

ORIGINAL

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SAN DIEGO, CALIFORNIA

OFFICE LEASE

between

**Executive One Associates,
an Illinois limited partnership
(LANDLORD)**

and

**The City of San Diego,
a Municipal Corporation
(TENANT)**

Date: October 21, 1991

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OFFICE LEASE

BASIC LEASE PROVISIONS

- 1 **DATE OF LEASE:** October 21, 1991 (for reference purposes only)
- 2 **LANDLORD:** Executive One Associates, an Illinois limited partnership
- 3 **TENANT:** The City of San Diego, a Municipal corporation
- 4 **BUILDING NAME AND ADDRESS:**
Executive Complex
1010 Second Avenue, San Diego, California, 92101
- 5 **PREMISES:** SEE ADDENDUM PARAGRAPH 3

SEE SCHEDULE 1 ATTACHED TO ADDENDUM.
- 6 **TERM:** 120 months, plus any partial month at the commencement of the Term.
SEE ADDENDUM PARAGRAPH 4
- 7 **COMMENCEMENT DATE:** See Section 7 of the Tenant Improvement Agreement attached hereto as Exhibit G. SEE ADDENDUM PARAGRAPH 5
- 8 **BASE MONTHLY RENT:** One and 35/100 Dollars (\$1.35) per square foot of Rentable Area.
SEE ADDENDUM PARAGRAPH 6
- 9 **RENTAL ADJUSTMENTS:** INTENTIONALLY OMITTED
- 10 **PREPAID RENT:** Zero Dollars (\$0.00)
- 11 **SECURITY DEPOSIT:** Zero Dollars (\$ 0.00)
- 12 **TENANT'S INITIAL PERCENTAGE SHARE OF OPERATING EXPENSES:** Approximately 38.74% based upon the Rentable Area of the Premises which is 120,200 square feet and the Rentable Area of the Building which is 310346 square feet.
- 13 **BROKERS:**

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

Landlord: Executive One Associates c/o PM Realty Group
1010 Second Avenue, Suite 1600
San Diego, CA 92101
Attn: Eric Tompkins

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. 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:** SEE ADDENDUM AND TENANT IMPROVEMENT AGREEMENT.

19 BASE YEAR: Calendar Year 1992.

20 ADDENDA: The Addendum to Lease attached to this Lease is incorporated herein by this reference and made a part hereof.

21 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.

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.

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. "Base Monthly Rent" shall refer to the initial Base Monthly Rent specified in Section 6 of the Basic Lease Provisions, and, as the context requires, any adjustments made to the initial Base Monthly Rent.

1.3 Building; Office Building. "Building" or "Office Building" means the 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 Index. Intentionally Omitted

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. SEE ADDENDUM PARAGRAPH 2

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 Building, the Building Common Areas, and the Building Lot (sometimes hereinafter collectively referred to as the "Project") consistent with a first-class Class A institutional quality office building determined as if the Building were not less than 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 and other charges for fire and extended coverage insurance (all risk, full replacement cost), including at Landlord's election 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;

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 first-class, Class A institutional quality office buildings.

1.14 Prime. "Prime" shall mean the rate publicly announced from time to time by Bank of America as its "Reference Rate" or "Prime Rate."

1.15 Property Taxes. "Property Taxes" means and shall include any form of real property tax or 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. "Property Taxes" shall also include any assessment, tax, special tax, fee, levy or charge, in substitution or addition, partial or total, to or regarding any 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 services such as fire protection, street, sidewalk and road maintenance, refuse removal and for other governmental services formerly provided with or without charge to property owners and 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 purposes of this Lease.

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 nondiscriminatory amendments and modifications thereto made by Landlord from time to time.

1.19 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.

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

1.21 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.

1.22 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.

1.23 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), 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 Premises described in Section 5 of the Basic Lease Provisions and in Exhibit A, provided that the Rentable Area and Usable Area shall be determined by Tenant'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. Tenant shall have the right, exercisable during the space planning process, to remeasure the Premises. In the event that subsequent remeasurement of the Premises by Tenant, within the time period specified above, 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 and this Lease shall be amended accordingly. 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 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.

Landlord agrees that the loss factor from Usable Area to Rentable Area on floors that are fully occupied by Tenant shall not be more 1.08. If such loss factor is in excess of 1.08, Tenant shall not have to pay any Rent attributable to the square footage in excess thereof.

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 Tenant'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 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 and name 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 the period stated in Section 6 of the Basic Lease Provisions. The Term of the Lease shall commence on the occurrence of the event specified in Section 7 of the Basic Lease Provisions. If not specifically designated in the Basic Lease Provisions, the 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 determined by Landlord and will 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 34.8. 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 any scheduled Commencement Date subsequently agreed upon in writing by Landlord and Tenant, 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 the Term of this Lease and the Commencement Date shall thereupon commence. Notwithstanding the foregoing, if Landlord is unable to deliver possession of the initial Premises or any additional premises within the Building subsequently leased by Tenant with Tenant Improvements substantially completed within one hundred and eighty (180) days of any scheduled Commencement Date for such premises subsequently agreed to in writing by Landlord and Tenant (subject however to Force Majeure and delays caused by Tenant), then Tenant shall have the right to terminate this Lease with respect to the premises for which Landlord has failed to deliver by such scheduled Commencement Date upon ten (10) days prior written notice to Landlord. **SEE ADDENDUM PARAGRAPH 7**

ARTICLE 3

RENT

3.1 Base Monthly Rent.

3.1.1 Payment of Rent. Rent shall be payable in equal monthly installments in advance 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 the address shown in Section 14 of the Basic Lease Provisions, 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 if necessary, 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 Tenant'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 Tenant's occupancy of the first block of space in the Building.

3.1.2 Rent Adjustments. Intentionally Omitted.

3.2 Additional Rent. The sums, if any, required to be paid by Tenant pursuant to the terms of this Section 3, 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 installment of Base Monthly Rent falling due.

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 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 Tenant'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 January 1 of each such 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 January 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 ninety (90) 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 one (1) year 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; or the applicable renewal terms if option(s) to renew are exercised) and conversely any overpayment made in the event of a decrease in Operating Expenses shall be rebated by Landlord to Tenant within sixty (60) days of such termination.

3.2.1.5 Audit Rights. Tenant shall have the right, after reasonable notice and at reasonable times, to audit, inspect and photocopy Landlord's accounting records at Landlord's office in San Diego by a staff auditor of Tenant. If, after such audit, inspection and photocopying, Tenant still disputes the amount of its Percentage Share of Operating Expenses as set forth in the 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 Prime (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 by more than five percent (5%). 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. **SEE ADDENDUM PARAGRAPH 8**

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 Late Charges. Tenant hereby acknowledges that the late payment by Tenant to Landlord of Rent and other sums due pursuant to this Lease will cause Landlord to incur unanticipated costs, the exact amount of which will be extremely difficult to ascertain. Therefore, if any Rent or any other sum due from Tenant is not received within ten (10) days from the date of written demand for payment from Landlord, Tenant shall pay to Landlord, in addition to the amount due, a charge ("Late Charge") equal to two percent (2%) of the delinquent amount. The parties agree that the Amount of such Late Charge represents a fair and reasonable estimate of the costs and expenses that would be incurred by reason of a late payment by Tenant.

3.5 Abatement of Rent when Tenant is Prevented from Using Premises. In the event that Tenant is prevented from using, and does not use, 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, and does not use, bears to the total rentable area of the Premises during the period Tenant is prevented from conducting its business from the Premises or the unusable portion of the Premises. However, in the event that Tenant is prevented from conducting, and does not conduct, 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, and if Tenant does not conduct its business from such remaining portion, 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 the use described in Section 16 of the Basic Lease Provisions.

4.2 Acceptance of Premises. The taking of possession or use of the Premises by Tenant for any purpose other than construction 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 ninety (90) 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 (i) close enough to the actual date of substantial completion of the work described in the Tenant 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 prepare and effectuate its move in to the Premises.

4.2.1 Construction/Standard For Maintenance and Repair. Landlord hereby warrants to Tenant that the Building and that portion of the Premises constructed by Landlord or Landlord's Contractor have been constructed in a first class manner and in full compliance with 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, or from Landlord's and/or Landlord's Contractor's utilization of asbestos or hazardous waste. Otherwise, Landlord shall maintain the Building, and subject to Tenant's repair obligations set forth in this Lease, the Premises, in excellent condition and repair, 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. **SEE ADDENDUM PARAGRAPH 9**

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 for Tenant's intended use of the Premises.

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. **SEE ADDENDUM PARAGRAPH 10**

4.6 Hazardous Materials. 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. 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.

With the exception of asbestos, which the parties acknowledge to be present in the Building, Landlord represents and warrants, to the best of Landlord's knowledge, that neither Landlord nor 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.

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. **SEE ADDENDUM PARAGRAPH 11**

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, Rent and other charges due hereunder 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 and the pass-through of Operating Expenses as set forth in Section 3.2.1 shall be adjusted accordingly. 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 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.

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 first-class office buildings in the vicinity of the Building: (a) heat, ventilation, air conditioning (collectively "HVAC") and other cooling as required for the comfortable use and occupancy of the Premises as reasonably determined by Tenant in accordance with the approved Working Drawings; (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 first-class high-rise 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 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 and personnel 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. Tenant shall be responsible for all repairs to the Building, including the Premises which are made necessary by any misuse or neglect by Tenant or any of its officers, agents, employees, contractors, licensees, or subtenants unless and to the extent Landlord is entitled to receive the proceeds from insurance carried as a part of Operating Expenses. 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. 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 first-class office building 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. Except as otherwise specifically provided in this Lease, Tenant waives the provisions of California Civil Code Sections 1932(1), 1941 and 1942 with respect to Landlord's obligations for tenantability of the Premises and Tenant's right to make repairs to the Premises or the Project at the expense of Landlord, or to deduct the cost of such repairs from any payment owed to Landlord under the Lease.

