

9.1.1.4. Any other form or forms of insurance as Tenant or Landlord or any mortgagees of Landlord may reasonably require from time to time in form, in amounts and for insurance risks against which a prudent tenant would protect itself.

Tenant may, with the written consent of Landlord, elect to have reasonable deductibles in connection with the policies of insurance required to be maintained by Tenant pursuant to this Article 9. If Tenant elects to maintain such deductibles, Tenant shall be liable for paying the full amount of any deductibles in the event of a loss or casualty.

9.1.2. Certificates of Insurance. All policies obtained by Tenant shall be written in a form satisfactory to Landlord; shall be maintained with insurance companies holding a General Policyholder's Rating of "A+" or better, and a financial rating of "VI", or better, as set forth in the most current issue of Best's Key Rating Guide; and shall require thirty (30) days advance written notice to Landlord of any cancellation or modification. Tenant shall deliver to Landlord at least thirty (30) days prior to the time such insurance is first required to be carried by Tenant pursuant to this Lease, Certificates of Insurance ("Certificates") evidencing the above coverage with limits not less than those specified above. The Certificates, with the exception of Worker's Compensation, shall add Landlord, and each of its partners, subsidiaries, affiliates, directors, agents and employees and any Mortgagee(s) designated by Landlord as additional insured and shall expressly provide that the interest of same therein shall not be affected by any breach by Tenant of any policy provision for which such Certificates evidence coverage. The insurance required by this Section shall be the primary insurance as respects Landlord (and any other additional insured designated by Landlord) and not contributory

with any other available insurance. The Certificate(s) evidencing the liability insurance coverage required under Section 9.1.1.2 above shall contain an endorsement providing that such insurance as is afforded hereby for the benefit of Landlord shall be primary and any insurance carried by Landlord shall be excess and not contributory. Tenant shall, within ten (10) days prior to the expiration of such policies, furnish Landlord with renewals or "binders" thereof. If Landlord obtains any insurance that is the responsibility of Tenant pursuant to this Article 9, Landlord shall deliver to Tenant a written statement setting forth the cost of any such insurance and showing in reasonable detail the manner in which it has been computed and Tenant shall thereupon pay the same to Landlord as Additional Rent.

9.1.3. Adjustments to Insurance. The minimum commercial general liability insurance limits set forth in Section 9.1.1.3 above may be adjusted upward after the expiration of the fifth (5th) anniversary of the Commencement Date and upon the expiration of every fifth (5th) year thereafter. Not less than sixty (60) days prior to each relevant adjustment date commencing with the fifth (5th) anniversary of the Commencement Date, Landlord may request that the amount of insurance to be obtained by Tenant be increased if, in the reasonable opinion of Landlord's lender or the insurance broker retained by Landlord, the amount of such insurance is inadequate.

9.1.4. Landlord's Insurance. Landlord shall insure the Building (excluding any property which Tenant is obligated to insure) against damage with property liability insurance, all in such amounts and with such deductibles as are normally carried by similar landlords of comparable buildings in the vicinity of the Building or as may be required by any Mortgagee, provided however such amounts and deductibles shall be consistent with or comparable to the requirements of institutional lenders of comparable buildings in downtown San Diego. All Tenant Improvements installed by Landlord or Landlord's Contractor shall be covered by insurance obtained by the Tenant. Landlord may, but shall not be obligated to, obtain and carry any other form or forms of insurance as it or Landlord's mortgagees may determine advisable. Notwithstanding any contribution by Tenant for the cost of insurance premiums, as provided herein, Tenant acknowledges that it has no right to receive any proceeds from any insurance policies carried by Landlord. The cost of all such insurance obtained by Landlord shall be included as an Operating Expense.

9.1.5. Tenant's Activities; Tenant Improvements. Tenant will not keep, use, sell or offer for sale in or upon the Premises any article which may be prohibited by any insurance policy in force covering the Building. If Tenant's occupancy or business in, or on, the Premises, contrary to the uses permitted by Article 4 of this Lease whether or not Landlord has consented to the same, results in any increase in premiums for the insurance carried by Landlord with respect to the Building, Tenant shall pay any such increase in premiums as Additional Rent within thirty (30) days after being billed therefore by Landlord. In determining whether increased premiums are a result of Tenant's use of the Premises, a schedule issued by the organization computing the insurance rate on the Building or the Tenant Improvements showing the various components of such rate, shall be conclusive evidence of the several items and charges which make up such rate. Tenant shall promptly comply with all reasonable requirements of the insurance company or any present or future insurer relating to the Building or Premises. Tenant acknowledges that if Landlord incurs additional insurance expense related to the quality of tenant improvements or Alterations within the Premises in excess of building standard improvements which Landlord insures pursuant to the terms of this Lease, such additional insurance expense identified by the insurer relating to Tenant's Premises shall be paid solely by Tenant.

9.1.6. Cancellation of Coverage. If any of Land-

lord's insurance policies shall be cancelled or cancellation shall be threatened, the coverage thereunder reduced or threatened to be reduced in any way or the premiums are increased or threatened to be increased because of the use of the Premises contrary to the uses permitted by Article 4 of this Lease or any part thereof by Tenant or any assignee, subtenant, invitee, permittee or agent of Tenant and, if Tenant fails to remedy the condition giving rise to such event within forty-eight (48) hours after notice thereof, Landlord may, enter upon the Premises and attempt to remedy such condition, and Tenant shall promptly pay the cost thereof to Landlord as Additional Rent. Tenant shall not prevent or interfere with Landlord's entry upon the Premises or its attempt to remedy such condition and shall provide its assistance to and cooperate with Landlord to remedy such condition. If Tenant fails to remedy such condition and if Landlord is unable to remedy such condition, then Tenant shall be in default under this Lease and Landlord shall have all of the remedies provided for in this Lease in the event of a default by Tenant.

9.2. Indemnification. Tenant shall indemnify, defend, protect, and hold Landlord and its authorized representatives harmless from any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expenses (collectively, a "Claim") in connection with, or caused by, or arising from any use of the Premises, the Building, the Project or the conduct of its business or from any activity, work or thing done, permitted or suffered by Tenant in or about the Premises, the Building or the Project, excluding any such claims arising from or in connection with, or caused by Landlord's negligence or willful misconduct. Landlord shall hold Tenant harmless from all damages arising out of any such Claims. A party's obligation under this paragraph to indemnify and hold the other party harmless shall be limited to the sum that exceeds the amount of insurance proceeds, if any, received by the party being indemnified.

Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to person in, upon or about the Premises from any cause whatsoever except that which is caused by Landlord's negligence or willful misconduct. Neither Landlord nor any partner, director, officer, agent or employee of Landlord shall be liable for any such damage caused by other tenants or persons in or about the Building or Project (provided however, Landlord shall use its best efforts to cause other tenants in the Building to comply with the Rules and Regulations).

9.3. Damage to Tenant's Property. Notwithstanding the provisions of Section 9.2 to the contrary, Landlord shall not be liable for injury or damage which may be sustained by the person, goods, wares, merchandise, or other property of Tenant, of Tenant's employees, invitees, customers, or of any other person in or about the Premises or the Building caused by or resulting from any peril which may affect the Premises or Building, including fire, steam, electricity, gas, water, or rain which may leak or flow from or into any part of the Premises or Building, or from the breakage, leakage, obstruction, or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures of the Premises or Building, whether such damage or injury results from conditions arising upon the Premises or upon other portions of the Building or from other sources except if such injury or damage is caused by the negligence or willful misconduct of Landlord. Landlord and its agents shall not be liable for any damages arising from any act or neglect of: (a) any other tenant of the Building; or (b) any officer, employee, agent, representative, customer, business visitor, or invitee of any such tenant. Landlord and its agents shall further not be liable for (i) damage to any property entrusted by Tenant to employees of the Building or Project; or (ii) loss or damage to any property by theft or otherwise. Landlord or its agents shall not be liable for interference with light, view, sight or other incorporeal

hereditaments. Tenant shall give prompt notice to Landlord in case of fire or accidents in the Premises or in the Building and of defects therein or in the fixtures or equipment.

ARTICLE 10.

ASSIGNMENT AND SUBLETTING

10.1. Landlord's Consent. Tenant shall not voluntarily or involuntarily, or by operation of law or otherwise, assign or encumber its interest in this Lease or in the Premises or sublease all or any part of the Premises, or allow any other person or entity ("Transferee") to occupy or use all or any part of the Premises (collectively, "Transfer"), without first obtaining Landlord's prior written consent which consent shall not be unreasonably withheld, conditioned or delayed. Any Transfer without Landlord's prior written consent shall be voidable at Landlord's election and shall constitute a default. Tenant shall not, under any circumstances, mortgage, encumber or hypothecate its interest in this Lease.

10.1.1. Notice. Tenant shall give Landlord advance written notice of Tenant's intent to Transfer, the name of the proposed Transferee, information concerning the financial responsibility of the proposed Transferee, a full description of the terms of the proposed Transfer including copies of all documents relating thereto, a description of the proposed use of the Premises, a list of personal, business and references of the proposed Transferee, similar information for any proposed guarantor and any other information, documentation or evidence that may be reasonably requested by Landlord.

10.1.2. Landlord's Response. Within ten (10) business days after the submission of all required information described in paragraph 10.1.1, Landlord shall give notice to Tenant of its decision to approve or deny the Transfer. If Landlord fails to give such notice, Landlord shall be presumed to have approved Tenant's request for such Transfer. If Landlord denies its consent to the proposed Transfer pursuant to this subsection 10.1, and if Tenant shall so request in writing, Landlord shall provide to Tenant a statement of the basis on which Landlord denied its consent within a reasonable time after the receipt of Tenant's notice.

10.2. No Release. No consent to any proposed Transfer, whether conditional or unconditional, shall be deemed to be a consent to any other or further Transfer of the Lease, or any other Transfer of the Lease on the same or other conditions (if any). No transfer of the Lease shall in any way diminish, impair or release any of the liabilities and obligations of Tenant, any guarantor or any other person liable for all or any portion of the Tenant's obligations under the Lease.

10.3. Excess Rent.

10.3.1. Affiliated Transfer. If Landlord consents to a Transfer by Tenant to any department, subsidiary, affiliate, or related entity of Tenant which is now or hereafter affiliated with Tenant (hereinafter an "Affiliate"), then all of the rents and other consideration paid by such Affiliate in excess of the Rent otherwise payable by Tenant under this Lease shall be retained one hundred percent (100%) by Tenant.

10.3.2. Other Transfer. If Landlord consents to Tenant assigning its interest under this Lease or subleasing or otherwise transferring its interest in this Lease or the Premises, to a Transferee other than an Affiliate of Tenant, then (in addition to Rent and all other amounts payable by Tenant under this Lease) all of the rents and other consideration paid by such Transferee in excess of the Rent otherwise payable by Tenant under this Lease shall be shared equally by Tenant and Landlord, net of (i) Tenant's underlying Rent; (ii) any improvement allowance or other economic concession (space planning

allowance, moving expenses, lease takeover allowance, rent abatement, etc.) given by Tenant to sublessee or assignee; (iii) broker's commissions; (iv) attorneys' fees; and (v) the unamortized cost of initial and any subsequent improvements to the Premises (if any) made and paid for by Tenant or Landlord.

ARTICLE 11.

DAMAGE OR DESTRUCTION

11.1. Repair or Termination.

11.1.1. Insured Damage. In the event the Building and/or the Premises (for purposes of this Article 11, "Premises" does not include "Tenant Improvements") is damaged by fire or other perils covered by Landlord's insurance, Landlord shall:

11.1.1.1. Substantial Destruction. In the event of destruction of twenty-five percent (25%) or more of the Building and/or the Premises ("Substantial Destruction"), at Landlord's option, as soon as reasonably possible thereafter, commence repair, reconstruction and restoration of the Building and/or the Premises and prosecute the same diligently to completion, in which event this Lease shall remain in full force and effect; or within ninety (90) days after such damage, elect not to so repair, reconstruct or restore the Building and/or the Premises, in which event this Lease shall terminate. In either event, Landlord shall give Tenant written notice of its intention within said ninety (90) day period. In the event Landlord elects not to restore the Building, and/or the Premises, this Lease shall be deemed to have terminated as of the date of such Substantial Destruction.