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 provide such action (or commence to provide such action and thereafter diligently pursue the same to completion) within a reasonable period of time, after the receipt of such written notice, but in no event later than ten (10) Business Days after receipt of such written notice, unless Landlord is specifically required to act in less than ten (10) Business 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. 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 plus interest thereon at the Interest Rate. 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 particularized 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.

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 which exceed Five Thousand Dollars (\$5000.00) in cost ("Alterations") without Landlord's prior written consent which consent shall not be unreasonably withheld, conditioned or delayed; provided however, if Tenant proposes to undertake any Alterations above the ceiling of the Premises (without regard to cost), Tenant shall first provide Landlord with written notice of the same. 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 wallcovering, built-in cabinet work, paneling and the like, shall, unless Landlord elects otherwise by written 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 a part of the Tenant Improvement Allowance 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 are and will be Landlord's property for all purposes under this Lease.

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 material. 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, material 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 material 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 at the maximum rate per annum then permitted by law (but in no event in excess of the Prime Rate accruing from the date paid or incurred by Landlord until reimbursed to Landlord by Tenant).

ARTICLE 8

RIGHTS OF LANDLORD

8.1 Entry and Inspection.

8.1.1 Landlord's Inspection and Maintenance. Subject to the provisions of Section 3.5 of this Lease 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, all without committing any 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 that 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.

8.2 Transfer by Landlord. In the event of a transfer of all of 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 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. Notwithstanding anything to the contrary set forth in this Article 9, Landlord acknowledges that 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. Claims are handled in accordance with the California Government Code 900 Series. The City of San Diego agrees to pay any and all claims and all judgments that it may become legally obligated to pay under the California Government Code, arising out of any negligence on the part of the City of San Diego. Accordingly, Landlord acknowledges that so long as the Tenant is the City of San Diego or an Affiliate (defined below) the insurance requirements of this Section 9.1 shall not be applicable to Tenant. Except as provided in this Section 9.1, the right of Tenant to self-insure shall not in any way limit the obligations of Tenant under any provision of this Lease.

9.1.1 Required Insurance. Tenant shall at all times during the Term and any other period of occupancy, at its own expense, keep in full force and effect the following insurance:

9.1.1.1 Worker's Compensation and Employers' Liability Insurance as 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/or 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 dollars (\$2,000,000) Combined Single Limit for injury to, or death of one or more persons in an occurrence. The policy shall insure the hazards of the Premises and Tenant's operations thereon, independent contractors, contractual liability (covering the indemnity contained in Section 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 anniversary of the Commencement Date and upon the expiration of every fifth year thereafter. Not less than sixty (60) days prior to each relevant adjustment date commencing with the fifth 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.

9.2 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 first-class buildings in downtown San Diego. All Tenant Improvements installed by Landlord or Landlord's Contractor shall be covered by insurance obtained by the Landlord. 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, except as otherwise 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 pursuant

to Section 3.2.1 except to the extent proceeds remain after the repairs have been completed, the remaining amount shall be credited to reduce principal, interest or any sum due on any loan secured by the Building in existence at the time of the damage or destruction to the extent required by the terms of such loan or if not required by the terms of such loan the remaining amount shall be credited to reduce Operating Expenses if not prohibited by the term of the insurance policies.

9.2.1 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.

9.2.2 Cancellation of Coverage. If any of Landlord'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.

9.3 Mutual Waiver of Subrogation. All policies of property insurance required pursuant to this Lease shall include a clause or endorsement denying the insurer any rights of subrogation against the other party to the extent rights have been waived by the insured before the occurrence of injury or loss. Landlord and Tenant each hereby waive any and all rights of recovery against the other or against the officers, directors, shareholders, partners, employees, agents and representatives of the other, on account of loss or damage occasioned to such waiving party or its property or the property of others under its control to the extent that such loss or damage is insured against under any policy of property insurance required to be carried by such waiving party pursuant to the provisions of this Lease (or any other policy of insurance carried by such waiving party in lieu thereof). Tenant shall give notice to the insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Lease.

9.4 Indemnification.

9.4.1 Tenant's Indemnity Obligations. Tenant shall indemnify, defend and hold Landlord harmless from all claims arising from Tenant's use of the Premises, 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. 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 or by the failure of Landlord to observe any of the terms and conditions of this Lease.

9.4.2 Landlord's Indemnity Obligations. Landlord hereby indemnifies and agrees to hold Tenant harmless and against Landlord's negligence or willful misconduct or that of its agents, contractors, servants or employees in connection with Landlord's activities outside the Premises, or with respect to personal injuries caused within the Premises by the negligent acts of Landlord or Landlord's agents, contractors, servants or employees.

9.5 Damage to Tenant's Property. Notwithstanding the provisions of Section 9.4 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 or Landlord's agents, contractors, employees, servants, tenants or concessionaires or Landlord's failure to implement and/or adhere to a preventative maintenance program for the Building that would commonly be undertaken by a prudent Landlord of a first-class office building. 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 hereditament. 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 involuntary 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. Notwithstanding the foregoing, Tenant may at any time during the Term of this Lease, Transfer its interest in this Lease or sublet all or a portion of the Premises to any department, subsidiary, affiliate, or related entity of Tenant, or any entity, which in whole or in part is owned by, affiliated with, or which is acquired by, or which acquires Tenant, or is merged into Tenant, or which Tenant is merged into, (hereinafter an "Affiliate"), without having to obtain Landlord's consent or approval; provided however, such Transfer to an Affiliate shall not be in contravention with any exclusive use provision in effect at the date of this Lease with the retailers in the Building.

10.1.1 Notice. Except in the case of a Transfer to an Affiliate, 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 fifteen (15) days after the submission of all required information described in the preceding sentence, 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 any Transfer by Tenant to any Affiliate, then 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 retained one hundred percent (100%) by Tenant.

10.3.2 Other Transfers. If Landlord consents to any Transfer by Tenant to a Transferee which is not an Affiliate of Tenant and the Rentable Area of the Premises then subject to Transfer(s) (individually or cumulatively) is less than or equal to twenty-five percent (25%) of the Rentable Area of the Premises in the Building then leased by Tenant or an Affiliate, then 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 retained one hundred percent (100%) by Tenant. If Landlord consents to any Transfer by Tenant to a Transferee which is not an Affiliate of Tenant and the Rentable Area of the Premises then subject to Transfer(s) (individually or cumulatively) is greater than twenty-five percent (25%) of the Rentable Area of the Premises in the Building then leased by Tenant or an Affiliate, 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.

ARTICLE 11

DAMAGE OR DESTRUCTION

11.1 Repair or Termination.

11.1.1 Insured Damage. In the event the Building and/or the Premises is damaged by fire or other perils covered by Landlord's insurance, Landlord shall:

11.1.1.1 In the event of total destruction of the Building and/or the Premises ("Total 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 Total Destruction.

11.1.1.2 In the event of a partial destruction 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 from the first Mortgagee, 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; 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 has not received from the first Mortgagee 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 Notwithstanding anything to the contrary contained in this Article 11, if all or any 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 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 Class-A high-rise office building in downtown San Diego, with equivalent or better floor plan and improvements at Landlord's expense and with equivalent or better facilities than Tenant's improvements and facilities at the Premises, and pays for the extra moves and any related expenses and any and all difference in expenses and costs between the substitute lease and this Lease. The maximum time that Tenant can be required to occupy the substitute premises is one (1) year from the date of damage or destruction.

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 either (i) 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, or (ii) require that Landlord continue to perform its obligation to make such repair or restoration.

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 Building and/or the Premises 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 Building and/or 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 or are covered by Landlord's Insurance pursuant to the terms of this Lease, and the repair and restoration of items not provided at Landlord's expense shall be the obligation of Tenant.

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 second Renewal Term of this Lease.

11.8 Exclusive Remedy. This Article 11 shall be Tenant's exclusive remedy in the event of damage or destruction to the Premises or the Building or the Project, and Tenant, as a material inducement to Landlord entering into this Lease, irrevocably waives and releases Tenant's rights under California Civil Code Sections 1932(2) and 1933(4).

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 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 so taken bears to the Rentable Area of the Premises 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, (iii) the unamortized value of the leasehold improvements owned and paid for by Tenant, and (vi) the "bonus value" of the Lease.

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 **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 non-payment 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 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.

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 (Landlord may continue the Lease in effect after Tenant's breach and recover Base Monthly Rent, and/or Operating Expenses as they become due, if Tenant has the right to sublet or assign, subject only to reasonable limitations).

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 proceeding 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. Notwithstanding anything in this Lease to the contrary, Landlord acknowledges that Landlord's remedies under this Article 13 and this Lease shall be subject to any limitations imposed by the California Constitution.

13.7 Landlord's Default. Landlord shall not be in default in the performance of any obligation required to be performed by it pursuant to this Lease unless it has failed to perform such obligation within ten (10) Business Days after receipt of written notice by Tenant to Landlord specifying the manner in which Landlord has failed to perform such obligation. If the nature of Landlord's obligation is such that more than ten (10) Business Days are required for its performance, then Landlord shall not be deemed to be in default if it shall commence such performance within such ten (10) day period and thereafter diligently prosecute the same to completion upon any such default by Landlord. Upon any such default by Landlord, Tenant may exercise any of its rights provided in law or at equity. No waiver of any default of Landlord hereunder shall be implied from any payments by Tenant of any Rent or other payments due hereunder if Tenant makes such payments under protest or by any omission of Tenant to take any action on account of such default. If such default persists or is repeated, no express waiver shall affect defaults other than as specified in said waiver.

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 except as 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. Tenant's failure to deliver such statement within thirty (30) days of receipt of Landlord's request therefor shall constitute a default under this Lease.

14.1.3 Landlord's Certificate. Landlord shall, at any time and from time to time, within ten (10) 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. Landlord's failure to deliver such statement within thirty (30) days of receipt of Tenant's request shall constitute a default by Landlord under this Lease.