11.1.1.2. Partial Destruction. In the event of a destruction of less than twenty-five percent (25%) of the Building and/or the Premises ("Partial Destruction"), and if the damage thereto is such that the Building and/or Premises may be repaired, reconstructed or restored within a period of ninety (90) days from the date of the happening of such casualty, and if Landlord (subject to the rights of Landlord's lenders) will receive insurance proceeds sufficient to cover the cost of such repairs, then Landlord shall commence and proceed diligently with the work of repair, reconstruction and restoration and this Lease shall continue in full force and effect. If such work of repair, reconstruction and restoration shall require a period longer than ninety (90) days or if said insurance proceeds will not be sufficient to cover the cost of such repairs, then Landlord may either elect to so repair, reconstruct or restore and the Lease shall continue in full force and effect or Landlord may elect not to repair, reconstruct or restore and the Lease shall then terminate but only if Landlord elects not to repair or reconstruct the Building or any other tenant's premises in the Building and further provided that Tenant may at its election repair, reconstruct and restore all such damage to the Building and/or the Premises in which event Landlord may not terminate this Lease and the Rent shall abate during the period of restoration. Under any of the conditions of this Section 11.1.1.2, Landlord shall give written notice to Tenant of its intention within sixty (60) days of such determination. In the event Landlord and Tenant elect not to restore the Building and/or the Premises, this Lease shall be deemed to have terminated as of the date of such Partial Destruction. If Tenant elects to restore the Premises as provided herein as a result of an insured casualty for which Landlord has not received insurance proceeds, the actual and documented amounts expended by Tenant to make such repairs to the Premises may be utilized as a credit by Tenant to offset Tenant's succeeding Base Monthly Rent due after the completion of such repairs; provided however, the amount of the credit to Tenant to offset Tenant's succeeding Base Monthly Rent is expressly limited to the extent of the insurance proceeds which Landlord is entitled to receive, but has not received, which are reasonably allocable to the portion of the Premises and/or the Building repaired by Tenant. In no event shall the credit by Tenant to

offset Tenant's succeeding Base Monthly Rent due after the completion of such repairs exceed the total Base Monthly Rent due for the remainder of the term of the Lease allocable to the portion of the Premises repaired by Tenant.

11.1.1.3. Tenant's Termination Right. Notwithstanding anything to the contrary contained in this Article 11, if all or part of the Premises or Building is damaged or destroyed, and Tenant cannot be given reasonable use of, and access to, a fully-repaired and restored Premises and Building, and the utilities and services pertaining to the Building and the Premises, within one hundred eighty (180) days of the damage or destruction, then Tenant may terminate this Lease with respect to the damaged Premises upon notice to Landlord, given at any time within sixty (60) days following such damage or destruction; provided, however, Tenant may not exercise such cancellation right if Landlord within thirty (30) days following such damage or destruction elects to provide Tenant with reasonably comparable substitute premises in the another comparable office building in downtown San Diego, at Landlord's expense. The maximum time that Tenant can be required to occupy the substitute Premises is two (2) years, subsequent to the date of the destruction of the Premises.

11.2. Termination And Release. Upon any termination of this Lease pursuant to any of the provisions of this Article 11, the parties shall be released without further obligation to the other from the date possession of the Premises is surrendered to Landlord except for items which have accrued and are then unpaid.

11.3. Temporary Abatement of Rent. In the event of repair, reconstruction and restoration by Landlord as herein provided, the Rent payable pursuant to this Lease shall be abated proportionately with the degree to which Tenant's use of the Premises is impaired during the period of such repair, reconstruction or restoration.

11.4. Force Majeure. Tenant shall not be released from any of its obligations under this Lease except to the extent and upon the conditions expressly stated in this Article 11 and Section 3.5 of this Lease. Notwithstanding anything to the contrary contained in this Article 11, if Landlord is delayed or prevented from repairing or restoring the damaged Premises within one (1) year after the occurrence of such damage or destruction by reason of acts of God, war, governmental restrictions, or other cause beyond the control of Landlord, Tenant, at its option, may terminate this Lease, whereupon Landlord shall be relieved of its obligation to make such repairs or restoration and Tenant shall be released from its obligations under this Lease as of the end of such one year period.

11.5. Uninsured Casualty. If damage is due to any cause other than fire or other peril covered by extended coverage insurance, Landlord may elect to terminate this Lease but only if Landlord elects to terminate all other leases of tenants in the Building whose premises are similarly affected; provided however, Tenant may at its election repair, reconstruct and restore all such damage to the Premises and all such area required to make the Premises accessible to Tenant, provided, however, Tenant's work shall not unreasonably negatively impact other Tenants in the Building, in which event Landlord may not terminate this Lease and the Rent shall abate during the period of such restoration. Under any of the conditions of this Section 11.5, Landlord shall give written notice to Tenant of its election to repair the Premises and/or the Building or terminate the Lease within sixty (60) days of such damage. In the event Landlord and Tenant elect not to restore the Premises, this Lease shall be deemed to have terminated as of the date of such destruction. If Tenant elects to restore the Premises as provided herein as a result of an uninsured casualty, the actual and documented amounts expended by Tenant to make such repairs may be utilized as a credit by Tenant to offset Tenant's succeeding Base Monthly Rent due after the completion of such repairs. In no event shall

the credit by Tenant to offset Tenant's succeeding Base Monthly Rent due after the completion of such repairs exceed the total Base Monthly Rent due for the remainder of the term of the Lease allocable to the portion of the Premises repaired by Tenant

11.6. Limits of Landlord's Obligations. If Landlord is obligated to or elects to repair or restore as herein provided, Landlord shall be obligated to make repair or restoration only of those portions of the Building and the Premises which were originally provided at Landlord's expense exclusive of all Tenant Improvements or are covered by Landlord's insurance pursuant to the terms of this Lease, and Tenant shall, at its cost, repair and restore all items not provided at Landlord's expense, including, without limitation, all Tenant Improvements.

11.7. Damages at End of Term. Notwithstanding anything to the contrary contained in this Article 11, Landlord shall not have any obligation whatsoever to repair, reconstruct or restore the Premises when the damage resulting from any casualty covered by this Article 11 occurs during the last twelve (12) months of the then existing Term of this Lease, unless Tenant exercises any remaining, unexercised Renewal Term within thirty (30) days after the date of the casualty.

11.8. Waiver of Civil Code Sections 1932(2) and 1933(4). Tenant waives the provisions of Civil Code section 1932(2) and Civil Code section 1933(4) with respect to any destruction of the Premises.

ARTICLE 12.

EMINENT DOMAIN

12.1. Substantial or Total Taking. If all of the Premises are taken by exercise of the power of eminent domain (or conveyed by Landlord in lieu of such exercise) this Lease will terminate on a date (for purposes of this Article the "Termination Date") which is the earlier of the date upon which the condemning authority takes possession of the Premises or the date on which title to the Premises is vested in the condemning authority. If more than twenty-five percent (25%) of the Rentable Area of the Premises then actually occupied by Tenant or an Affiliate is so taken, and Tenant cannot use the Premises to conduct its business therein, Tenant will have the right to cancel this Lease by written notice to Landlord given within thirty (30) days after the Termination Date. If less than twenty-five percent (25%) of the Rentable Area of the Premises is so taken, or if Tenant does not cancel this Lease according to the preceding sentence, the Base Monthly Rent will be abated in the proportion that the Rentable Area of the Premises then occupied that is taken bears to the Rentable Area of the Premises occupied immediately before such taking, and Tenant's Percentage Share will be appropriately recalculated. If all or substantially all of the Building or the Project is so taken, Landlord may cancel this Lease by written notice to Tenant given within thirty (30) days after the Termination Date. In the event of any such taking, the entire award will be paid to Landlord and Landlord's Mortgagees, as their interests may appear, however, Tenant will have the right to assert a claim, for (i) Tenant's moving expenses, (ii) personal property and equipment owned by Tenant, and (iii) the unamortized value of the leasehold improvements owned and paid for by Tenant (provided a separate allocation or award is made for those improvements).

12.2. Temporary Taking. In the event of taking of the Premises or any part thereof for temporary use, (i) this Lease shall be and remain unaffected thereby and Rent shall not abate, and (ii) Tenant shall be entitled to receive for itself such portion or portions of any award made for such use with respect to the period of the taking which is within the Term. For purposes of this Section 12.2, a temporary taking shall be defined as a taking for a period of one hundred eighty (180) days or less.

12.3. Waiver. Each party waives the provisions of any statute or court decisions allowing either party to petition the Superior Court to terminate this Lease in the event of a partial taking of the Premises.

ARTICLE 13.

DEFAULT AND REMEDIES

13.1. Covenants and Conditions. Tenant's performance of each of Tenant's obligations under this Lease is a condition as well as a covenant. Tenant's right to continue in possession of the Premises is conditioned upon such performance. The notice required by the provisions set forth below are intended to satisfy any and all notice requirements imposed on Landlord by law and is not in addition to any such requirements.

13.2. Events of Default. The occurrence of any one or more of the following events shall constitute an event of default hereunder by Tenant:

13.2.1. The Failure to Pay. The failure by Tenant to make any payment of Base Monthly Rent or Additional Rent or any other payment required to be made by Tenant pursuant to this Lease, as and when due where such failure shall continue for a period of ten (10) business days after written notice of nonpayment thereof from Landlord to Tenant.

13.2.2. Failure to Perform. The failure by Tenant to observe or perform any of the express or implied covenants or provisions of this Lease to be observed or performed by Tenant, other than as specified in Section 13.2.1 above, where such failure shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant. If the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant shall commence such cure within said thirty (30) day period and thereafter diligently prosecute such cure to completion.

13.3. Landlord's Remedies. In the event of any such default by Tenant, and at any time thereafter Landlord shall be entitled to the following rights and remedies:

13.3.1. Termination of Possession. In the event of any such default by Tenant, in addition to any other remedies available to Landlord at law or in equity, Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder. In the event that Landlord shall elect to so terminate this Lease then Landlord may recover from Tenant:

13.3.1.1. the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

13.3.1.2. 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 Tenant proves could have been reasonably avoided; plus

13.3.1.3. The worth at the time of the award, of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of loss of rent that Tenant proves could have been reasonably avoided, provided that, Landlord acknowledges that Landlord's remedies under this paragraph 13.3.1.3 may be subject to the limitations, if any, imposed by Article XVI, Section 18, of the California Constitution; plus

13.3.1.4. Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's

failure to perform Tenant's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

As used in Section 13.3.1.1 and 13.3.1.2 above, the "worth at the time of award" is computed by allowing interest at the maximum rate an individual is permitted to charge by law. "The worth, at the time of the award," as referred to in paragraph 13.3.1.3, is to be computed by discounting the amount by utilizing as the discount rate that discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus one percent.

13.3.2. Appointment of a Receiver. If Tenant is in default of this Lease, Landlord shall have the right to have a receiver appointed to collect Rent. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by Landlord to terminate this Lease.

13.4. Re-Entry and Removal. In the event of any such default by Tenant, Landlord shall also have the right, with or without terminating this Lease, to re-enter the Premises and remove all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant. No re-entry or taking possession of the Premises by Landlord pursuant to this Section 13.4 shall be construed as an election to terminate this Lease unless a written notice of such intention is given to Tenant. In addition to its other rights under this Lease, Landlord has the remedy described in California Civil Code Section 1951.4.

13.5. Reletting the Premises. In the event that Landlord shall elect to re-enter as provided above or shall take possession of the Premises pursuant to legal proceedings or pursuant to any notice provided by law, then if Landlord does not elect to terminate this Lease as provided above, Landlord may from time to time, without terminating this Lease, either recover all rent as it becomes due or relet the Premises or any part thereof for the term for this Lease on terms and conditions as Landlord in its sole discretion may deem advisable with the right to make alterations and repairs to the Premises.

In the event that Landlord shall elect to so relet, then rentals received by Landlord from such reletting shall be applied: first, to the payment of any indebtedness other than rent due pursuant to this Lease from Tenant to Landlord; second, to the payment of any cost of such reletting; third, to the payment of the cost of any alterations and repairs to the Premises; fourth, to the payment of rent due and unpaid hereunder and the residue, if any, shall be held by Landlord and applied to payment of future rent as the same may become due and payable hereunder. Should that portion of such rentals received from such reletting during any month, which is applied to the payment of rent hereunder, be less than the rent payable during that month by Tenant hereunder, then Tenant shall pay such deficiency to Landlord immediately upon demand therefore by Landlord. Such deficiency shall be calculated and paid monthly. Tenant shall also pay to Landlord, as soon as ascertained, any costs and expenses incurred, including but not limited to brokers' commissions, by Landlord in such reletting or in making such alterations and repairs not covered by the rentals received from such reletting.

13.6. Remedies Cumulative; No Waiver. All rights, options and remedies of Landlord contained in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this Lease. No waiver of any default of Tenant shall be implied from any acceptance by Landlord of any rent or other payments due pursuant to this Lease or any omission by Landlord to take any

action on account of such default if such default persists or is repeated, and no express waiver shall affect defaults other than as specified in said waiver. The consent or approval of Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent or approval to or of any subsequent similar acts by Tenant. In any action brought by Landlord under this Lease in connection with payment of Rent, compliance with the notice provisions of this Lease shall be sufficient.

13.7. Landlord's Default. If Landlord fails to perform any covenant, condition or agreement contained in this Lease within thirty (30) days after receipt of written notice from Tenant specifying such default, or if such default cannot reasonably be cured within thirty (30) days, if Landlord fails to commence to cure within that thirty (30) day period, then Landlord shall be liable to Tenant for any damages sustained by Tenant as a result of Landlord's breach; provided, however, it is expressly understood and agreed that if Tenant obtains a money judgment against Landlord resulting from any default or other claim arising under this Lease, that judgment shall be satisfied only out of the rents, issues, profits, and other income actually received on account of Landlord's right, title and interest in the Premises, Building or Project, and no other real, personal or mixed property of Landlord (or of any of the partners which comprise Landlord, if any) wherever situated, shall be subject to levy to satisfy such judgment. If, after notice to Landlord of default, Landlord (or any first mortgagee or first deed of trust beneficiary of Landlord) fails to cure the default as provided herein, then Tenant shall have the right to cure that default at Landlord's expense. Tenant shall not have the right to terminate this Lease or to withhold, reduce or offset any amount against any payments of Rent or any other charges due and payable under this Lease except as otherwise specifically provided herein.

ARTICLE 14.

ESTOPPEL CERTIFICATES

14.1. Estoppel Certificates.

14.1.1. Landlord's Request. Within thirty (30) days following any written request which Landlord may make from time to time, Tenant shall execute, acknowledge and deliver to Landlord a written statement, in a form substantially similar to the form of Exhibit F, certifying to any potential Mortgagee, encumbrancer or prospective purchaser the matters set forth therein and such other matters requested by Landlord. Landlord and Tenant intend that any statement delivered pursuant to this Section 14.1.1 may be relied upon by any such purchaser or prospective purchaser, encumbrancer, or Mortgagee of the Building or Project.

14.1.2. Failure to Deliver. Tenant's failure to deliver such statement to Landlord within such thirty (30) day period shall be conclusive upon Tenant that (i) the terms and provisions of this Lease have not been changed. Otherwise represented by Landlord; (ii) that this Lease has not been cancelled or terminated and is in full force and effect, except as otherwise represented by Landlord; (iii) that the current amount of the Base Monthly Rent is as represented by Landlord; (iv) that there have been no subleases or assignments of the Lease; (v) that not more than one month's Base Monthly Rent or other charges have been paid in advance; and (vi) that Landlord is not in default under the Lease.

14.1.3. Landlord's Certificate. Landlord shall, at any time and from time to time, within thirty (30) days following notice by Tenant, execute, acknowledge and deliver to Tenant a statement in writing prepared by Tenant and edited by Landlord, as appropriate, certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), the dates to which Tenant has paid rent, adjustments to rent, and other charges in advance, if any.

stating whether or not to the best knowledge of Landlord, Tenant is in default in the performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which Landlord may have knowledge, or containing any other information or certifications which reasonably may be requested by Tenant, any proposed assignee or sublessee of Tenant, or any person or entity that Tenant requests that such information be provided to. Any such statement, delivered pursuant to this subsection, may be relied upon by any proposed assignee or sublessee or any proposed lender of Tenant.

ARTICLE 15.

HOLDING OVER; SURRENDER OF PREMISES

15.1. Holding Over. If Tenant holds over after the expiration or earlier termination of the term hereof without the express written consent of Landlord, Tenant shall become a Tenant at sufferance only, at the then existing rental rate for a period of ninety (90) days and thereafter at a rental rate equal to one hundred twenty-five percent (125%) of the Base Monthly Rent in effect upon the date of such expiration (including adjustments to the Base Monthly Rent as provided in Article 3 hereof and prorated on a daily basis), and otherwise subject to the terms, covenants and conditions herein specified, so far as applicable. Acceptance by Landlord of Rent after such expiration or earlier termination shall not result in a renewal of this Lease.

15.2. Surrender of Premises.

15.2.1. Surrender of Lease Not Merger. A surrender of this Lease by Tenant, a cancellation of this Lease by mutual agreement between Landlord and Tenant, or a termination of this Lease for any reason shall not automatically work a merger. After such a surrender, cancellation or termination Landlord shall treat such surrender, cancellation or termination as an assignment to Landlord of any or all such subleases or subtenancies. The delivery of keys to any employee of Landlord or to Landlord's agent or any employee thereof shall not be sufficient to constitute a termination of this Lease or a surrender of the Premises.

15.2.2. Condition of Premises. Upon the expiration or earlier termination of the Term, Tenant shall surrender possession of the Premises to Landlord in the same good order, condition, and repair as when received by Tenant or as thereafter improved by Landlord or Tenant excepting only reasonable wear and tear which Tenant was not otherwise obligated to remedy pursuant to any provision of this Lease. In such event, Tenant shall, at its expense, promptly remove or cause to be removed from the Premises all debris, rubbish, furniture, equipment, business and trade fixtures, freestanding cabinet work, shelving, movable partitions, and other articles of personal property owned by Tenant or installed or placed by Tenant at its expense in the Premises (exclusive of any items described in Subsection 15.2.3), and all similar articles of any other persons claiming under Tenant, unless Landlord exercises its option to have any subleases or subtenancies assigned to it. Tenant shall also repair, at its expense, all damages which removals from or restoration of the Premises may cause.

15.2.3. Affixed Improvements. All fixtures, equipment, alterations, additions, improvements, and/or appurtenances attached to or built into the Premises prior to or during the Lease Term, whether at the expense of Landlord, at the expense of Tenant, or at the expense of both, shall be and remain part of the Premises and shall not be removed by Tenant at the end of the Lease Term, unless otherwise expressly provided for in this Lease or by separate written agreement of the parties.

ARTICLE 16.

QUIET ENJOYMENT

Except as otherwise provided in this Lease, Landlord covenants and agrees that Tenant, upon paying the Rent and any and all other charges herein provided for and observing and performing the covenants, agreements and conditions of this Lease to be observed and performed by Tenant shall and may peaceably and quietly have, hold and enjoy the Premises in accordance with this Lease.

ARTICLE 17.

SUBORDINATION; NONDISTURBANCE

This Lease shall be subject to all encumbrances affecting Landlord's title to the Project, including, without limitation, the several groundleases and sub-groundleases under which Landlord derives a portion of its title to the Project. Should any ground lessor, without fault by Landlord, terminate any groundlease, this Lease to the extent covered by that groundlease shall terminate and Landlord and Tenant shall be released from all liabilities and obligations under this Lease to the extent covered by that groundlease. Landlord agrees that it will hold Tenant harmless from its actual or alleged failure, breach or default under the groundlease. A portion of the Project which provides access to the Project from the adjoining streets is held by Landlord under a revocable license from the City of San Diego and Tenant agrees not to revoke the license.

Landlord agrees that it will use its best efforts within ninety (90) days of the date of this Lease to provide Tenant with non-disturbance agreements in favor of Tenant from any ground lessors, mortgage holders or lien holders then in existence. Landlord also agrees to provide Tenant with non-disturbance agreements in favor of Tenant from any ground lessors, mortgage holders or lien holders of Landlord who later come into existence at any time during the term of the Lease in consideration of, and as a condition precedent to, Tenant's agreement to be bound by the subordination provisions of the Lease. All such agreements shall provide, at a minimum, that as long as Tenant is not in default of the provisions of this Lease, this Lease shall remain in effect, notwithstanding a judicial foreclosure or sale in lieu of foreclosure. A copy of the Non-Disturbance Agreement is attached Exhibit "H".

ARTICLE 18.

LIENS

Tenant shall not permit any mechanics', materialmen's or other liens to be filed against the Premises or the Project, except for those liens being contested and bonded in accordance with the terms of Section 7.5 above. Landlord shall have the right at all reasonable times to post and keep posted on the Premises any notices which it deems necessary for protection from such liens. If any such liens are filed, Landlord may, without waiving its rights and remedies based on such breach of Tenant and without releasing Tenant from any of its obligations, cause such liens to be released by any means it shall deem proper, including payments in satisfaction of the claim giving rise to such lien. Tenant shall pay to Landlord at once, upon notice by Landlord, any sum paid by Landlord to remove such liens.

ARTICLE 19.

BANKRUPTCY

If Tenant is otherwise in default under this Lease and if Tenant shall file a petition in bankruptcy pursuant to any provision of the Bankruptcy Code as then in effect, or if Tenant

shall be adjudicated a bankrupt in involuntary bankruptcy proceedings and such adjudication shall not have been vacated within sixty (60) days from the date thereof, or if a receiver or trustee shall be appointed of Tenant's property and the order appointing such receiver or trustee shall not be set aside or vacated within sixty (60) days after the entry thereof, or if Tenant shall assign Tenant's estate or effects for the benefit of creditors, or if this Lease shall, by operation of law or otherwise, pass to any person or persons other than Tenant, then in any such event Landlord may terminate this Lease, if Landlord so elects, with or without notice of such election and with or without entry or action by Landlord.

ARTICLE 20.

PROFESSIONAL FEES

If either party incurs any costs or expenses in connection with any action instituted by either party by reason on any dispute under this Lease or any alleged default of the other party, then all costs and expenses, including without limitation, its actual professional fees such as appraisers', accountants, and attorneys' fees, incurred by the prevailing party therein shall be paid by the other party, which obligation on the part of the other party shall be deemed to have accrued on the date of the commencement of such action and shall be enforceable whether or not the action is prosecuted to judgment.

ARTICLE 21.

PERFORMANCE BY TENANT

If Tenant shall fail to pay any sum of money owed to any party other than Landlord, for which Tenant is liable pursuant to this Lease, or if Tenant shall fail to perform any other obligation on its part to be performed pursuant to this Lease, and such failure shall continue for thirty (30) days after notice thereof by Landlord, Landlord may, without waiving or releasing Tenant from its obligations, but shall not be obligated to, make any such payment or perform any such other act to be made or performed by Tenant. All sums so paid by Landlord and all necessary incidental costs together with interest thereon at the Interest Rate. Tenant covenants to pay any such sums, and Landlord shall have (in addition to any other right or remedy of Landlord) all rights and remedies in the event of the nonpayment thereof by Tenant as are set forth in Article 13.

ARTICLE 22.

MORTGAGEE PROTECTION

In the event of any default on the part of Landlord, Tenant will give notice by registered or certified mail to any beneficiary of a first or lower priority Mortgage covering the Project whose address shall have been furnished to Tenant, and shall offer such Mortgagee a reasonable opportunity to cure the default, including time to obtain possession of the Premises by power of sale or a judicial foreclosure, if such should prove necessary to effect a cure.

ARTICLE 23.

DEFINITION OF LANDLORD

The term "Landlord" as used in this Lease, so far as covenants or obligations on the part of Landlord are concerned, shall be limited to mean and include only the owner at the time in question, of the fee title of the Premises or the lessee under a groundlease or sub-groundlease, if any. In the event of any transfer, assignment or other conveyance of title, Landlord herein named (and in case of any subsequent transfers or conveyances, the then grantor) shall be automatically freed and relieved from and after the date of such transfer, assignment or

conveyance of any and all liability for the performance of all covenants or obligations of Landlord thereafter to be performed. Without further agreement, the transferee of such title shall be deemed to have assumed and agreed to observe and perform any and all obligations of Landlord pursuant to this Lease, during its ownership of the Premises, Building and/or the Building Lot.

ARTICLE 24.

WAIVER

24.1. Waiver by Landlord. Landlord's waiver of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained, nor shall any custom or practice which may grow up between the parties in the administration of the terms hereof be deemed a waiver of or in any way affect the right of Landlord to insist upon full performance by Tenant of the terms, covenants and conditions of this Lease in strict accordance with the terms thereof. The subsequent acceptance of Rent by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant or any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. Acceptance by Landlord of a sum less than the Base Monthly Rent and Additional Rent or other sum then due shall not be deemed to be other than on account of the earliest installment of such rent or other amount due, nor shall any endorsement or statement on any check or any letter accompanying any check be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or other amount or pursue any other remedy provided in this Lease.

24.2. Waiver by Tenant. Tenant's waiver of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained, nor shall any custom or practice which may grow up between the parties in the administration of the terms hereof be deemed a waiver of or in any way affect the right of Tenant to insist upon the performance by Landlord in strict accordance with said terms. Any payments of rents or other sums hereunder by Tenant shall not be deemed a waiver of any preceding breach by Landlord of any term, covenant or condition of this Lease, regardless of Tenant's knowledge of such preceding breach at the time of payment of such rent or other sums.

ARTICLE 25.

PARKING

25.1. Lease of Space. Tenant, its employees and invitees shall have the right to use certain areas designated by Landlord for parking automobiles on a nonexclusive non-reserved basis and on terms and conditions to be established by Landlord from time to time during the Term. Landlord shall have the right to designate where parking spaces shall be located and may reserve certain spaces from Tenant's use as Landlord may reasonably require. Landlord, at its sole option, shall have the right to require from Tenant, in addition to any rent and other charges otherwise payable pursuant to this Lease, a separate and additional charge for all parking permitted pursuant to this section. Such separate and additional charge, if required, shall be as established, from time to time, by Landlord, and any failure to require such a separate and additional charge, at any time during the Term, shall not operate as a waiver or otherwise preclude Landlord from, at some later time, instituting such a separate and additional charge.

25.2. Conditions of Use. Tenant shall not permit or allow any vehicles that belong to or are controlled by Tenant or

Tenant's employees, suppliers, shippers, customers or invitees to be loaded, unloaded or parked in areas other than those designated for such activities.