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 a rental rate equal to 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

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

17.1 Landlord's Election. Provided Landlord has caused the Non-Disturbance Agreement required by paragraph 1 of the Addendum to this Lease to be delivered to Tenant without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, and at the election of Landlord or any first Mortgagee with a lien on the Building or the Building Lot with respect to the Building or the Building Lot, this Lease shall be subject and subordinate at all times to:

17.1.1 all ground leases or underlying leases which may now exist or hereafter be executed affecting the Building or the Building Lot or both, and

17.1.2 the lien of any Mortgage, or specific provisions of any such Mortgage as determined by Landlord and its lenders which may now exist or hereafter be executed in any amount for which the Building, Building Lot, ground leases or underlying leases, or Landlord's interest or estate in any of said items is specified as security.

17.2 Delivery of Documents. Notwithstanding the foregoing, Landlord shall have the right to subordinate or cause to be subordinated any such ground leases or underlying leases or any such liens or

specific provisions of such liens as determined by Landlord and its lenders to this Lease. In the event that any ground lease or underlying lease terminates for any reason or any Mortgage is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant shall, notwithstanding any subordination, attorn to and become the Tenant of the successor-in-interest to Landlord, at the option of such successor-in-interest. Tenant covenants and agrees to execute and deliver, upon demand by Landlord and in the form requested by Landlord, any additional documents evidencing the priority or subordination of this Lease with respect to any such ground leases or underlying leases or the lien of any such Mortgage, provided Landlord shall provide Tenant with non-disturbance agreements in favor of Tenant from any ground lessors, mortgage holders or lien holders of Landlord in consideration of, and as a condition precedent to, Tenant's agreement to subordinate. Should Tenant fail to sign and return any such documents within thirty (30) business days of request Tenant shall be in default under this Lease.

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 maximum rate permissible by law (but not in excess of the Prime Rate), from the date of such payment by Landlord, shall be payable to Landlord on demand. 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 ground lease, 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

IDENTIFICATION OF TENANT

INTENTIONALLY OMITTED

ARTICLE 26

PARKING

26.1 Lease of Spaces. 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. 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 shall have the right to require that Tenant pay a separate and additional charge for such parking. Such charge shall be at the then prevailing parking rates for parking in the Building's parking facilities; provided however, Landlord will make available to Tenant up to sixty (60) parking spaces for use by the City's Fire Department at parking rates consistent with the parking rates charged by the City of San Diego at its parking facility in the City Community Concourse. 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.

26.2 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. SEE ADDENDUM PARAGRAPH 12

ARTICLE 27

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 28

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 29

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 30

FINANCIAL STATEMENTS

INTENTIONALLY OMITTED

ARTICLE 31

LENDER APPROVAL

INTENTIONALLY OMITTED

ARTICLE 32

RELOCATION

INTENTIONALLY OMITTED

ARTICLE 33

LEASE INCENTIVES

INTENTIONALLY OMITTED

ARTICLE 34

MISCELLANEOUS

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

34.2 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.

34.3 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 express or implied permission.

34.4 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.

34.5 Time is 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.

34.6 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.

34.7 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.

34.8 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.

34.9 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.

34.10 Brokers. 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.

34.11 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.

34.12 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.

34.13 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.

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

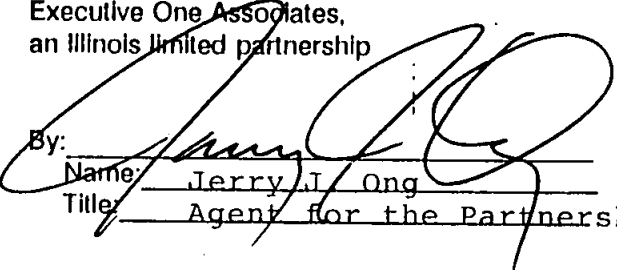
34.15 Compliance with the City of San Diego Equal Opportunity Contracting Program. Landlord shall comply with the City's Equal Opportunity and Minority and Women Business Enterprise Contracting Programs, approved by the City Council and filed with the City Clerk as document RR-262633. Landlord shall 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.

34.16 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. All such improvements and alterations shall be at the sole expense and cost of Landlord and shall not be included in Operating Expenses. 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.

SEE ADDENDUM PARAGRAPH 13

LANDLORD

Executive One Associates,
an Illinois limited partnership

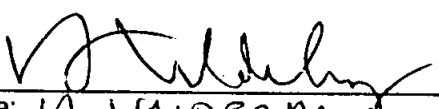
By: 

Name: Jerry I. Ong
Title: Agent for the Partnership

By: _____

Name: _____
Title: _____

Approved as to form and content:

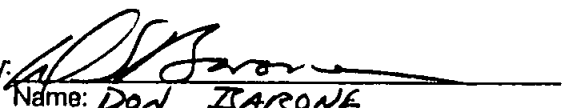
By: 

Name: A. VALDER BAUD
Title: City Attorney

Deputy

TENANT

The City of San Diego,
a Municipal corporation

By: 

Name: DON BARONE
Title: Property Services Supervisor
for CITY MANAGER

By: _____

Name: _____
Title: _____

EXHIBIT A-__

THE PREMISES

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

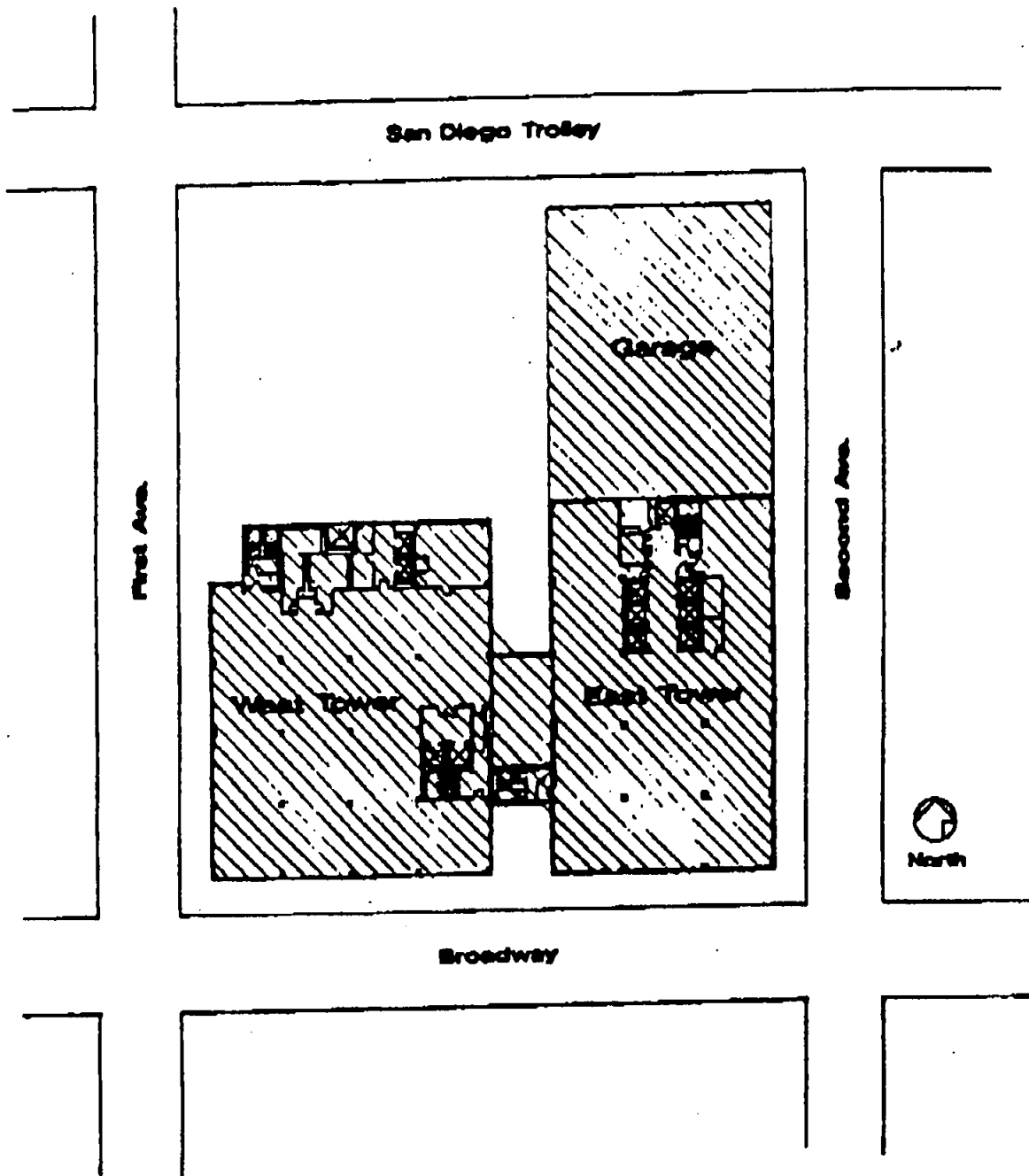
[To be provided]

EXHIBIT B

THE PROJECT

[See attached diagram]

EXHIBIT "B"



THE EXECUTIVE COMPLEX

1010 Second Avenue San Diego, CA 92101

LEGAL DESCRIPTION

PARCEL 1: (EAST TOWER)

Lots "H", "I", "J", "K", "L" and all that portion of Lot "G", lying North of the North line of Broadway, formerly "D" Avenue, as established December 3, 1928 and in public use - being the North 20 feet, more or less, of said Lot "G" - all in Block 39 of HORTON'S ADDITION, in the City of San Diego, County of San Diego, State of California, according to Map thereof on file in the Office of the County Recorder of San Diego County.