25.3. Parking Rights. Notwithstanding anything contained to the contrary in Article 25 of this Lease, during the Term of this Lease and any extension or renewals thereof, Tenant shall have the right to lease up to one (1) parking space per 1,000 square feet of Rentable Area in the Premises. Rent for each parking space shall be the then prevailing rate for the Building parking garage. Rent for each parking space shall be payable at the same time and in the same manner as Base Monthly Rent. On or before the Commencement Date for each block of space which Tenant occupies within the Building, Tenant shall advise Landlord in writing of the number of parking spaces Tenant elects to lease, if any. To the extent Tenant does not fully utilize its right to lease parking spaces in the Building, Base Monthly Rent on a per square foot per month basis shall be reduced for each 1,000 square feet of space for which Tenant did not elect to lease a parking space by Three Cents (\$0.03) per month.

For purposes of illustration only, assume the Premises initially contains 10,000 square feet of Rentable Area at a monthly per square foot rental rate of One and No/100 Dollars (\$1.00). In such case, Tenant would have the right to lease up to ten (10) parking spaces. If Tenant elects to lease only five (5) parking spaces then, in such case, Base Monthly Rent on a per square foot basis for the 5,000 square feet for which Tenant did not elect to lease a parking space would be reduced to Ninety-Seven Cents (\$0.97) per square foot.

Following the Commencement Date for each block of space, Landlord and Tenant shall execute an amendment to this Lease setting forth the number of parking spaces Tenant elects to lease and the corresponding reduction of Base Monthly Rent, if any.

Each time Tenant exercises its right to expand the Premises in accordance with this Lease, the foregoing right to lease parking spaces (and the corresponding reduction of Base Monthly Rent if Tenant does not fully utilize its right to lease parking spaces in the Building), shall apply.

ARTICLE 26.

FORCE MAJEURE

The period for performance of any obligation by either party shall be extended (except for Tenant's obligations to pay Rent, Additional Rent and other charges due pursuant to this Lease which obligations shall not be extended) by the period of any delay in performance caused by an act of God, labor strike, adverse weather conditions, shortage of materials, war, invasion, acts of a public enemy, governmental preemption in connection with a national emergency, riot, laws, rules, regulations or order of governmental or military authorities, or failure or defect in the supply, quantity or character of utilities furnished to the Building or Premises (collectively, "Force Majeure Event"), excluding from all the foregoing financial inability.

ARTICLE 27.

LIMITATION ON LIABILITY

In consideration of the benefits accruing to Tenant pursuant to this Lease, Tenant and all successors and assigns covenant and agree that, in the event of any actual or alleged failure, breach or default hereunder by Landlord, the extent of Landlord's liability shall be strictly limited to and shall not extend beyond Landlord's interest in the Project.

ARTICLE 28.

MODIFICATION FOR LENDER

If, in connection with obtaining construction, interim or permanent financing or refinancing for the Building and/or the Project any Mortgagee shall request reasonable modifications in this Lease as a condition to such financing, Tenant will not unreasonably withhold, delay or defer its consent thereto, provided that such modifications do not increase the rental or other obligations of Tenant hereunder or materially or adversely affect the leasehold estate created by this Lease or Tenant's rights hereunder.

ARTICLE 29.

OPTION TO NEGOTIATE FOR PURCHASE OF BUILDING

Provided there is no continuing and uncured default by Tenant under this Lease, Tenant shall have the option to negotiate for purchase of the Building ("Purchase Option") on the terms and conditions set forth herein. If at any time during the Term (including any extensions thereof) Landlord elects to sell its entire interest in the Building, then before selling the Building to a third party, Landlord shall provide Tenant with written notice ("Sale Notice") of its desire to sell the Building and the price, terms and conditions upon which Landlord is willing to sell the Building. If, within thirty (30) days after receipt of the notice, Tenant gives Landlord written notice of its interest in purchasing the Building at the price and upon the terms and conditions set forth in the Sale Notice, Landlord and Tenant shall have an additional thirty (30) days to attempt to negotiate a legally binding agreement to carry out the previously expressed intent promptly and in good faith. If Tenant either fails to respond to the Sale Notice within the prescribed thirty (30) day period, or if Landlord and Tenant shall fail to enter into a written agreement for such purchase and sale within thirty (30) days after the date on which Tenant notifies Landlord that it is interested in purchasing the Building, Landlord will be free to sell the Building to any other interested third party without any further obligation to Tenant. Nothing herein shall prevent the Landlord from entering into consulting agreements or brokerage agreements at any time to assist in establishing the price of the Building.

ARTICLE 30.

RELOCATION ALLOWANCE

Upon Tenant's accepting possession of any block of space within the Building, and as a condition precedent to the occupancy of such space, Landlord shall provide Tenant with a relocation allowance ("Relocation Allowance") to assist Tenant in offsetting its expenses of relocating to such space including, but not limited to, moving consultants, moving costs, telecommunications systems, data processing systems and other expenses. The Relocation Allowance shall be an amount equal to the Rentable Area of the space to be occupied by Tenant multiplied by Three and No/100 Dollars (\$3.00).

The Relocation Allowance shall be payable with respect to any block(s) of space leased by Tenant during the first three (3) years of the Term.

ARTICLE 31.

STORAGE SPACE

During the Term, and any extension and renewal hereof, Tenant shall have the right to lease up to six hundred (600) usable square feet of storage space ("Storage Space") located in the parking garage of the Building. Rent for the Storage Space shall be at the rate of Twenty-Five Cents (\$0.25) per usable

square foot for the entire Term and any extension thereof. If at any time during the Term of this Lease and any extension or renewals hereof, additional storage space becomes available in the Building, Tenant shall have the First Right To Negotiate for such space. Rent for such additional storage space shall be the prevailing rental rate for similar storage space in downtown San Diego office buildings.

ARTICLE 32.

REFURBISHMENT ALLOWANCE

On the first day of the sixth (6th) Lease Year, and on the first day of each Renewal Term, Landlord shall provide Tenant with a cash refurbishment allowance ("Refurbishment Allowance") to be used by Tenant for the purpose of repainting, recarpeting, refurbishing and other miscellaneous repairs to the Premises as Tenant, in its discretion, shall determine. The Refurbishment Allowance shall not exceed Five and No/100 Dollars (\$5.00) per square foot of "Modified Rentable Area" within the Premises including any expansions thereto for floors which Tenant occupies in their entirety and Five and No/100 Dollars (\$5.00) per square foot of Usable Area on all partially occupied floors. For purposes of this Lease, the term Modified Rentable Area means all Usable Area plus the elevator lobbies, corridors and fire vestibules.

In the event Tenant does not use the entire Refurbishment Allowance, Tenant shall have the option of utilizing the unused portion of the Refurbishment Allowance to thereafter purchase furniture or equipment (which furniture and equipment shall be and remain the property of Tenant) or to apply said unused portion to the next installments of Base Monthly Rent due under the Lease.

ARTICLE 33.

BUILDING CONFERENCE FACILITY

Landlord may construct a conference facility to accommodate 10 to 15 people in the Building for use by all tenants of the Building on an "as available" basis. If Landlord constructs such conference facility, Tenant shall have the right, at no additional charge to Tenant, to use the conference facility subject, however, to such reasonable rules and regulations as Landlord may establish from time to time.

ARTICLE 34.

TRANSPORTATION DEMAND MANAGEMENT

Landlord agrees to comply with any lawful ordinance or regulation of the City of San Diego and/or the County of San Diego respecting transportation demand management programs in those jurisdictions, related to the conduct of Tenant's business in the Premises and will provide written notice of such compliance as, and if, required by law.

ARTICLE 35.

MISCELLANEOUS

35.1. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California.

35.2. Headings and Titles. The captions of the Articles or Sections of this Lease are only to assist the parties in reading this Lease and shall have no effect upon the construction or interpretation of any part hereof.

35.3. Interpretation. Whenever required by the context of this Lease, the singular shall include the plural and the plural

shall include the singular. The masculine, feminine and neuter genders shall each include the other. In any provision relating to the conduct, acts or omissions of Tenant, the term "Tenant" shall include Tenant's agents, employees, contractors, invitees, successors or others using the Premises with Tenant's expressed or implied permission.

35.4. Successors and Assigns. Except as otherwise specifically provided in this Lease, all of the covenants, conditions and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

35.5. Time of the Essence. Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

35.6. Severability. If any term or provision of this Lease is held invalid or unenforceable to any extent under any applicable law by a court of competent jurisdiction, the remainder of this Lease shall not be affected thereby, and each remaining term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

35.7. Integration. This Lease, along with any exhibits, attachments or other documents affixed hereto or referred to herein, constitutes the entire agreement between Landlord and Tenant relative to the leasing of the Premises. This Lease and such exhibits, attachments and other documents may be amended or revoked only by an instrument in writing signed by both Landlord and Tenant. Landlord and Tenant hereby agree that no prior agreement, understanding or representation pertaining to any matter covered or mentioned in this Lease shall be effective for any purpose.

35.8. Notices. All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by certified mail, return receipt requested, postage prepaid or by nationally or locally recognized overnight or same day delivery service which provides for acknowledgment of delivery. Notices to Tenant shall be delivered to the address specified in Section 14 of the Basic Lease Provisions. Notices to Landlord shall be delivered to the address specified in Section 14 of the Basic Lease Provisions. All notices shall be effective upon personal delivery or three (3) days after deposit in the U.S. Mail. Either party may change its notice address upon written notice to the other party.

35.9. No Light, Air or View Easements. Any diminution or shutting off of light, air or view by any structure which may be erected on lands adjacent to the Building or elsewhere in the Project shall in no way affect this Lease or impose any liability on Landlord.

35.10. Broker. Landlord and Tenant acknowledge that the broker(s) who procured this Lease is, unless otherwise specifically provided in this Lease, specified in Section 11 of the Basic Lease Provisions. Landlord shall be solely responsible for the payment of brokerage commissions to such broker, and Tenant shall have no responsibility therefor unless written provision to the contrary has been made a part of this Lease. If Tenant has dealt with any other real estate broker or agent or any other person in connection with the leasing of space in the Building, Tenant shall be solely responsible for the payment of any fee due such person, and Tenant shall indemnify, defend and hold Landlord harmless from and against any liability in respect thereto, including attorneys' fees and costs.

35.11. No Partnership. This Lease shall not be construed to constitute any form of partnership or joint venture between Landlord and Tenant. Landlord and Tenant mutually acknowledge that no business or financial relationship exists between them other than as Landlord and Tenant, and that Landlord is not

responsible in any way for the debts of Tenant or any other party.

35.12. Recording. Neither Landlord nor Tenant shall record this Lease nor a short form memorandum of this Lease without the prior written consent of the other.

35.13. Consent/Duty to Act Reasonably. Regardless of any reference to the words "sole" or "absolute" (but except for matters which could have an adverse affect on the Building's plumbing, heating, life safety, ventilating, air conditioning, or electrical systems ("Building Systems"), or which could affect the exterior appearance of the Building, whereupon in each such case Landlord's and Tenant's duty is to act in good faith) anytime the consent of Landlord or Tenant is required, such consent shall not be unreasonably withheld or delayed. Whenever the Lease grants Landlord or Tenant the right to take action, exercise discretion, establish rules and regulations or make allocations or other determinations, Landlord and Tenant shall act reasonably and in good faith and take no action which might result in the frustration of the other parties reasonable expectations concerning the benefits to be enjoyed under the Lease. This covenant of good faith and fair dealing shall apply to Landlord and to Tenant.

35.14. Exhibits. All exhibits, schedules and addenda attached to this Lease are incorporated herein by references as though fully set forth herein.

35.15. Compliance with the City of San Diego Equal Opportunity Contracting Program. Landlord shall comply with the City's Equal Opportunity and Minority and Women Business Enterprise Contracting Programs, approved by the City Council and filed with the City Clerk as document RR-262633. Landlord shall submit a Certificate of Compliance with Title VII of the Civil Rights Act of 1984, as amended, the California Fair Employment Practices Act, and other applicable federal and state laws and regulations hereinafter enacted. Landlord understands that failure to comply with the above requirements and/or submitting false information in response to these requirements may result in termination of this Lease.

35.16. Disabled Access. Landlord hereby agrees to comply with the California State Building Code, Title 24, and the Federal Rehabilitation Act of 1973, Section 504, Americans with Disabilities Act (Public Law 101-336) Minimum Guidelines & Regulations for Accessible Design, and any other applicable, federal and/or state laws and regulations hereinafter enacted. Landlord agrees to comply with the City's disabled access requirements by bringing up to code and making accessible any areas of the Building which deny access to disabled persons, which areas are to be modified.

35.17. Authorized Persons. During the Term, Tenant warrants that the following persons shall have the authority to exercise the rights or privileges of Tenant, and to receive notices binding on behalf of Tenant, under this Lease: _____.

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35.18. Condition Precedent. It is a condition precedent to Landlord's obligations under this Lease that Landlord first receive a certified copy of all resolutions(s) of the City of San Diego necessary to evidence Tenant's approval and acceptance of this Lease, together with a letter of opinion of the San Diego City Attorney that this Lease has been duly executed by Tenant and is binding on Tenant.

LANDLORD: Kowa Real Estate California, Inc., a California corporation

By: Bank of America, NT&SA, as its agent

By: [Signature] [Name]
STEVEN W. ENGLAND
Its VICE PRESIDENT [Title]

By: [Signature] [Name]
RONALD E. HILBY
Its VICE PRESIDENT [Title]

TENANT: The City of San Diego, a municipal corporation

By: [Signature] [Name]
DON BARONE
Its Property Services Supervisor [Title]
for CITY MANAGER

By: _____ [Name]
Its _____ [Title]

Approved as to form and content:

By: [Signature] [Name]
Deputy
City Attorney for The City of San Diego

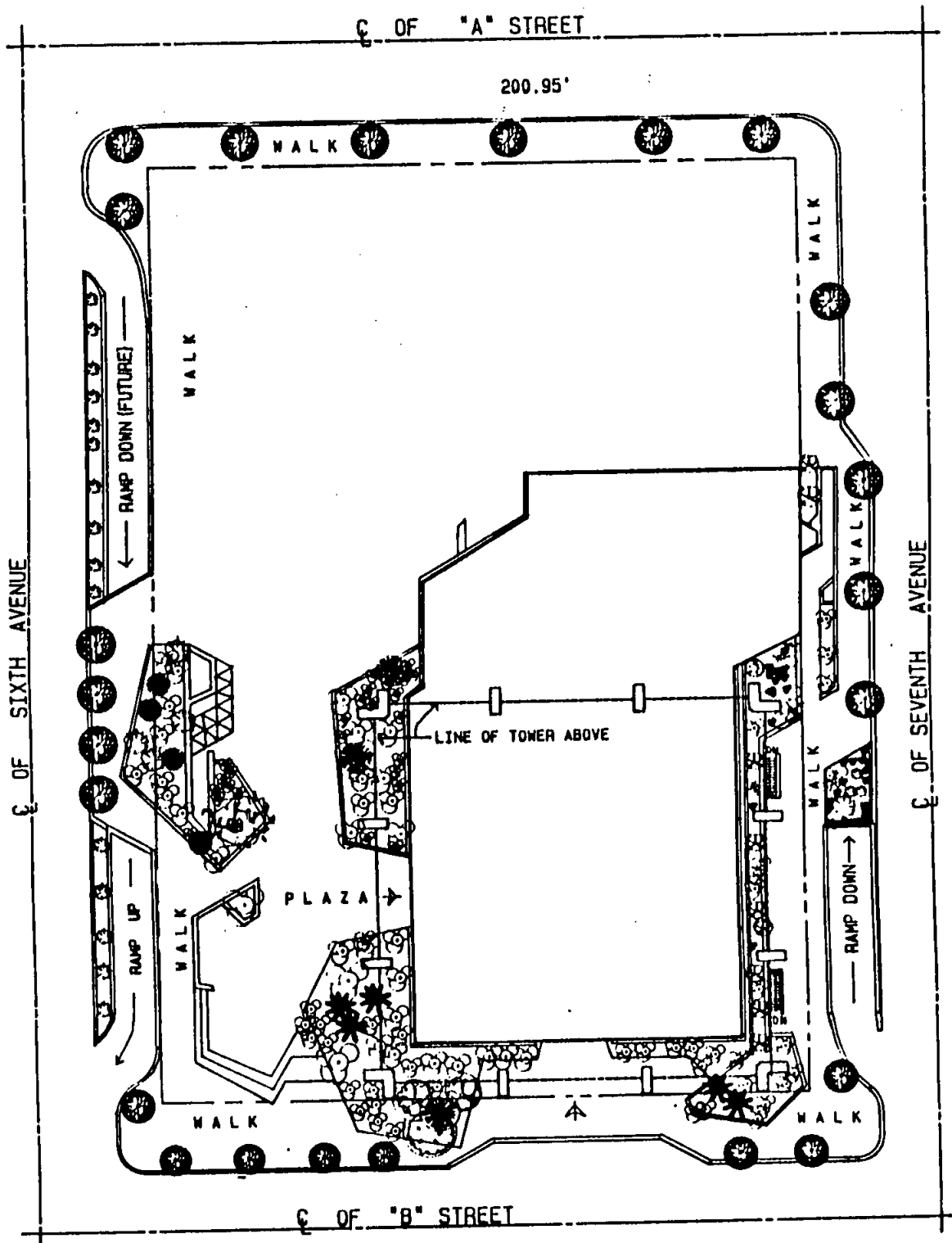
0-17718

EXHIBIT A

THE PREMISES

The Premises description shall mean the area shown on the floor plan below indicated by the crosshatched areas.

EXHIBIT B
THE PROJECT



WILLIAMS PARTNERS

Ware & Malcomb Architects, Inc.

Great American Building

EXHIBIT C
RULES AND REGULATIONS

[See following four pages]

EXHIBIT "C"
RULES AND REGULATIONS

ATTACHED TO AND MADE PART OF THIS LEASE

1. Signage. No sign, placard, picture, advertisement, name or notice shall be inscribed, displayed, printed or affixed on or to the Premises or to the outside or inside of the Building without the prior written consent of Landlord. Landlord shall have the right, unless Landlord has given prior written consent, to remove any such sign, placard, picture, advertisement, name or notice, without notice to and at the expense of Tenant, and Landlord shall not be liable in damages for such removal. All approved signs or lettering on doors and walls shall be printed, painted, affixed or inscribed at the expense of Tenant by Landlord or by a person selected by Landlord and in a manner and style acceptable to Landlord.
2. Building Services. No Tenant shall obtain for use on the Premises, ice, drinking water, waxing cleaning, interior glass polishing, rubbish removal, towels or other similar services or accept barbering or bootblacking, or coffee cart services, milk, soft drinks or other like services on the Premises, except from persons authorized by Landlord and at the hours and under regulations fixed by Landlord. No vending machine or machines of any description shall be installed, maintained or operated upon the Premises without the prior written consent of Landlord. Landlord hereby authorizes Tenant to install lunchrooms with vending machines for use by employees of Tenant.
3. Building Directory. The directories of the Building shall be provided exclusively for the display of the name and location of Tenants only and Landlord reserves the right to exclude any other names therefrom and otherwise limit the number of listings thereon, except as otherwise provided in this Lease.
4. Ingress, Egress. The sidewalks, halls, passages, exits, entrances, elevators and stairways shall not be obstructed by any of the Tenants or used by them for any purpose other than for ingress and egress from their respective premises. The halls, passages, exits, entrances, elevators, stairways and the roof are not for the use of the general public and Landlord shall, in all cases, retain the right to control and prevent access thereto by all persons whose presence, in the judgement of the Landlord, shall be prejudicial to the safety, character, reputation and interests of the Building and its Tenants; provided that nothing herein contained shall be constructed to prevent such access to persons with whom Tenant normally deals in ordinary course of Tenant's business unless such persons are engaged in illegal activities. No Tenant and no employees or invitees of any Tenant shall go upon the roof of the Building.
5. Keys. Tenant, upon termination of tenancy, shall deliver to Landlord the keys of offices, rooms and toilet rooms which shall have been furnished to Tenant or which Tenant shall have made, and, in the event of loss of any keys so furnished, shall pay Landlord therefore. Tenant shall not alter any lock nor install any new or additional locks or any bolts on any door of the Premises.
6. Bathrooms. Toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein, and the expense of any breakage, stoppage or damage, resulting from the violation of this rule shall be borne by tenant who, or whose employees, shall have caused it.

7. Structure. Tenant shall not overload the floor of the Premises or mark, drive nails, screw or drill into the partitions, ceilings or floor or in any way deface the Premises, except as it relates to hanging art.
8. Loading/Unloading. No furniture, packages, supplies, merchandise, freight or equipment of any kind shall be brought into the Building without the prior consent of Landlord. All moving of the same into or out of the Building shall be via the Building's freight handling facilities, unless otherwise directed by Landlord, at such time and in such manner as Landlord shall prescribe. No hand trucks or vehicles (other than a wheelchair for an individual) shall be used in passenger elevators. Any hand trucks permitted in the Building must be equipped with soft rubber tires and side guards.
9. Equipment. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy equipment brought into the Building, the times and manner of moving the same in or out of the Building, and all such moving must be done under the supervision of Landlord. Safes or other heavy equipment shall, if considered necessary by Landlord, stand on a platform of such thickness as is necessary to properly distribute weight. Landlord shall not be responsible for loss of or damage to any such safe or property from any cause, and all damages done to the Building by moving or maintaining any such safe or other property shall be repaired at the expense of Tenant.
10. Janitorial. Tenant shall not employ any person or persons other than the janitor of Landlord for the purpose of cleaning the Premises unless otherwise agreed to by Landlord. Except with the written consent of Landlord, no person or persons other than those approved by Landlord shall be permitted to enter the Building for the purpose of cleaning the same. Tenant shall not cause any unnecessary labor by reason of Tenant's carelessness or indifference in the preservation of good order and cleanliness. Janitor service shall include ordinary dusting and cleaning by the janitor assigned to such work and shall not include shampooing of carpets or rugs or moving furniture or other special services. Window cleaning shall be done only by Landlord. Landlord shall not be responsible to any Tenant for any loss of property on the Premises, however occurring, or for any damage done to the effects of any Tenant by the janitor or any other employee or any other person including the building guards.
11. Permitted Use. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied or used in any manner offensive or objectionable to Landlord or other occupants of the Building by reason of noise, odors or vibrations, or interfere in any way with other Tenants or those having business therein, nor shall any animals, except for seeing-eye dogs, or birds be brought in or keep in or about the Premises or the Building.
12. Use Restrictions. No cooking shall be done or permitted by any Tenant on the Premises, nor shall the Premises be used for the manufacture or storage of merchandise, for washing clothes, for lodging, or for any improper, objectionable or immoral purpose.
13. Fuels. Tenant shall not use or keep in the Premises or the Building any kerosene, gasoline or inflammable, explosive or combustible fluid or material, or use any method of heating or air-conditioning other than that supplied by Landlord.
14. Utility Connection. Landlord will direct electricians as to where and how telephone and telegraph wires are to be introduced. No boring or cutting for wires or stringing of wires will be allowed without the written consent of Landlord. The location of telephones, call boxes and other office equipment affixed to the Premises shall be subject to approval of Landlord.

15. Floor Coverings. No Tenant shall lay linoleum, tile, carpet or other similar floor covering so that the same shall be affixed to the floor of the Premises in any manner except as approved by Landlord. The expense of repairing any damage resulting from a violation of the rule or removal of any floor covering shall be borne by Tenant by who, or by whose contractors, employees or invitees, the damage shall have been caused.
16. Non-Business Hours. Landlord reserves the right to close and keep locked all entrance and exit doors of the Building and otherwise regulate access of all persons of the Building on Sundays and public holidays and on other days between the hours of 6:00 p.m. and 7:00 a.m. and at such other times as Landlord may deem advisable for the adequate protection and safety of the Building, its tenants and occupants, and property in the Building. Landlord may refuse admission to the Building outside of ordinary business hours to any person not known to the employee of the Building in charge or not having a pass issued by Landlord or not properly identified and may require persons admitted to or leaving the Building to register. Any person whose presence in the Building at any time shall, in the sole judgement of Landlord, be prejudicial to the safety, character, reputation and interests of the Building or its tenants may be denied access to the Building or may be ejected therefrom. Landlord may require any person leaving the Building with any package or other object to exhibit a pass from Tenant from whose Premises the package or object is being removed but the establishment and enforcement of such requirement shall not impose any responsibility on Landlord for the protection of any Tenant against the removal of property from the Premises of Tenant. Landlord shall, in no case, be liable for damages for any error with regard to the admission or exclusion from the Building of any person.
17. Closing Procedures. Tenant shall see that the doors of its Premises are closed securely locked before leaving the Building and must observe strict care and caution that all water faucets or other apparatus are entirely shut off before Tenant or Tenant's employees leave the Building and that all electricity, gas or air shall likewise be carefully shut off, so as to prevent waste or damage, and for any default or carelessness Tenant shall make good all injury sustained by other Tenants or occupants of the Building or Landlord.
18. Building Management Employees. The requirements of Tenant shall be attended to only upon application at the Office of the Building. Employees of Landlord shall not perform any work or do anything outside of their regular duties unless under special instruction from Landlord.
19. Window Coverings. Tenant shall not install or use any blinds, shades, awnings or screens in connection with any window or door of the Premises and shall not use any drape or window covering facing any exterior glass surface other than the standard drape established by Landlord.
20. Energy Consumption. Tenant shall cooperate with Landlord in obtaining maximum effectiveness of the cooling system by closing drapes when the sun's rays fall directly on windows of the Premises. Tenant shall not obstruct, alter, or in any way impair the efficient operation of Landlord's heating, ventilating and air-conditioning system, and shall not place bottles, machines, parcels or any other articles on the induction unit enclosure so as to interfere with air flow. Tenant shall not tamper with or change the settings of any thermostats or control valves.
21. Solicitation. Canvassing, soliciting and peddling within the entire Building complex is prohibited unless specifically approved by Landlord, and each Tenant shall cooperate to prevent such activity. Tenant shall have the right to sell City memorabilia, reports and other merchandise from within the Premises.