PARCEL 2: (WEST TOWER)

All those portion of Lots "D", "E", and "F", in Block 39 of HORTON'S ADDITION, in the City of San Diego, County of San Diego, State of California, described as follows:

Commencing at the Northwest corner of said Lot "D"; thence Easterly along the North line of said Lot "D", 42 feet to a point; thence South on a line parallel with and 42 feet distant from the West line of said Lots "D", "E" and "F", 120.29 feet to a point in the North line of Broadway (formerly "D" Street) as the same is now established; thence West along the North line of Broadway, 42 feet to a point in the West line of Lot "F"; thence North along the West line of Lots "F", "E" and "D", 120.29 feet to a Point of Commencement.

GROUND LEASE:

All those portions of Lots "D", "E" and "F" in Block 39 of HORTON'S ADDITION, in the City of San Diego, County of San Diego, State of California, described as follows:

Commencing at the Northeast corner of said Lot "D", as the same is shown on said Map; thence West along the North line of said Lot "D" 58 feet to a point which is 42 feet East of the Northwest corner of said Lot "D"; thence South on a line parallel with and 42 feet distant from the West line of said Lots "D", "E" and "F" 120.29 feet, more or less, to a point in the North line of Broadway (formerly "D" Street) as the same is now established; thence East along said North line of Broadway (formerly "D" Street) 58 feet to a point in the East line of said Lot "F"; thence North along the East line of said Lots "F", "E" and "D" 120.29 feet, more or less, to the point of commencement.

GENERAL DESCRIPTION

The Executive Complex is comprised of a 25-story high-rise office building located at 1010 Second Avenue in Downtown San Diego. Adjacent to the East Tower, an eight-story West Tower provides an additional 109,000 square feet of office area. The East and West office towers are serviced by an eleven-level, semi-attached 378 space parking facility of approximately 148,000 square feet.

Located within the boundaries of Broadway and "C" Street and First and Second Avenues, the Executive Complex comprises the majority of the city block. Across the street from City Hall, the Convention and Performing Arts Center and Horton Plaza, the Executive Complex also enjoys easy one-block access to both Federal and State courthouses. Once San Diego's tallest skyscraper, the building continues to offer stunning views of the harbor and Coronado bridge from many of its 1800 windows.

The East Tower was completed in 1963 by financier C. Arnholt Smith. Nearly ten years later the West Tower was completed, providing the project with even greater visibility, and encompassing nearly the entire city block. Vertical gold-anodized beams surround its exterior and reflect the concern for quality and attention to detail predominant during that period. Three hundred and fifty tons of imported Italian marble, rich wood-paneled walls, and interior brass appointments create a distinctive atmosphere which lingers today.

Since 1987, the Executive Complex has undergone extensive renovations designed to restore its original elegance and improve tenant services. The Complex offers a well-planned mix of retail services including four restaurants, a bookstore, sundry shop, U.S. Post Office, word-processing service, office supply store, jeweler and dry cleaner. Accessible from the Main Tower is an approximately 6,000 square foot outdoor furnished lounge complete with its own fountain. The Executive Complex is also home to the Cuyamaca Health and Fitness Club. Founded in 1887, it remains the oldest chartered private club in California. Today it boasts an award-winning aerobics program, offers state-of-the-art circuit training equipment to its members, and is owned and managed by the Landlord.

RULES AND REGULATIONS

1. The sidewalks, entrances, passages, courts, elevators, vestibules, stairways, corridors and halls shall not be obstructed or used for any purpose other than ingress and egress. The halls, passages, entrances, elevators, stairways, balconies and roof are not for the use of the general public, and the Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence, in the judgment 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 construed to prevent such access to persons with whom the Tenant normally deals only for the purpose of conducting its business on the Premises (such as clients, customers, office suppliers and equipment vendors, and the like) unless such persons are engaged in illegal activities. No Tenant and no employees of any Tenant shall go upon the roof of the Building without the written consent of the Landlord.
2. No awnings or other projections shall be attached to the outside walls of the Building. No curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises other than Landlord standard window covering. All electric ceiling fixtures hung in offices or spaces along the perimeter of the Building must be fluorescent, of a quality, type, design and bulb color approved by Landlord. Neither the interior nor the exterior of any windows shall be coated or otherwise sunscreened without written consent of Landlord.
3. No sign, advertisement, notice or handbill shall be exhibited, distributed, painted or affixed by any Tenant on, about or from any part of the Premises or the Building or the Project without the prior written consent of the Landlord, except as otherwise provided in this Lease. If the Landlord shall have given such consent at the time, whether before or after the execution of this Lease, such consent shall in no way operate as a waiver or release of any of the provisions hereof or of this Lease, and shall be deemed to relate only to the particular sign, advertisement or notice so consented to by the Landlord and shall not be construed as dispensing with the necessity of obtaining the specific written consent of the Landlord with respect to each and every such sign, advertisement or notice other than the particular sign, advertisement or notice, as the case may be, so consented to by the Landlord. In the event of the violation of the foregoing by any Tenant, Landlord may remove or stop same without any liability, and may charge the expense incurred in such removal or stopping to the Tenant. Interior signs on doors and directory tablet shall be inscribed, painted or affixed for each Tenant by the Landlord at the expense of such Tenant, and shall be of a size, color and style acceptable to the Landlord. The directory tablet will 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. Nothing may be placed on the exterior of corridor walls or corridor doors other than Landlord's standard lettering.
4. Tenant shall exercise extraordinary care and caution that all water faucets or water 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. Tenant shall cooperate with Landlord in obtaining maximum effectiveness of the cooling system by closing blinds when the sun's rays fall directly on the windows of the Premises. Tenant shall not tamper with or change the setting of any thermostats or temperature control valves.

Exhibit "C"

5. The toilet rooms, water and wash closets and other plumbing fixtures shall not be used for any purpose other than those for which they were constructed, and no sweepings, rubbish, rags, or other substances shall be thrown therein. All damages resulting from any misuse of the fixtures shall be borne by the Tenant who, or whose subtenants, assignees or any of their servants, employees, agents, visitors or licensees shall have caused the same.
6. No Tenant shall mark, paint, drill into, or in any way deface any part of the Premises, the Building or the Project. No boring, cutting or stringing of wires or laying of linoleum or other similar floor coverings shall be permitted, except with the prior written consent of the Landlord and as the Landlord may direct.
7. No bicycles, vehicles, birds or animals of any kind shall be brought into or kept in or about the Premises (excluding seeing eye dogs), and no cooking shall be done or permitted by any Tenant on the Premises, except that the preparation of coffee, tea, hot chocolate and similar items for Tenants and their employees shall be permitted provided power shall not exceed that amount which can be provided by a 30 amp circuit. No Tenant shall cause or permit any unusual or objectionable odors to be produced or permeate the Premises. Smoking or carrying lighted cigars, cigarettes or pipes in the elevators of the Building is prohibited.
8. The Premises shall not be used for manufacturing or for the storage of merchandise except as such storage may be incidental to the permitted use of the Premises. No Tenant shall occupy or permit any portion of the Premises to be occupied as an office for a public stenographer or typist, or for the manufacture or sale of liquor, narcotics, or tobacco (except by a cigarette vending machine for use by Tenant's employees) in any form, or as a medical office, or as a barber or manicure shop, or as an employment bureau without the express written consent of the Landlord. No Tenant shall engage or pay any employees on the Premises except those actually working for such Tenant on the Premises nor advertise for laborers giving an address at the Premises. The Premises shall not be used for lodging or sleeping or for any immoral or illegal purpose.
9. No Tenant shall make, or permit to be made any unseemly or disturbing noises or disturb or interfere with occupants of this or neighboring buildings or Premises or those having business with them, whether by the use of any musical instrument, radio, phonograph, unusual noise, or in any other way. No Tenant shall throw anything out of doors, windows or skylight or down the passageways.
10. No Tenant, subtenant or assignee nor any of their servants, employees, agents, visitors or licensees, shall at any time bring or keep upon the Premises any inflammable, combustible or explosive fluid, chemical or substance.
11. No additional locks or bolts of any kind shall be placed upon any of the doors or windows by any Tenant, nor shall any changes be made in existing locks or the mechanisms thereof. Each Tenant must upon the termination of his tenancy, restore to the Landlord all keys of stores, offices, and toilet rooms, either furnished to, or otherwise procured by, such Tenant and in the event of the loss of keys so furnished, such Tenant shall pay to the Landlord the cost of replacing the same or of changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such changes.
12. All removals, or the carrying in or out of any safes, freight, furniture, or bulky matter of any description must take place during the hours which Landlord shall determine from time to time, with the express written consent of the Landlord. The moving of safes or other fixtures or bulky matter of any kind must be done upon previous notice to the superintendent of the Building and under his supervision, and the persons employed by any Tenant for such work must be acceptable to Landlord. The Landlord reserves

the right to inspect all safes, freight or other bulky articles to be brought into the Building and to exclude from the Building all safes, freight or other bulky articles which violate any of these Rules and Regulations or the Lease of which these Rules and Regulations are a part. The Landlord reserves the right to prescribe the weight and position of all safes, which must be placed upon supports approved by Landlord to distribute the weight. No furniture, packages or merchandise will be received in the Building or carried up or down in the elevator except on freight elevators and during such hours as shall be designated by the Landlord.