22. Public Areas. All parking ramps and areas, plus other public areas forming a part of the complex, shall be under the sole and absolute control of Landlord with the exclusive right to regulate and control these areas. Tenant agrees to conform with the Rules and Regulations that may be established from time to time by Landlord for these areas.
23. Advertising. Landlord shall have the right to prohibit any advertising by any Tenant which, in Landlord's opinion, tends to impair the reputation of the Building or its desirability as a location for offices and, upon written notice from Landlord, Tenant shall refrain from or discontinue such advertising.
24. Asbestos Control and Protection Plan. Upon no circumstances shall the Tenant or any employee or agent of the Tenant do any work to or in the ceiling of the Premises without first obtaining the prior written permission of the Landlord. Tenant shall ensure that all such work is performed in accordance with the Building's Asbestos Control and Protection Plan.
25. Building Name. The name of the Building in which the Premises are located is called Great American Building. No Tenant or occupant of the Building shall be allowed to use the name of the Building or words to that effect, in connection with any business carried on in the Premises by Tenants (except as the address of Tenant) without the express written consent of Landlord. Landlord reserves the right to change the name and title of the Building at any time and Tenant expressly agrees to such change and waives any and all damage occasioned thereby.
26. Emergency Procedures. Tenant will ensure their employees receive and review a copy of the Emergency Procedures for the Great American Building.

By: [Signature]
Title: VICE PRESIDENT
Date: 10/17/91

By: [Signature]
Title: Property Services Supervisor
Date: 11-25-91

EXHIBIT D

NOTICE OF LEASE TERM DATES AND
TENANT'S PERCENTAGE SHARE

To: _____ Date: _____

Re: Lease dated October 17, 1991, between Kowa Real Estate
California, Inc., a California corporation, as Landlord, and
The City of San Diego, a municipal corporation, as Tenant,
concerning Suites _____ located at _____
_____.

Gentlemen:

In accordance with the Lease, we wish to advise and/or
confirm as follows:

1. The Premises have been accepted by the Tenant as being
substantially complete in accordance with the Lease and there is
no known deficiency in construction except as allowed for in the
Tenant Improvement Agreement.

2. The Tenant has possession of the Premises and acknow-
ledges that under the provisions of the Lease, the term of the
Lease commenced as of _____ (the "Commencement
Date") for a term of months ending on _____.

3. In accordance with the Lease, Rent commenced to accrue
on _____.

4. If the Commencement Date of the subject Lease is other
than the first day of a calendar month, the Base Monthly Rent
will be adjusted pro rata. Each statement thereafter shall be
for the full amount of the Base Monthly Rent as provided for in
the Lease.

5. Rent is due and payable in advance on the first day of
each and every month during the Term of Your rent checks should
be made payable to _____ at _____.

6. The Rentable Area of Premises is _____ square feet.
The Usable Area of the Premises is _____ square feet.

7. The initial Base Monthly Rent subject to modification
per Section 3 of this Lease is _____.

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8. Tenant's Percentage Share is _____ %.

LANDLORD: Kowa Real Estate California, Inc., a California corporation

By: Bank of America, NT&SA, as its agent

By: _____ [Name]
Its _____ [Title]

By: _____ [Name]
Its _____ [Title]

TENANT: The City of San Diego, a municipal corporation

By: _____ [Name]
Its _____ [Title]

By: _____ [Name]
Its _____ [Title]

WILLIAMS PARTNERS

ENTERED

600 B Street, Suite 2000
San Diego, CA 92101
(619) 234-5600
FAX (619) 234-7917

MAR 2 1993

Office

February 26, 1993

Mr. Don Barone
City of San Diego
San Diego Area,
Wastewater Management District
1010 Second Ave., Suite 1600
San Diego, CA 92101

Re: 600 B Street, Suite 1970
New Office Lease

Dear Mr. Barone:

This letter is for documentation of your occupancy of the premises as referenced above. Please sign the original and return to us. Keep a copy for your files.

Landlord, Williams Partners, Inc. agent for KOWA Real Estate California, Inc., has tendered possession of the premises to the City of San Diego, Wastewater Management District as described in that certain Office Building Lease dated October 17, 1991.

"Commencement Date" and "Rent Start" is hereby deemed to be January 25, 1993. Tenant took occupancy of the premises on January 22, 1993.

*See Exhibit D
for Commencement
Date*

The undersigned Tenant acknowledges that it is now in possession of the premises described in Article 2(l) and that said Lease Agreement is in full force and effect.

Rents are due and payable without demand on the first (1st) day of the month as called for in Article 5.1. Checks should be made payable to Williams Partners, Inc./600 B Street, and mailed to Williams Partners, 600 B Street, Suite 2000, San Diego, CA 92101, Attention: 600 B Accounting. Please coordinate this with your accounting personnel to ensure timely remittance.

Page Two

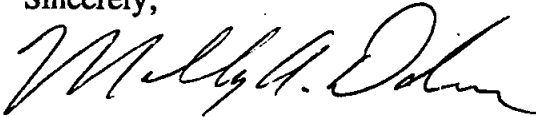
In accordance with Article 9, please provide us with a Certificate of Insurance as soon as possible. Please note that these are typically "term" certificates, and we will need to receive new Certificates as they are changed regarding coverage or when they "expire."

Please name on the certificate the following for coverage:

- | | |
|--|--|
| (1) KOWA Real Estate California, Inc.
c/o Bank of America
Investment Real Estate, #9320
560 Davis Street
San Francisco, CA 94111 | (3) Williams Partners, Inc.
600 "B" Street, Suite 2000
San Diego, CA 92101 |
| (2) Bank of America, N.T. & S.A. as Trustee
c/o Bank of America
Investment Real Estate, #9320
560 Davis Street
San Francisco, CA 94111 | |

We are pleased to welcome you to 600 B Street. Please call on any member of our office if we can be of service to you.

Sincerely,



Molly A. Dohm
Building Manager

MAD/lis



Tenant Authorized Representative

Name: _____
Don Barone

Title: Mgmt. Asst. to the City Mgr.

Date: 3-4-93

cc: accounting
file

being deemed an eviction of Tenant and without abatement of rent. Landlord may, to carry out such purposes, erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, provided the business of Tenant shall be interfered with as little as reasonably practicable. Landlord shall at all times have and retain a key with which to unlock all doors in the Premises, excluding Tenant's vaults and safes. Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency to obtain entry to the Premises. Any entry to the Premises obtained by Landlord by any of said means, or otherwise, shall not be construed or deemed to be a forcible or unlawful entry into the Premises, or an eviction of Tenant from the Premises or any portion thereof. The Landlord shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of the Landlord's or its authorized representatives' reasonable entry on the Premises as provided in this paragraph except for Landlord's negligence or willful misconduct.

8.2. Transfer by Landlord. In the event of a transfer of all of any Landlord's ownership interest in the Building, other than a transfer for security purposes only, Landlord shall be automatically relieved of any and all obligations and liabilities of Landlord pursuant to this Lease accruing from and after the closing of such transfer provided such transferee expressly assumes Landlord's obligations as Landlord under this Lease. Tenant's right to quiet possession of the Premises shall not, however, be disturbed on account of any such transfer, so long as Tenant shall pay Rent and observe and perform all the provisions of this Lease unless this Lease is otherwise terminated.

ARTICLE 9.

INSURANCE AND INDEMNITY

9.1. Tenant's Insurance. The City of San Diego is currently self-insured for its public liability insurance, and budgets annually for its self-administered claims program handled through the Risk Management Department. Except as provided in Section 13.5, claims are processed and administered in accordance with the California Government Code 900 Series. In accordance with section 13.5, the City of San Diego agrees to pay any and all claims or judgments that it may become legally obligated to pay (a) under the California Government Code, or (b) under this Lease arising out of any negligence on the part of the City of San Diego.

9.1.1. Required Insurance. When (1) neither Tenant nor any of its Affiliates is the tenant under this Lease or (2) the financial rating of Tenant's obligations by Standard & Poor's or equivalent rating service is less than "A" or equivalent rating (unless Tenant elects to continue self-insurance in which case Landlord may terminate this Lease by giving one (1) year written notice), Tenant shall at its own expense keep in full force and effect the following insurance:



EXHIBIT D

NOTICE OF LEASE TERM DATES AND
TENANT'S PERCENTAGE SHARE

To: Don Barone
1010 Second Ave. Suite 1600
San Diego, CA 92101

Date: July 21, 1993

RE: Lease dated October 17, 1991, between KOWA Real Estate California, Inc., a California corporation, as Landlord, and The City of San Diego, a municipal corporation, as Tenant, concerning floors P1, 3 - 6 and 8 - 13 located at 600 B Street, San Diego, California, 92101.

Gentlemen:

In accordance with the Lease, we wish to advise and/or confirm as follows:

1. The Premises have been accepted by the Tenant as being substantially complete in accordance with the Lease and there is no known deficiency in construction except as allowed for in the Tenant Improvement Agreement.

2. The Tenant has possession of the Premises and acknowledges that under the provisions of the Lease, the term of the Lease commenced as of June 1, 1993 (the "Commencement Date") for a term of months ending on May 31, 2003.

3. In accordance with the Lease, Rent commenced to accrue on the first day of occupancy for each individual floor.

4. If the Commencement Date of the subject Lease is other than the first day of a calendar month, the Base Monthly Rent will be adjusted pro rata. Each statement thereafter shall be for the full amount of the Base Monthly Rent as provided for in the Lease.

5. Rent is due and payable in advance on the first day of each and every month during the Term. Rent checks should be made payable to Williams Partners, Inc./600 B at 600 B Street, Suite 2000, San Diego, CA 92101.

6. The Rentable Area of Premises is 141,554 square feet. The Usable Area of the Premises is 124,803 square feet.

7. The initial Base Monthly Rent subject to modification per Section 3 of this Lease is \$1.00/prsf.

Base Monthly Rent:

Adjusted Base Monthly Rent (with Parking Right; Article 25.3)

6/1/94	\$1.05/psf	\$1.02/psf
6/1/95	\$1.10/psf	\$1.07/psf
6/1/96	\$1.16/psf	\$1.13/psf
6/1/97	\$1.22/psf	\$1.19/psf
6/1/98	\$1.28/psf	\$1.25/psf
6/1/99	\$1.34/psf	\$1.31/psf
6/1/00	\$1.41/psf	\$1.37/psf
6/1/01	\$1.48/psf	\$1.44/psf
6/1/02	\$1.55/psf	\$1.51/psf

8. Tenant's Percentage Share is 42.123%.

LANDLORD: KOWA Real Estate California, Inc., a California corporation

By: Bank of America, NT&SA, as it's agent

By: _____

Its _____

By: _____

Its _____

TENANT: The City of San Diego, a municipal corporation

By: _____

Its *Wanda Lust to the City Mgr*

By: _____

Its _____

JOHN W. WITT, CITY ATTORNEY

W. Witt
CHIEF DEPUTY CITY ATTORNEY

EXHIBIT E

STANDARDS FOR UTILITIES AND SERVICES

The following standards for utilities and services are in effect. Landlord reserves the right to adopt nondiscriminatory modifications and additions hereto:

1. Landlord shall provide non-attended automatic elevator facilities Monday through Friday, except Legal Holidays, from 7 A.M. to 6 P.M. and have one elevator available at all other times.
2. Landlord shall, on Monday through Friday, except Legal Holidays, from 7 A.M. to 6 P.M., and on Saturday mornings from 8 A.M. to 1:00 P.M. ("Business Days" and "Business Hours") ventilate the Premises and furnish air conditioning or heating on such days and hours. Charges for any such excess usage will be billed monthly and shall be payable by Tenant as Additional Rent. Tenant agrees to cooperate fully at all times with Landlord, and to abide by all regulations and requirements which Landlord may prescribe for the proper function and protection of said air conditioning system. Tenant agrees not to connect any apparatus, device, conduit or pipe to the Building chilled and hot water air conditioning supply lines. Tenant further agrees that neither Tenant nor its servants, employees, agents, visitors, licensees or contractors shall at any time enter mechanical installations or facilities of the Building or adjust, tamper with, touch or otherwise in any manner affect said installations or facilities. The cost of maintenance and service calls to adjust and regulate the heating and air conditioning system shall be charged to Tenant if the need for maintenance work results from either Tenant's adjustment of room thermostats or Tenant's failure to comply with its obligations under this section. Such work shall be charged at hourly rates equal to then current wages for heating and air conditioning mechanics and shall include the cost of all parts to repair the system if damages are solely attributable to the actions of the Tenant.
3. Landlord shall furnish to the Premises, during the usual Business Hours on Business Days, electric current as required by Tenant for normal office purposes, including but not limited to fluorescent and incandescent lighting and office business machines, including, without limitation, duplicating machines, computers and communications equipment. Tenant agrees not to use any apparatus or device in, upon, or about the Premises which may in any way increase the amount of such services usually furnished or supplied to said Premises, and Tenant further agrees not to connect any apparatus or device with wires, conduits or pipes, or other means by which such services are supplied, for the purpose of using additional or unusual amounts of such services without written consent of Landlord.
4. Whenever equipment or lighting (other than Building standard lights) is used in the Premises by Tenant and such equipment or lighting affects the temperature otherwise normally maintained by the design of the air conditioning system, Landlord will have the right, after notice to Tenant, to install supplementary air conditioning facilities in the Building or Premises or otherwise modify the ventilation and air conditioning system serving the Premises, and the cost of such facilities and modifications will be borne by Tenant. Tenant will bear the cost of replacement bulbs or tubes for all non-building standard light fixtures.
5. Water will be available in public areas for drinking and lavatory purposes only, but if Tenant requires, uses or consumes water for any purposes in addition to ordinary drinking and lavatory purposes, Landlord or Tenant may install a water meter and thereby measure Tenant's water consumption for all purposes. Tenant shall pay for the cost of the meter and the

cost of the installation thereof and throughout the duration of Tenant's occupancy Tenant shall keep said meter and installation equipment in good working order and repair at Tenant's own cost and expense. Tenant agrees to pay for water consumed over and above that required for normal drinking and lavatory purposes, as shown on said meter, as and when bills are rendered.

6. If Tenant requires additional services which are not specified herein and Landlord provides such services to Tenant, or if Tenant's floor covering or other improvements are Non-Building Standard, Tenant will pay to Landlord, as Additional Rent, within thirty (30) days of written demand, Landlord's actual and documented cost of providing such services.

EXHIBIT F

TENANT ESTOPPEL CERTIFICATE

The undersigned, Kowa Real Estate California, Inc., a California corporation ("Landlord"), and The City of San Diego, a Municipal corporation ("Tenant"), hereby certify as follows:

1. Attached hereto is a true, correct and complete copy of that certain Lease dated _____, 19____, between Landlord and Tenant (the "Lease") which Premises is located at (the "Premises"). The Lease represents the entire agreement between the parties as to this leasing, and the Lease is now in full force and effect and has not been amended, modified or supplemented, except as set forth in Section 4 below.

2. The term of the Lease commenced on _____.

3. The term of the Lease shall expire on _____, 19____.

4. The Lease has (initial one):

_____ not been amended, modified, supplemented, extended, renewed or assigned.

_____ been amended, modified, supplemented, extended, renewed or assigned by the following described agreements, copies of which are attached hereto (which are hereinafter deemed to be included in the definition of the "Lease"):

5. Tenant has accepted, is now in possession of, and currently occupies the Premises which contains a Rentable Area of _____ square feet.

6. Tenant and Landlord acknowledge that the Lease will be assigned to _____ and that no modification, adjustment, revision or cancellation of the Lease or amendments thereto shall be effective unless written consent of _____ is obtained, and that until further notice, payments under the Lease may continue as heretofore.

7. The amount of Base Monthly Rent is _____ Dollars (\$_____) and was payable from _____.

8. Tenant is paying the full Base Monthly Rent required under the Lease which has been paid in full _____ for _____, 19____. No rent under the Lease has been paid for more than thirty (30) days in advance of its due date.

9. Except as provided below: (i) all conditions and work required to be performed by Landlord under the Lease have been satisfied and completed, and (ii) all sums due from Landlord to Tenant have been paid; except as follows:

10. There are no defaults on the part of the Landlord or Tenant under the Lease.

11. Tenant has no right to any concession (rental or otherwise) or similar compensation in connection with renting the space it occupies except as provided below.

12. Tenant acknowledges and accepts the Notice of Lease Term Dates and Tenant's Percentage Share dated _____, 19____, attached hereto.

All provisions of the Lease and the amendments thereto (if any) referred to above are hereby ratified.

The foregoing certification is made with the knowledge that _____ is about to fund a loan to Landlord and that

_____ is relying upon the representations herein made in funding such loan.

IN WITNESS WHEREOF, this certificate has been duly executed and delivered by the authorized officers of the undersigned as of _____, 19____.

LANDLORD: Kowa Real Estate California, Inc., a California corporation

By: Bank of America, NT&SA, as its agent

By: _____ [Name]
Its _____ [Title]

By: _____ [Name]
Its _____ [Title]

TENANT: The City of San Diego, a municipal corporation

By: _____ [Name]
Its _____ [Title]

By: _____ [Name]
Its _____ [Title]

EXHIBIT G

TENANT IMPROVEMENT AGREEMENT

(Landlord to Construct - Turnkey)

Landlord and Tenant are executing simultaneously with this Tenant Improvement Agreement ("Agreement", a written lease ("Lease") covering those certain premises more particularly described in Exhibit A to the "Leased Premises"), in the Building more particularly described in the Lease. Landlord and Tenant agree that Landlord shall Improve and prepare the Premises on Tenant's behalf and for Tenant's occupancy, on the terms and conditions set forth in this Agreement and outlined in working drawings to be completed by Landlord's Space Planner and approved by Landlord. Landlord and Tenant intend by this Agreement that Tenant shall be permitted freedom in the interior design and layout of the Premises, consistent with all applicable laws, ordinances and regulations, and consistent with the design, construction and equipment of the Building and with sound architecture and construction practice in comparable office buildings. To induce Landlord and Tenant to enter into the Lease (which is hereby incorporated by reference to the extent that the provisions of this Agreement may apply thereto) and in consideration of the mutual covenants hereinafter contained, Landlord and Tenant mutually agree as follows:

1. Representatives and Definitions. Landlord appoints Landlord's Representative to act for Landlord and Tenant appoints Tenant's Representative to act for Tenant in all matters covered by this Agreement. All inquiries, requests, instructions, authorizations and other communications with respect to the matters covered by this Agreement will be made to Landlord's Representative or Tenant's Representative, as the case may be. Either party may change its Representative under this Agreement at any time with three business (3) days' prior written notice to the other party.

Tenant's Representative: Dave Seyfarth or Rhea Kuhlman

Landlord's Representative: Mike Peckham, Williams Partners

Landlord's Space Planner ("Space Planner"): Interspace Design & Development

Landlord's Contractor ("Contractor"): To be selected by Landlord and reasonably approved by Tenant

2. Plans and Specifications.

2.1. Within a reasonable period of time following execution of the Lease, Tenant shall cooperate with and submit to Space Planner complete information ("Tenant Information") necessary for Space Planner to prepare a space layout and improvement plan for the Premises ("Space Plan") including architectural, mechanical, plumbing and electrical layout plans and specifications required for the performance of the work to construct tenant improvements for the Premises ("Tenant Improvements"). Such plans shall include but not be limited to partition layout, reflected ceiling plans, electrical outlets and switches and telephone outlets and locations. Landlord, Tenant and Contractor shall cooperate to the best of their ability to provide all information required for coordination of architectural, mechanical, electrical, and plumbing drawings in a timely manner.

2.2. It is understood and agreed that selection of wall paint colors and carpeting will be included at no cost to Tenant by Space Planner. Any other interior decorating services required by Tenant shall be at Tenant's sole cost and expense.

2.3. All plans and specifications are subject to the Landlord's approval, which the Landlord agrees shall not be unreasonably withheld, conditioned or delayed.

3. Landlord's Approval. Landlord may withhold its approval of any Space Plan including any revisions requested by Tenant, Working Drawings, Tenant Extra Work or Change Orders which require work which:

(a) exceeds or affects the structural integrity of the Building or any part of the heating, ventilating, air conditioning, plumbing, mechanical, electrical, communication or other systems of the Building;

(b) Landlord reasonably believes will increase the cost of operation or maintenance of any of the systems of the Building; or

(c) does not conform to applicable building code or is not approved by any governmental authority with jurisdiction over the Premises and/or the Building.

4. Schedule of Tenant Improvement Activities.

4.1. Space Planner shall prepare the Space Plan in accordance with Section 2 of this Agreement. Tenant shall approve or disapprove the Space Plan in writing within fifteen (15) Business Days (defined in the Lease) of receipt from Space Planner. If Tenant disapproves the Space Plan, Landlord and Tenant shall, within five (5) Business Days following Landlord's receipt of Tenant's disapproval, meet and revise the Space Plan to the reasonable satisfaction of Tenant.

4.2. After Tenant's approval of the Space Plan, Space Planner shall prepare and deliver to Tenant and Landlord working drawings for the Premises ("Working Drawings"), and Tenant shall have ten (10) Business Days to approve or disapprove the Working Drawings after receipt by Tenant. Following approval of the Working Drawings by Landlord and Tenant, Landlord shall then submit the Working Drawings to a licensed contractor selected by Landlord and approved by Tenant who shall construct the Tenant Improvements.

5. Change Orders. Tenant may authorize changes in the work during construction, only by written instructions from Tenant's Representative to Landlord's Representative on a form approved by Landlord. All such changes shall be subject to Landlord's prior written approval in accordance with Section 3 of this Agreement. Prior to commencing any change, Landlord shall prepare and deliver to Tenant, for Tenant's approval, a change order (the "Change Order") setting forth the additional time required to perform the change and the total cost of such change. If Tenant fails to approve such Change Order within two (2) Business Days after delivery by Landlord, Tenant shall be deemed to have withdrawn the proposed Change Order and Landlord shall not proceed to perform the change. Upon Landlord's receipt of Tenant's approval, Contractor shall proceed to perform the change and Tenant shall pay for such Change Order within thirty (30) days of Tenant's receipt of an invoice therefor from Landlord.

6. Completion and Rental Commencement Date. It is agreed that Tenant's obligation for the payment of Rent for each block of space to be occupied by Tenant under the Lease shall not occur until the earlier to occur of (i) thirty (30) days after Substantial Completion of the Tenant Improvements; or (ii) Tenant opens for business in the Premises.

As used in this Lease and this Agreement, the term "Substantial Completion of the Tenant Improvements" shall mean that (i) Landlord has procured an Authorization to Occupy/Certificate of Occupancy (or an equivalent from the City for such

work) and (ii) such work has been performed substantially in accordance with this Agreement except for finishing details of construction, decoration, mechanical, and other adjustments and other items of the type commonly found on an architectural "punch list", none of which materially interfere with Tenant's use or occupancy of the Premises for normal business operations.

7. Construction of the Premises. Contractor shall construct the Tenant Improvements within the Premises under contract with the Landlord. Following approval of the Working Drawings by Landlord and Tenant, Contractor will cause application to be made to the appropriate governmental authorities for necessary approvals and building permits. Upon receipt of the necessary approvals and permits, Contractor shall begin construction and diligently prosecute the same to completion.

8. Tenant's Punch List.

8.1. Once the Tenant Improvements are substantially completed and prior to Landlord's delivery of the Premises to Tenant, Landlord shall give Tenant five (5) days prior notification of a meeting for Tenant to inspect the Tenant Improvements. Tenant's representative shall completely examine the Premises and prepare with Landlord's representative and Contractor a list of all visible items to be completed by Contractor to finish the Tenant Improvements. The list shall be signed by both Landlord, Tenant and Contractor and all items shall be completed thirty (30) days after Substantial Completion.

8.2. Any items damaged during Tenant's move in or occupancy shall be repaired or replaced by Contractor at Tenant's sole cost and expense except for touch up painting which shall be completed at Landlord's expense.

9. Tenant Improvements At Landlord's Cost and Expense.

9.1. Turnkey Improvements. Landlord agrees to provide Tenant Improvements for the initial Premises (and any space subsequently occupied by Tenant in the Building) as shown on the Working Drawings, all at Landlord's sole cost and expense on a "turnkey" basis. The Tenant Improvements to be provided shall include any and all costs of construction, city permits, license fees, space planning, mechanical, structural and electrical engineering including any telephone and data line cabling and structural reinforcement (if any).

9.2. Space Planning Expenses. Tenant has selected, and Landlord has approved Interspace Design & Development ("IDD") to provide space planning and construction document services in connection with the design and construction of the tenant improvements. IDD will contract directly with Landlord for such services at a cost not to exceed Fifty-Five Cents (\$0.55) per square foot of Usable Area. Landlord shall pay IDD directly for such services.

9.3. Additional Improvement Contribution. In addition to the construction of the Tenant Improvements by Landlord, with respect to the initial Premises to be occupied by Tenant and all "Must Take" space, Landlord shall provide Tenant with an additional contribution ("Additional Contribution") in the amount of Five and No/100 Dollars (\$5.00) per square foot of Usable Area of such space. The Additional Contribution may, at Tenant's sole option, be used to either (i) abate Base Monthly Rent as it becomes due, or (ii) purchase furniture which shall immediately become the sole property of Tenant.

10. Building Standards. Tenant shall utilize Landlord's "Building Standard" Improvements which shall be in the quantities required by the Space Plan and Working Drawings and comparable to industry standards for tenants of comparable office buildings in downtown San Diego. The quality of all Tenant Improvements shall

be equal to or better than the quality of the Building Standard improvements provided throughout the Building. Tenant acknowledges that Landlord has provided Tenant with a copy of a list of its "Building Standard" improvements prior to the execution of this Agreement.

11. Shell Construction. Landlord shall at its expense provide as part of the initial construction of the Premises the following items: (i) finished concrete floor (except where deleted to accommodate Tenant's future plumbing requirements) on a single plane without depression or raised areas; (ii) outside walls, structural columns, demising walls with exposed studs to accommodate Tenant's future electrical requirements; (iii) 110/208 3 phase power supplied to a central location within the Building, together with electrical sub-panels as needed in the Premises; (iv) sprinkler system for the Building shell which shall be deemed to include Tenant's interior sprinkler system along with the lowering of sprinkler heads to ceiling height and located in accordance with Tenant's Space Plan; and (v) HVAC main loop ducting which shall not be deemed to include Tenant's ultimate ducting distribution. In addition, Landlord's shell construction shall, at Landlord's expense, include all demolition required by Tenant, any required handicap code compliance including any restroom renovation, building standard window coverings and all columns and core walls drywalled, sanded and ready for paint.