13. No Tenant shall purchase spring water, ice, towel, janitorial or maintenance or other like services, from any person or persons not approved by the Landlord.
14. 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 the Project or its desirability as an office location and upon written notice from Landlord any Tenant shall refrain from or discontinue such advertising.
15. The Landlord reserves the right to exclude from the Building between the hours of 6 p.m. and 8 a.m. and at all hours on Saturday, Sunday and legal holidays all persons who are not known to the Building watchman and who do not present a pass to the Building approved by the Landlord. The Landlord will furnish passes to persons for whom any Tenant requests the same in writing. Each Tenant shall be responsible for all persons for whom he requests passes and shall be liable to the Landlord for all acts of such persons. Landlord shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. In case of an invasion, mob riot, public excitement or other circumstances rendering such action advisable in Landlord's opinion, Landlord reserves the right without any abatement of rent to require all persons to vacate the Building and to prevent access to the Building during the continuance of the same for the safety of the Tenants and the protection of the Building and the property in the Building.
16. Any persons employed by any Tenant to do janitor work shall, while in the Building and outside of the Premises, be subject to and under the control and direction of the superintendent of the Building (but not as an agent or servant of said superintendent or of the Landlord), and Tenant shall be responsible for all acts of such persons.
17. All doors opening onto public corridors shall be kept closed, except when in use for ingress and egress.
18. The requirements of Tenant will be attended to only upon application to the Office of the Building.
19. Canvassing, soliciting and peddling in the Building are prohibited and each Tenant shall report and otherwise cooperate to prevent the same.
20. All office equipment of any electrical or mechanical nature shall be placed by Tenant in the Premises in settings approved by Landlord, to absorb or prevent any vibration, noise and annoyance.
21. No air conditioning unit or other similar apparatus shall be installed or used by any Tenant without the written consent of Landlord.
22. There shall not be used in any space, or in the public halls of the Building, either by any Tenant or others, any hand trucks except those equipped with rubber tires and rubber side guards.
23. No vending machine or machines of any description shall be installed, maintained or operated upon the Premises without the written consent of Landlord, which consent shall not be unreasonably withheld, conditioned, or delayed. Landlord hereby authorizes Tenant to have designated lunch-rooms within

the Leased Premises and to install and operate approved vending machines within those lunch-rooms for the convenience of Tenant's employees.

24. The scheduling of Tenant move-ins shall be subject to the reasonable discretion of Landlord.
25. If the Tenant desires telephone or telegraph connections, the Landlord will direct electricians as to where and how the wires are to be introduced. No boring or cutting for wires or otherwise shall be made without directions from the Landlord.
26. The term "personal goods or services vendor" as used herein means persons who periodically enter the Building of which the Premises are a part for the purpose of selling goods or services to a Tenant, other than goods or services which are used by the Tenant only for the purpose of conducting its business on the Premises. "Personal goods or services" include, but are not limited to, drinking water and other beverages, food, barbering services, and shoeshining services. Landlord reserves the right to prohibit personal goods and services vendors from access to the Building except upon such provision for insurance coverage, as are related to the safety, care and cleanliness of the Building, the preservation of good order thereon, and the relief of any financial or other burden on the Landlord occasioned by the presence of such vendors or the sale by them of personal goods or services to the Tenant or its employees. If necessary for the accomplishment of these purposes, Landlord may exclude a particular vendor entirely or limit the number of vendors who may be present any one time in the Building.
27. Landlord will not be responsible for lost or stolen property, equipment, money or jewelry from Tenant's area or public rooms regardless of whether such loss occurs when such area or public rooms are locked against entry.
28. Tenant shall have the right to sell City memorabilia, reports and other City merchandise within the Premises.

EXHIBIT D

**NOTICE OF LEASE TERM DATES AND
TENANT'S PERCENTAGE SHARE**

To: _____

Date: _____

Re: Lease dated _____, 19__, between Executive One Associates, an Illinois limited partnership, Landlord, and The City of San Diego, a Municipal corporation, Tenant, concerning Suites _____ located at 1010 Second Avenue, San Diego, CA.

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 _____ (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 the Lease. 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 calculated on Rentable/Usable factor of 1.08.

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

8 Tenant's Percentage Share is _____%.

LANDLORD

Executive One Associates,
an Illinois limited partnership

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

TENANT

The City of San Diego,
a Municipal corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

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 but not limited to 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, Executive One Associates, an Illinois limited partnership, ("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 _____, 19__.

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 _____, 19__.

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

TENANT

Executive One Associates,
an Illinois limited partnership

The City of San Diego
a Municipal corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT G

TENANT IMPROVEMENT AGREEMENT

(Landlord to Construct)

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 Lease ("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. 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: Eric Tompkins

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

Contractor ("Contractor"): To be selected as provided below.

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/or wall coverings 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 Leasehold 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 of receipt from Space Planner ("Space Plan Approval Date"). 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, Landlord or Contractor shall promptly prepare a preliminary estimate of the cost of the Tenant Improvements ("Preliminary Cost Estimate") described in the Space Plan. If the Preliminary Cost Estimate is acceptable to Tenant, Landlord shall authorize Space Planner to prepare the Working Drawings. If the Preliminary Cost Estimate is unacceptable to Tenant, Tenant shall meet within five (5) Business Days with Landlord's Space Planner to revise the Tenant Information so that the Space Plan can be modified to assure that the Preliminary Cost Estimate is either (a) no more than the Tenant Improvement Allowance or (b) in excess of the Tenant Improvement Allowance by an amount which Tenant agrees to pay.

4.3 After approval of the Preliminary Cost Estimate, Space Planner shall prepare and deliver to Tenant and Landlord working drawings for the Premises ("Working Drawings"). Tenant's "user group" shall approve the Working Drawings within ten (10) Business Days of receipt thereof. Approval of the Working Drawings by such "user group" does not constitute approval by Tenant's Building Inspection Department for building permit purposes. Landlord shall then submit the Working Drawings to at least four (4) separate licensed contractors who shall bid the Tenant Improvements and Landlord and Tenant shall review all bids to select the contractor to construct the Tenant Improvements and the final cost proposal ("Final Pricing") for construction of the Tenant Improvements in accordance with the Working Drawings. If the Final Pricing is more than the Preliminary Cost Estimate, Landlord shall so notify Tenant in writing and Tenant shall within five (5) Business Days following receipt of such notice either (i) approve in writing to pay the amount by which the Final Pricing exceeds the Preliminary Cost Estimate, and if it exceeds the Tenant Improvement Allowance, pay such excess amount, or (ii) notify Landlord to revise the Tenant Information so that the Working Drawings can be modified to assure that the Final Pricing is no more than the Tenant Improvement Allowance.

4.4 The Contractor to be selected by Landlord and Tenant shall be duly licensed in the State of California and shall be experienced in the construction of Tenant Improvements in similar high-rise office buildings in the San Diego area. The Contractor shall be required to have a minimum bonding capacity acceptable to Landlord and Tenant. The Contractor shall also be required to provide Landlord and Tenant with current certified financial statements for confidential review. The Contractor so selected shall contract directly with Landlord.

5 Payment for Tenant Extra Work.

"Tenant Extra Work" means the amount by which the Tenant Improvement cost exceeds the Tenant Improvement Allowance. Tenant shall pay to Landlord, within fifteen (15) Business Days of Landlord's written request therefor, the total amount payable by Tenant for Tenant Extra Work.

6 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, which will include associated architectural, engineering and construction contractor's fees. 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 out of its Tenant Improvement Allowance or as Tenant Extra Work, as the case may be.

7 Completion and Rental Commencement Date.

It is agreed that Tenant's obligation for the payment of Rent for any portion of the Premises tendered to Tenant from time-to-time under the Lease shall not occur until the earlier of (i) thirty (30) days from the date of Substantial Completion of the Tenant Improvements for such Premises; or (ii) thirty (30) days from the date that the Premises would have been Substantially Complete were it not for any Tenant Delay as defined below; or (iii) the date Tenant opens for business in such Premises.

As used in this Lease and this Agreement, the term "Substantial Completion of the Tenant Improvements" or "Substantially Complete" 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.

As used in this Lease and this Agreement, the term "Tenant Delay" shall mean any delay that Landlord may encounter in the performance of Landlord's obligations under the Lease with respect to the construction of Tenant Improvements because of any act or omission of any nature by Tenant or its agents or contractors, including any: (1) change attributable to changes or additions to the approved Working Drawings or Tenant Improvements; (2) delay attributable to the postponement of any Tenant Improvements at the written request of Tenant; and (3) delay by Tenant in the submission of Space Plans and Working Drawings beyond the time periods permitted by this Agreement or the failure to give authorizations or approvals within the time limits set forth in this Agreement. Tenant shall pay all actual and documented costs and expenses incurred by Landlord, which result from any Tenant Delay, including, without limitation, any actual and documented costs and expenses attributable to increases in the cost of labor or materials.

No Tenant Delay shall be deemed to have occurred unless and until Landlord has given written notice to Tenant specifying the action or inaction which Landlord contends constitutes a Tenant delay. If such action or inaction is not cured within two (2) Business Days after Tenant's receipt of such notice, then a Tenant Delay, as set forth in such notice, shall be deemed to have occurred as of the date Tenant received such notice and continuing for the number of days the Substantial Completion of the Premises was in fact delayed as a direct result of such action or inaction.

8 Construction of the Premises.

Contractor shall construct the Tenant Improvements within the Premises under contract with the Landlord. Following approval of the Working Drawings and the Final Pricing 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 and subject to receipt of the payment required under Section 5 of this Agreement, Contractor shall begin construction.

9 Tenant's Punch List.

9.1 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 thirty (30) 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 rent commencement date for such space 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 and/or delays caused by Landlord.

9.2 Any items damaged by Tenant or Tenant's agents 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.

10 Tenant Improvement Allowance.

10.1 **Tenant Improvement Allowance.** For all space currently occupied or to be occupied by Tenant in the Building from time to time as provided in the Lease (except for any space to be located on the 11th or 12th floors) Landlord agrees to provide Tenant with an allowance ("Tenant Improvement Allowance") in the amount of Twenty-Five and 00/100 Dollars (\$25.00) per square foot of "Modified Rentable Area" for all floors which Tenant occupies in their entirety and Twenty-Five Dollars (\$25.00) per square foot of Usable Area on all partially occupied floors which shall be applied to, but not limited to all "hard" and "soft" construction costs, including Tenant's data lines and telecommunications cabling. For purposes of this Tenant Improvement Agreement the term Modified Rentable Area means all Usable Area plus the area of elevator lobbies, corridors and fire vestibules. Landlord shall be responsible for the cost of all electrical, mechanical and structural engineering and any and all costs of city permits, licenses and fees required in connection with the construction of the Tenant Improvements and the same shall not be charged against the Tenant Improvement Allowance. Landlord shall receive no fee for profit, overhead, general conditions. In addition, Tenant shall not be charged for the use of electricity, water, elevator or hoists during construction of any Tenant Improvements.

10.2 **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 \$0.55 per square foot of Usable Area. Landlord shall pay IDD directly for such services and such cost shall not be charged against the Tenant Improvement Allowance.

10.3 Tenant's Credit. In the event the total cost to complete the Tenant Improvements is less than the Tenant Improvement Allowance, Landlord shall provide Tenant with written notice of the same no later than thirty (30) days following Landlord's Substantial Completion of such Tenant Improvements. Landlord shall credit the unused portion of the Tenant Improvement Allowance to Tenant, and Tenant, at Tenant's sole option, may use such credit to either (i) abate the payment of Base Monthly Rent as it becomes due, or (ii) purchase furniture which shall immediately become the sole property of Tenant.

11 Building Standard.

Tenant shall utilize Landlord's Tenant Improvement Standards as set forth in the Tenant Improvement Standards Manual prepared by Landlord, a copy of which Tenant hereby acknowledges having received. Tenant shall have the right to select all items (including finish materials and colors) of Tenant Improvements within the Premises and elevator lobbies, public corridors and toilet rooms (if applicable) for floors that Tenant occupies in their entirety.

12 Shell Construction.

12.1 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, handicap code compliance including any required restroom renovation, building standard window coverings and all columns and core walls drywalled, sanded and ready for paint.

13 Tenants 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 as 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.

14 Application of Tenant Improvement Agreement.

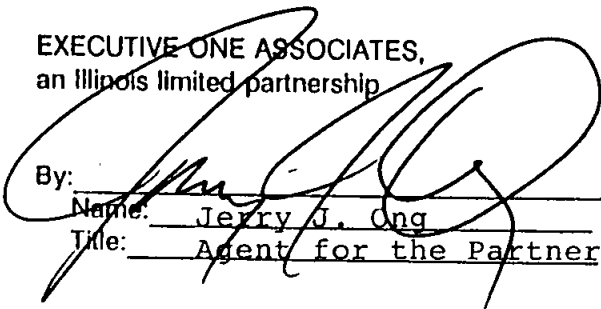
Landlord and Tenant acknowledge and agree that all terms and conditions of this Agreement shall apply to the initial premises to be occupied by Tenant pursuant to the Lease, any premises in the Building currently occupied by Tenant (if any) and any and all premises in the Building subsequently occupied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

15 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

EXECUTIVE ONE ASSOCIATES,
an Illinois limited partnership

By: 

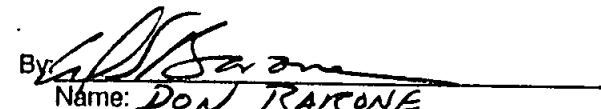
Name: Jerry J. Ong
Title: Agent for the Partnership

By: _____

Name: _____
Title: _____

TENANT

THE CITY OF SAN DIEGO,
a Municipal corporation

By: 

Name: DON RAIKONE
Title: Property Services Supervisor
for CITY MANAGER

By: _____

Name: _____
Title: _____

EXHIBIT H

NON-DISTURBANCE AGREEMENT

[To be provided]

SANITORIAL SPECIFICATIONS

[This language is taken directly from Landlord's current contract with the service provider]

Restroom Services

SANITATION It is the intent of this specification to keep restrooms thoroughly clean and not to use disinfectants to mask odors. Odorless disinfectants shall be used. Remove all waste paper and refuse, including soiled sanitary napkins, to the designated refuse area. All waste receptacles are to be thoroughly cleaned and new liners installed. Restock toilet tissue, toilet seat covers, towel dispensers, soap dispensers and sanitary napkin dispensers.

DAILY Clean/disinfect all basins, bowls and urinals with approved germicidal solution, include tile walls near urinals. Special care must be taken to inspect and clean areas of difficult access, such as the underside of toilet bowls and urinals, to prevent build up of calcium and iron oxide deposits. Wash both sides of all toilet seats with approved germicidal solution and wipe dry.

DAILY Clean/polish all mirrors, powder shelves, bright work (include exposed piping below basins/bowls/urinals), towel dispensers, receptacles and any other metal accessories. Contractor shall use only non-abrasive, non-acidic material to avoid causing damage to metal fixtures.

DAILY Damp wipe all tiled walls and metal toilet partitions and doors using approved germicidal solution. All surfaces shall be wiped dry to a uniformly bright appearance. Dust the top edges of all partitions, ledges and mirror tops.

DAILY Floors shall be swept clean and wet mopped, using the approved germicidal solution. Flood rinse floor and direct clean water into floor drain. Floors shall then be wiped dry and all water marks and stains shall be wiped from walls and partitions.

DAILY Report all restroom fixture deficiencies promptly to Manager.

WEEKLY Machine scrub all restroom floors with approved germicidal solution. After scrubbing, floors shall be thoroughly rinsed with clean water and dried. All water marks shall be removed from walls, partitions and fixtures. Apply the approved floor finish.

WEEKLY Wash all walls and partitions with water and germicidal solution. Wipe dry and polish to a uniformly bright condition.

WEEKLY Brush ceiling vents and thoroughly clean all light lenses.

Elevators and Escalators (Including Parking Areas)

DAILY All marks, streaks and smudges shall be removed from all interior and exterior surfaces, including ceiling lenses, walls, handrails, doors, jambs and call plates by wiping with a clean dry cloth. Contractor will be held responsible for any damage to existing metal sealant due to unauthorized treatment.

DAILY Elevator floors will be thoroughly cleaned, vacuumed or swept, mopped and dried with special care taken to clean corners, crevices and along edges.

DAILY Remove debris and stains from all saddles and door tracks/step treads, combs and floor cover plates at all levels.

WEEKLY Thoroughly clean/polish all interior and exterior surfaces. Steel wool clean all thresholds and thoroughly clean all step treads, combs and cover plates at landings.

MONTHLY Wipe clean entire cab ceiling, including lamps and fixtures. Shampoo cab carpeting, machine scrub and refinish as appropriate, any hard surface flooring.

Tenanted and Common Areas

DAILY Secure all lighting as soon as possible. Illuminate only the immediate work area as required.

DAILY Police all stairwells, remove all debris and obstructions. Sweep, dust mop and damp mop as required.

DAILY Clean/polish all glass doors, glass partitions and framing to a bright condition, free of dust and streaks.

DAILY Dust wipe, with treated cloth, all horizontal surfaces within reach, including ledges, sills, molding and furniture tops, sides, legs and glass coverings. Spot clean as necessary. All papers and folders left on desks and cabinets will not be removed.

DAILY Clean/sanitize all telephone receivers.

DAILY Spot clean all vertical surfaces, brightwork and fixtures to remove graffiti and soil, with special attention near switchplates, waste receptacles, cigarette urns, door handles and frames.

DAILY Clean all chalkboards/message boards and/or trays except where written text has not been erased by tenant.

DAILY Clean/sanitize and polish all drinking fountains.

DAILY Police all interior planters, remove debris and spot clean exterior surfaces as necessary.

DAILY Empty and clean all waste receptacles, cigarette urns and ashtrays. Remove all trash to designated trash area, replace trash liners and water or sand as appropriate for cigarette urns.

DAILY Brush/vacuum all upholstered furniture as necessary.

DAILY Vacuum all carpeted floors/mats, moving light furniture such as chairs, waste receptacles and urns. Vacuum under all desks, large furniture and along base of all vertical surfaces where possible. Carpeting shall be spot cleaned of soils as necessary.

DAILY Dust mop all hard surface floors with a treated dust mop, moving light furniture where possible. Dust mop under all desks and large furniture where possible. Hard surface floors shall be spot cleaned, wet mopped and spray buffed as necessary to remove soil, scuff marks and preserve the floor finish.

DAILY Replace all furniture and/or accessories moved to accommodate cleaning to original position.

DAILY Remove all refuse to the designated retention or trash area, as appropriate.

MONTHLY Dust all high reach areas and fixtures beyond reach for daily dusting.

MONTHLY Brush/vacuum all wall and ceiling vents and grills.

MONTHLY Recondition all hard surface floors and vinyl base to provide a level of appearance equivalent to a completely refinished floor. All wax marks shall be removed from walls, doors and frames.

QUARTERLY (OPTIONAL) Wipe clean 1/4 of all light fixture covers, scheduled to include all fixtures annually.

QUARTERLY (OPTIONAL) Wash all plaza level windows, interior and exterior.

MONTHLY - SECURED VAULTS Clean and refinish as necessary all hard surface floor in secured vault areas. Contractor is responsible to coordinate scheduling for such service with Manager and Tenant(s).

MULTI-SHIFT OPERATIONS The following areas shall receive additional cycles of policing services and removal of trash:

NONE

ON REQUEST - CONSTRUCTION CLEAN UP Contractor shall render a thorough cleaning of all new or re-constructed space, including removal of trash, dusting, window cleaning, vacuuming/floor finishing or other cleaning services required to prepare the space for tenant use at no additional cost to Manager.

Grounds, Receiving and Service Areas

DAILY Police entire exterior perimeter of premises, including landscaped areas, sidewalks, storm and ventilation grills. Sweep and remove debris as necessary. Clean/polish all handrails around the building exterior and exterior stairways.

DAILY Empty and clean all waste receptacles and cigarette urns. Remove all trash to designated trash area, replace trash liners and water or sand as appropriate for cigarette urns.

DAILY Deposit all collected trash and debris, except construction material, into the appropriate bins, compactors or balers.

DAILY Sweep and mop entire Receiving Area, with a disinfectant deodorizing solution.

WEEKLY Machine scrub entire Receiving Area, thoroughly rinse and squeegee dry.

WEEKLY Machine scrub exterior walkways with sealed cement cleaner, rinse and squeegee dry.

WEEKLY Sweep and mop, as needed, all other service area floors.