12. Tenant's Right to Construct Tenant Improvements. In the event Landlord fails to commence or complete the construction of the Tenant Improvements as contemplated by this Lease and that failure continues for more than thirty (30) days after written notice from Tenant of such failure, which thirty (30) day period shall be extended by one (1) day for each day that Landlord is prevented from commencing or completing the Tenant Improvements by reason of Force Majeure and/or delays caused by Tenant, Tenant may commence or complete all or any portion of the Tenant Improvements in a commercially reasonable manner in accordance with the Tenant Improvement Agreement and subject to the provisions of Article 7 of the Lease. Landlord shall reimburse Tenant within thirty (30) days after written demand for all actual and documented costs incurred by Tenant in performing the construction work following Landlord's default. In the event any amounts so demanded by Tenant are not paid when due, Tenant may offset the costs of construction, together with interest on the outstanding amounts at the Interest Rate, against Base Monthly Rent as it becomes due under this Lease until Tenant has been reimbursed in full.

13. Application of Tenant Improvement Agreement. Landlord and Tenant acknowledge and agree that all terms and conditions of this Agreement shall apply to the initial premises to be occupied by Tenant pursuant to the Lease, and any and all premises in the Building subsequently occupied by Tenant pursuant to this Lease during the initial Term and any extension thereof.

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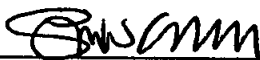
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14. Miscellaneous. In the event of any conflict between the terms of this Tenant Improvement Agreement and the Lease, the terms of this Tenant Improvement Agreement shall control.

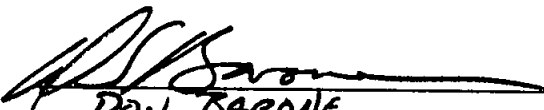
LANDLORD: Kowa Real Estate California, Inc., a California corporation

By: Bank of America, NT&SA, as its agent

By: 
STEVEN W. ENGLAND [Name]
Its VICE PRESIDENT [Title]

By: 
T. Kirby [Name]
Its VICE PRESIDENT [Title]

TENANT: The City of San Diego, a municipal corporation

By: 
DON GARONE [Name]
Its Property Services Supervisor [Title]
for CITY MANAGER

By: _____ [Name]
Its _____ [Title]

0- 17718

EXHIBIT H

NONDISTURBANCE AGREEMENT

[To be provided]

Great American Building
August 6, 1991

EXHIBIT I

JANITORIAL SERVICES

Service Days - Sunday through Thursday

OFFICE AND COMMON AREAS

Daily Services - General Cleaning: Five (5) days per week

1. Empty and clean all waste/trash baskets and waste/trash containers and remove all waste/trash. Change all plastic liners if applicable and as needed. Wash receptacles as needed.
- 1A. Separate recycleable items and dispose of into designated bins on P-1 (ie., white paper, newspaper, cans, and bottles).
- 1B. Take all trash to designated areas for removal from the building. Be careful not to spot any floor areas or elevator carpets in the process.
2. Spot clean and vacuum all carpeting in all areas of the building (common and tenant). Remove staples and other debris.
3. Sweep, dust mop and/or damp mop all resilient tile floors in all common and tenant areas. Use a dustless mop with dust down preparation - do not use oil treated dust mops. Remove all scuff marks, black or otherwise. Do not apply any sealant without prior written approval from Management.
4. Clean (empty and damp wipe) all ash trays. Polish all sand urn lids. If sand is used, it will be cleaned daily and changed weekly.
5. Dust all furniture and equipment including file cabinets, desk top items, fixtures, and telephones.
6. Damp wipe/wash and sanitize all telephones.

AMERICAN BUILDING MAINTENANCE CO.

OFFICE AND COMMON AREAS (continued)

7. Wipe and remove smudge marks, spots, dust, dirt, fingerprints, and stains from doors, door facings, door edges, door jams, handplates, door knobs, locks, kick-plates, woodwork, counters, furniture, table tops, equipment, light switches, receptacle covers, walls, and partitions.
8. Wash all entrance doors, glass and otherwise, including mail slots. Spot clean all partition glass.
- 8A. Dust windowsills, ledges, and baseboards.
- 8B. Properly position furniture, books, and magazines in lobby areas.
- 8C. Wash all lunchroom/coffee area table tops, sinks, and counters.
9. Wash and polish directories in public lobbies and elevator lobbies; and the security console.
10. Clean all elevator doors metal trim, thresholds, walls, and ceilings. Vacuum all elevator cab floor carpets and spot clean if needed. If elevator cab floors are not carpeted, sweep and mop the floor. Vacuum and clean floor channels for all elevator doors.
11. Clean exterior of stoves, refrigerators, sinks, tables, chairs, and vending machines.
12. Brush upholstered furniture for lint or debris.
13. Damp wipe all vinyl covered furniture as needed.
14. Spot sweep or vacuum all stairs and stairwells.
15. Completely clean, polish, and disinfect all drinking fountains.
16. Any spots or spills resulting due to Contractor's employees shall be removed at Contractor's expense.
17. When exiting any suite, shut off lights and lock suite doors opening into common hallways.
18. Additional work requested by a specific tenant that will entail an extra billing must be pre-approved, in writing, by the Building Manager, if it is not intended to be paid by the Building.

AMERICAN BUILDING MAINTENANCE CO.
OFFICE AND COMMON AREAS (continued)

19. Report all burned out lights to facilities manager.

Weekly Services:

1. Damp wipe with a treated cloth and polish all interior doors and walls.
2. Vacuum all fabric furniture and fabric wall coverings.
3. Damp wipe all vinyl furniture.
4. Dust lower surfaces of all furniture.
5. Dust all ledges, files, baseboards, and sills.
6. Sweep and damp mop full tile or cement floor areas.
7. Thoroughly detail vacuum entire carpet areas. Remove staples and other debris.
8. All bright metal in public areas will be cleaned.
9. Clean, remove all black marks, and glaze-buff resilient floors.
10. Dust all window sills, picture frames, plaques, emblems, ledges, and other exposed flat surfaces which are not dusted daily.
11. Clean and/or damp mop and glaze-buff all terrazzo, tile, and brick floors.
12. Clean all exterior ledges, lettering, and plaques below seven feet.
13. Polish elevator bright metal and clean elevator finished wall surfaces.
14. Clean all carpet saver plastic mats. Vacuum carpet under and replace mats. Brush and vacuum all carpet edges.
15. Low dust all chair rungs and baseboards.
16. Mop/scrub with soap and water all exterior walks, entrances, and plaza areas.
17. Pour one pail of water (with disinfectant added) to all floor drains.

AMERICAN BUILDING MAINTENANCE CO.
OFFICE AND COMMON AREAS (continued)

18. Dust all wood paneling.
19. Vacuum all fabric covered walls as needed.
20. Dust and damp clean overhead vents as needed.
21. Wash all office equipment stands, window sills, filing cabinets, counter tops, tables, and benches.
22. Clean all tissue, towel, seat cover dispensers, and high dust partitions in washrooms.
23. High dust all door sashes, tops of partitions, ledges, or any other area where dust may accumulate.
24. Shampoo all elevator cab carpets. Wash interior and exterior surfaces of all ground floor windows and entrance doors in the building lobby. Wipe down metal trim on glass.

ELEVATORS

Daily Services - General Cleaning: Five (5) days per week

1. Vacuum daily and clean all spots and stains from carpet.
2. Dust and hand buff all metal with approved polish (no abrasives).
3. Damp wipe and remove all spots and fingerprints from doors and walls (interior and exterior), then polish (includes door edges).
4. Foot treadles are to be cleaned of all spots, stains, gum, or tar.
5. Empty, clean, and polish all ash containers.
6. Dust and clean elevator ceilings.
7. Clean emergency telephone receptacles.
8. Vacuum all elevator door tracks.

AMERICAN BUILDING MAINTENANCE CO.
LOBBY AND COMMON HALLWAYS

Daily Services - General Cleaning: Five (5) days per week

1. Empty, clean, and polish all ash containers.
2. Screen all sand urns of cigarette butts and other debris. Replace sand as needed.
3. Empty and clean inside and out all wastebaskets. Replace trash liners as necessary.
4. Vacuum, dust, sweep off or damp wipe, and spot clean furniture as required (using proper cleaning procedure for either fabric, vinyl, or wood).
5. Wipe clean all glass, wood or metal doors, and door jams.
6. Dust and clean all horizontal surfaces under seven (7) feet.
7. Clean all telephones.
8. Wipe clean all directories.
9. Clean, polish, and sanitize all water fountains.
10. Remove all fingerprints, smudges, and marks from walls.
11. Vacuum all carpet areas completely and remove spots.
12. Dust mop, damp mop, and buff all tile floors.
13. Dust, clean, and polish fire extinguisher equipment and cabinets, clean glass.
14. Clean all elevator doors and door frames.
15. Clean and sanitize all public telephones.

Weekly Services:

1. Dust all baseboards.
2. Wipe clean the inside of all directory glass.
3. Wash all horizontal surfaces under seven (7) feet.
4. Dust all ledges and exit signs.

AMERICAN BUILDING MAINTENANCE CO.

LOBBY AND COMMON HALLWAYS (continued)

5. Dust all walls below seven (7) feet.

6. Dust with a brush all door name plates.

Monthly Services:

1. Scrub and wax tile floors.
2. High dust all walls, ledges, and horizontal surfaces over seven (7) feet.
3. Shampoo common area carpeting as necessary.
4. Strip, reseal or rewax common area floors as necessary.

STAIRWELLS

Daily Services - General Cleaning: Five (5) days per week

1. Police entire area, picking up all trash, cigarette butts, etc.
2. Vacuum, sweep, and wet mop private stairways and stairwells.

Weekly Services:

1. Sweep down all stairs and landings giving special attention to corners and baseboards.
2. Dust and wipe all handrails, bannisters, and ledges.
3. Clean walls of fingerprints, smudge marks, etc.
4. Wet mop all stairs.

Monthly Services:

1. Dust all light covers.
2. Vacuum and wet mop all steps and landings.

BASEMENT - PARKING P1-3 LEVELS

Daily Service - General Cleaning: Five (5) days per week

1. Sweep and mop upstairs from cement floors.
2. Empty and clean all ash containers.

AMERICAN BUILDING MAINTENANCE CO.

BASEMENT - PARKING P1-3 LEVELS (continued)

3. Empty and clean all trash containers.
4. Police trash area, clean as necessary.
5. Maintain janitor's room in a clean and orderly fashion.
6. Vacuum and spot clean carpeted lobbies on P-2 and P-3.
- 6A. Wet mop every night, wax and buff weekly, strip and re-wax when necessary.
7. Clean all elevator lobbies, elevators, and areas outside elevators as previously discussed.

Weekly Services:

1. Dust baseboards.
2. Scrub and wax tile floors.

RESTROOMS

Daily Services - General Cleaning: Five (5) days per week

1. Wash and disinfect all basins, urinals, lavatories, counter tops, faucets, showers, partitions, soap dispensers, and bowls nightly, removing scale and stains, and clean underside of rims of urinals and bowls.
2. Wash both sides of all toilet seats with soap and water and disinfectant.
3. Empty, wipe, clean, sanitize, and reline all trash dispensers as necessary.
4. Furnish and fill toilet tissue, soap, towel, and sanitary napkin dispensers as necessary.
5. Damp wipe, polish, and shine all chrome, metal fixtures, bright work, hand plates, kick plates, plumbing, door knobs, walls, door facings, doors, light switches and receptacle covers, and partitions in all restrooms, including showers.
6. Clean and polish mirrors.
7. Dust all ledges and baseboards.
8. Spot clean with disinfectant all partitions and tile walls.

AMERICAN BUILDING MAINTENANCE CO.
RESTROOMS (continued)

9. Dust mop, wet mop, disinfect (with approved germicidal disinfectant) tile floors paying particular attention to bases of toilets and urinals.
10. Clean alkaline deposits and soap spills from floor tile grout.
11. All cleaning materials, especially acid sealants and waxes, must be approved for use by Facilities Manager.
12. Report all leaks, missing items, or other maintenance needs to Facilities Manager.
13. Maintain janitor closets in a clean and orderly state.

Weekly Services:

1. Water seal all floors and administer drain maintenance as needed.
2. Clean and dust air conditioning grills.
3. Wash all waste containers.

Monthly Services:

1. Strip wax and apply new wax to tile floors.
2. Wash down ceramic tile walls, enamel surfaces, and toilet compartment partitions from top to floors.
3. Perform all high dusting.
4. Vacuum levolors, vent grills, and clean light fixtures.

PLAZA AREA - off 3rd Floor

1. Mop/scrub with soap and water plaza area weekly.

WINDOW WASHING

The exterior windows of the office tower will be cleaned a minimum of three (3) times per year.