Driveway and Parking Areas

DAILY Police all parking areas. Remove all automobile petroleum deposits and other debris, empty and clean waste receptacles and cigarette urns. Remove all trash to designated trash area, replace trash liners and water or sand as appropriate for cigarette urns.

WEEKLY Power sweep entire parking facility, including corners and behind car stops, using portable equipment, shovel, broom or other means to sweep vacuum areas inaccessible to mechanical sweeper.

MONTHLY Degrease parking stalls to remove residual automobile petroleum deposits.

QUARTERLY Machine scrub floors, driveways and parking islands with sealed cement cleaner, rinse and squeegee dry.

Day Maid(s) and Porter(s)

Contractor shall provide ONE (1) maid(s) or ONE (1) porter(s) five days per week. Assignment, duties and schedules of day maid(s) and/or porter(s) shall be as directed and adjusted from time to time by Manager.

Typical duties of day maid(s) and/or porter(s) are as follows:

- a. POLICE Common Areas and, as necessary, clean entry glass and hardware, dust mop/vacuum floors, empty waste receptacles and clean cigarette urns,
- b. POLICE and maintain elevator cabs and escalators free of debris;
- c. POLICE all restrooms, restock supplies as necessary;
- d. POLICE all stairwells;
- e. POLICE all utility areas;
- f. POLICE and maintain grounds, planting, walkways, parking and patio/plaza areas;
- g. POLICE all refuse areas, depositing all debris and waste into appropriate bins, compactors or balers;
- h. POLICE all vacant suites scheduled by Manager, vacuum as necessary;
- i. Service tenanted areas not accessible to night cleaning crew as scheduled by Manager.
- j. Set out rain mats as necessary;
- k. Respond to cleaning assignments, complaints and directions from Manager's office.

Window Washing

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

**SUMMARY OF EXISTING
CITY OF SAN DIEGO LEASES**

1. Floor/Suite: 3rd Floor East/West Towers - Suite 300
 Lease Between: BFI XV Realty Fund Ltd., (Landlord) and
 The City of San Diego, (Tenant)
 Dated: May 3, 1985.
 Term: 60 Months
 Commencing: September 1, 1986
 Square Footage: 21,040
 Comments: On Month-to-Month holdover effective
 October 1, 1990.

2. Floor/Suite: 4th Floor East/West Tower
 Suites 400/444
 Lease Between: 5th Floor West Tower - Suite 555
 BFI XV Realty Fund Ltd., (Landlord) and
 The City of San Diego, (Tenant)
 Dated: March 28, 1986
 Term: 60 Months
 Commencing: July 15, 1986
 Square Footage: 30,215
 Comments: Lease Modified to commence September 20,
 1986 and expire September 30, 1991.
 On Month-to-Month holdover effective
 October 1, 1991.

3. Floor/Suite: 5th Floor East Tower - Suite 500
 Lease Between: Executive One Associates, (Landlord) and
 The City of San Diego, (Tenant)
 Dated: May 9, 1991
 Term: Month-to-Month
 Commencing: June 1, 1991
 Square Footage: 4,000
 Comments: None

4. Floor/Suite: 8th Floor East Tower - Suite 800
 Lease Between: BFI XV Realty Fund Ltd., (Landlord) and
 The City of San Diego, (Tenant)
 Dated: July 21, 1986
 Term: 60 Months
 Commencing: November 1, 1986
 Square Footage: 10,571
 Comments: Lease Modified to commence March 23,
 1987 and expire March 31, 1992.

5. Floor/Suite: 8th Floor East Tower - Suite 800
 Lease Between: BFI XV Realty Fund Ltd., (Landlord) and
 The City of San Diego, (Tenant)
 Dated: March 28, 1986
 Term: 60 Months
 Commencing: July 15, 1986
 Square Footage: 8,912
 Comments: Lease Modified to commence September 1,
 1986 and expire August 31, 1991.
 On Month-to-Month holdover effective
 September 1, 1991.

6. Floor/Suite: 11th Floor East Tower - Suite 1100
 12th Floor East Tower - Suite 1200
 Lease Between: Executive One Associates, (Landlord) and
 The City of San Diego, (Tenant)
 Dated: November 9, 1990
 Term: 60 Months
 Commencing: July, 1, 1991
 Square Footage: 17,824
 Comments: Common Area square footage of 545 square
 feet to be deducted and Tenant charges
 based on 17,279 square feet.

7. Floor/Suite: 15th Floor East Tower - Suite 1515
Lease Between: Executive One Associates, (Landlord) and
The City of San Diego, (Tenant)
Dated: March 10, 1987
Term: 60 Months
Commencing: July 1, 1987
Square Footage: 1,998
Comments: None

TOTAL SQUARE FOOTAGE: 94,560 Rentable Square Feet

EXECUTIVE COMPLEX
TENANT BUILDING STANDARDS

OCTOBER, 1991

TENANT AREA

1. Demising Wall:

- a. 2-1/2", 25 gauge metal studs, 24" on center with seismic bracing, sound caulking between slab & track.
- b. 5/8" Type "X" drywall, one layer each side of studs.
- c. Height from floor slab to 8" above ceiling grid - 8 feet for non-abated space, slab to slab for abated space.
- d. Wall taped smooth and sanded to receive paint or wallcovering.
- e. Wall cavity insulation by Owens Corning, "Sound Attenuation Batts", 2-1/2" batts.
- f. Caulk around conduit and other through wall penetrations. Caulk entire perimeter of drywall at the floor. Two beads of sound caulking at mullion connection. Apply continuous compression tape between the grid/tile and top track.
- g. 8'-0" batts of ceiling insulation are to be installed 4'-0" each side of wall. Owens Corning, "Sono Batts" F.S. 26, Kraft face up, 2-1/2". (Non-abated space only).

2. Interior Partition:

- a. 25 gauge metal studs, 24" on center with seismic bracing, sound caulking at track to slab.
- b. 5/8" Type "X" drywall, one layer each side of studs, sound caulking at the slab.
- c. Height from floor slab to ceiling grid, 8'-8".
- d. Wall taped smooth and sanded to receive paint or wallcovering.

3. Corridor Door:

- a. 3'-0" x 8'-4" x 1 3/4" solid core flush, premium grade walnut with matching hardwood edges. Stain and two coats of varnish finish to match owner's sample.

- b. 3'-0" x 8'-0" x 3-3/4" anodized gold aluminum door frame by ACI, 20 minute fire rated with rating label attached to hinge side of frame.
- c. Schlage #L9453P-06L-805 entry lockset pair, "Rhodes" style lever, gold #605 finish, Russwin Mortize cylinder, 0-1/2 8052N 1-1/4".
- d. McKinney 4-1/2" x 4-1/2", TB2714 ball bearing hinges, 2 pairs, at labeled doors and doors with closers.
- e. LCN #4040 closer, #33 finish.
- f. Quality door stop, #432ES, 1 5/8" height, 813 finish.
- g. Reese threshold #S685DUR, 1 3/4" wide carpet separator at 20 minute labeled doors. Color to be anodized black.
- h. Reese astragal, #275-DUR at pairs only. Color to be anodized black.
- i. Reese Smokeseal F797 at head and joints.

4. Interior Door:

- a. 3'-0" x 8'-0" x 1 3/4" solid core flush, premium grade walnut with matching hardwood edges. Stain and two coats of varnish finish to match owner's sample.
- b. 3'-0" x 8'-2" x 3-3/4" black anodized aluminum door frame by ACI, 20 minute fire rated with rating label attached to hinge side of frame. Factory finish to be anodized black.
- c. McKinney 4-1/2" x 4-1/2", T2714 non-bearing hinges, 2 pairs at typical interior non-rated doors without closers.
- d. Quality door stop #331-ES 1" height, 813 finish.

Option 1: Door, door frame and hardware described above, with Schlage #D10S, 813 finish, interior latchset, "Rhodes" style lever, 813 finish (dark bronze).

Option 2: Door, door frame and hardware described above with Schlage #D60PD, 813 finish, interior lockset opened with key from outside, "Rhodes" style lever, 813 finish, Russwin key-in-knob cylinder, 445KO1, 813 finish.

Option 3: Door, door frame and hardware described above with Schlage #D40S, 613 finish, privacy lockset, "Rhodes" style lever, 613 finish.

5. Light Fixture:

- a. 2'x 4' fluorescent fixture, Lithonia, parabolic troffer, #2PM3-340, 3" deep louver, 18 cells. Provide with electronic ballasts and Octron T-8 lamps, per SDG&E specifications.
- b. 2'x2' fluorescent fixture, Lithonia, parabolic troffer, #2PM3-2U40-9, 3" deep louver, 9 cells. Provide with electronic ballasts and Octron T-8 lamps, per SDG&E specification.
- c. Fluorescent downlight, Lithonia, Twin Tube, #AF-13TT-7AR, clear finish.

6. Acoustic Ceiling:

- a. Chicago Metallic, standard 2x2 grid, intermediate duty with matte white finish.
- b. Celotex "Hytone" baroque tile, 2'x2'x3/4", lay in Tegalur.

7. Fire Sprinkler:

- a. Drops and recessed heads with chrome plated heads and white enamel trim.

8. Paint:

- a. Two coats of flat paint over primer.

9. Floor Covering:

- a. Carpet: Designweave, Tempest II, 32 oz. over 3/8" Nova pad by Stainer-Lift Textile Products Co.
- b. Vinyl composition tiles: Armstrong.

10. Base:

- a. 4" Roppe rubber straight or coved base.

11. Window Covering:

Vertical blinds: 3-1/2" wide, vinyl blinds by Louverdraps, Vinyl Mist, Sunscreen pattern No. 21, Sierra Snow. Zircon rail without valance.

12. Light Control System:

- a. Light-O-Matic, #01-072. *
- b. Light-O-Matic, #01-083. *
- c. Light-O-Matic, #01-082. *

* Ceiling mounted occupancy sensor for rooms up to 900 square feet.

- d. Light-O-Matic, #01-131. **

** Wall switch occupancy sensor for rooms up to 200 square feet.

13. Light Switch:

- a. Switches: Bryant or equal, Model CS120-BW, white handles.
- b. Plates: Bryant or equal, Model S1371, smooth finish, white. (Light switches to be used in areas with no lighting control system).

14. Floor Outlet:

- a. Electric floor outlet (duplex) with Hubble BR 2629 box and BR S3925 cover including cutting, coring and grout.
- b. Phone/data floor outlet with Hubble BR 2629 box and BR S2529 cover.

15. Telephone/Data Wall Outlet:

- a. Coverplate by phone company. Match other plates.

16. Tenant Exit Signs:

- a. Prescolite #EX1-G-TM-277-2CKT (single face) with green letters.
- b. Prescolite #EX2-G-TM-277-2CKT (double face) with green letters.

17. HVAC:

- a. Thermostats: Johnson Controls #T403, 50" A.F.F. center above light switches where appropriate.
- b. Ceiling diffusers, Krueger Manufacturing Co., Series 8500, perforated with matte white finish.
- c. Return air grilles, Krueger Manufacturing Co., Series 8500.

18. Low Partition:

- a. 2-1/2" 25-gauge metal studs @ 24" o.c. with drywall cap, height from 42" to 78" with 2'x2' stabilizing posts red headed to the slab @ 4'-0" o.c.

19. Fire Extinguisher Cabinet:

- a. Semi-recessed Larsen Model 2409-R3, solid door, rolled semi-recessed, white finish, red die-cut lettering, handle.

20. Existing Stair Door Hardware:

- a. Corbin, Unit Lockset 300 Series, 912LR Essex lever, 813 finish, Russwin key-in-knob cylinder 489K13.

Donovan Irving
G R O U P I N C.

September 5, 1991

Mr. Jerry J. Ong
Vice President
Jupiter Realty Corporation
919 N. Michigan Avenue
Chicago, IL 60611

RE: Letter of Intent

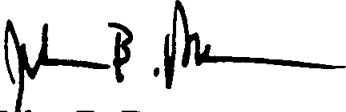
Dear Jerry:

Enclosed are two original Letters of Intent to be executed by you and returned to us by Monday, September 9, 1991. In addition, please include a draft lease document with an amendment incorporating all negotiated issues addressed in the Letter of Intent.

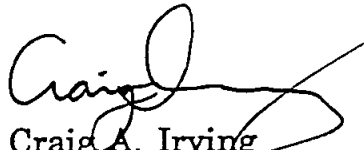
If you have any questions or comments in the interim, please call.

Very truly yours,

DONOVAN/IRVING GROUP, INC.



John B. Donovan
President



Craig A. Irving
Vice President

JBD/CAI/jg
Enclosures (2)

cc: Maureen Stapleton
James Spotts

Letter of Intent

September 5, 1991

Between Executive One Associates ("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 1010 Second Avenue, 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:** The Executive Complex, San Diego, California ("Building").
2. **RENTABLE AREA AND LOCATION:** The initial space required by Tenant shall be up to a maximum of 129,505 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	22,154
4th	20,930
5th	20,948
6th	20,913
8th	8,912
9th	8,912
10th	8,912
11th	8,912
12th	<u>8,912</u>
Total:	<u>129,505</u>

Landlord agrees that the loss factor from usable area to rentable area on floors that are fully occupied by Tenant shall not be more than eight percent (8%) and if such loss factor is in excess of eight percent (8%), Tenant shall not have to pay rent attributable to the square footage in excess of the eight percent (8%) loss factor.

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 required tenant improvements for all currently occupied space and new space, and Tenant's occupancy of all space. For space Tenant currently occupies in the Building ("occupied space"), the rental rate for occupied space shall be reduced at the beginning of the month which follows the month in which a Letter of Intent is mutually executed to reflect the base rent rate set forth in Section 5 of this Letter of Intent (\$1.35 RSF). 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 (except for occupied 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 occupied space, 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 six (6) months' prior written notice of its intent to cancel. 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 shall pay as an early termination penalty any unamortized tenant improvement monies and real estate commissions spent specifically for that space, amortized on a straight-line basis.

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.

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, no penalties shall be incurred.

5. **BASE RENT:** The base rent for all space in the Building (not including storage space, if any) shall be \$1.35 per rentable square foot per month, fully serviced. This rate shall remain flat over the initial term of the lease.

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. Likewise, if after extrapolating to 95% occupancy, the Building's direct operating expenses and taxes decrease, Tenant shall receive a rent credit reflecting such decrease.

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 a pass-through of any increases in property taxes 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 and shall be exercised prior to occupancy of said space.
9. **SPRINKLER INSTALLATION:** Landlord shall, at Landlord's sole cost and expense, provide sprinklered office space to Tenant. If Tenant remains on any floors it is currently occupying, then Landlord shall perform such work after hours, so as to cause no inconvenience 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:** For all space leased with the exception of the 11th and 12th floors, Landlord shall provide Tenant with a tenant improvement allowance of \$25.00 per "modified rentable" square foot leased which shall be applied to, but not limited to, all hard and soft construction costs including Tenant's data lines and telecommunications cabling. "Modified rentable" is hereby defined as all usable area plus the area of elevator lobbies, corridors and fire vestibules. Prior to Tenant utilizing its tenant improvement allowance, Landlord shall deliver to

Tenant its "base building" improvements. Landlord's "base building" improvements will include: all demolition required by Tenant, handicap code adherence, sprinkler installation including lowering heads to ceiling height, building standard window coverings, HVAC main loop ducting and drywalled columns sanded but not finished.

Tenant shall have the right to require Landlord to obtain competitive bids from general contractors and subcontractors of Tenant's selection for any and all of the work to be performed in the space. Such contractors selected by Tenant shall be duly licensed in the State of California and experienced in the construction of tenant improvements in similar high-rise buildings in the San Diego area. Such contractor shall be required to have a minimum bonding capacity acceptable to Landlord and Tenant and shall have completed tenant improvement projects of similar size and scope in the San Diego market. Such contractor shall also be required to furnish Landlord and Tenant certified financial statements for confidential review. Any contractor selected by Tenant shall be approved by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. Such contractor shall be hired by and under the direct contract of Landlord.

In the event that the total tenant improvement cost is less than the tenant improvement allowance, Landlord shall credit such unused tenant improvement allowance to Tenant and such unused portion shall, at the option of Tenant, be allocated to rent abatement, lower base rent, or for the purchase of furniture with said furniture becoming the property of Tenant.

Landlord shall receive no fee for profit, overhead or general conditions. Tenant shall not be charged for the use of electricity, water, elevator or hoists during the construction of tenant improvements. Tenant shall have the right to select all items (including finish materials and colors) of tenant improvements, and elevator lobbies, public corridors, and toilet rooms (if applicable) for floors Tenant occupies in their entirety.

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.
12. **RENEWAL OPTION:** Tenant shall have the right to two (2) five (5) year 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 eighty-five percent (85%) 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.

13. **EXPANSION OPTIONS:** Tenant shall have an annual unilateral expansion option of a minimum of 3% of space then occupied by Tenant $\pm$ 15%, plus additional rights as addressed in Section 15. All expansion space occupied by Tenant will contain sprinklers.

The tenant improvement allowance for all expansion space shall be prorated on a straight line basis to equate to the initial tenant improvement allowance. The rental rate for such expansion space shall be at the same base rental rate then in effect for the initial space as escalated by increases in direct operating expenses and taxes.

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.

14. **CONTRACTION RIGHTS:** At any time throughout the lease term, and without penalty, 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.

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 its availability. Tenant shall have thirty (30) calendar days in which to elect to lease such space, or any portion thereof, at the same base rental rate then in effect and on the then in effect terms of the original lease for the balance of the initial term or any extension thereof. 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. The tenant improvement allowance for said space shall be determined as addressed in Section 13.

16. **OPTION TO PURCHASE:** Tenant's right to purchase the Building shall be as follows:
- a. Landlord shall not, at any time prior to the expiration of the term of this lease, or any extension thereof, sell the Building without first giving written notice thereof to Tenant, which notice is hereinafter referred to as "Notice of Sale."
 - b. The Notice of Sale shall include the terms of the proposed sale.
 - c. For a period of thirty (30) calendar days after receipt by Tenant of the Notice of Sale, Tenant shall have the right to give written notice to Landlord of Tenant's exercise of Tenant's right to purchase the Building, or the interest proposed to be sold, on the same terms, price and conditions as set forth in the Notice of Sale. In the event that Landlord does not receive written notice of Tenant's exercise of the right herein granted within said thirty (30) day period, there shall be a conclusive presumption that Tenant has elected not to exercise Tenant's right hereunder, and Landlord may sell the Building. If, however, there is a material change in the terms, price or conditions set forth in the Notice of Sale, which change would have the effect of creating a more favorable opportunity for any potential buyer (i.e. a price reduction etc.), then Landlord shall resubmit the new terms in a new Notice of Sale to Tenant for Tenant's consideration. Tenant shall then have the same thirty (30) day response period.
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. If Tenant currently occupies space in the Building, Tenant shall not be entitled to a moving allowance unless Tenant relocates departments within the Building. If such relocations occur, Tenant shall receive the same moving allowance to be applied to the same costs. 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 1,200 usable square feet of storage space in the parking facility at the rate of \$.75 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, provided however that such subletting or assignment is not in contravention with any exclusive use provision currently in effect with the retailers. 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 shall retain any and all profit realized from such subletting or assignment. Landlord shall have no rights to recapture any space during the initial term or any renewal period.
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.
22. **BUILDING CONFERENCE FACILITY:** Landlord will furnish and make available to all tenants in the Building a conference facility on the lower level of the main lobby. The conference facility shall be approximately 1,539 square feet, and will have a large conference table capable of seating up to twenty (20) with additional chairs available.

The conference facility shall be on the same floor with the deli and sundry shop. The office of the Building will handle scheduling on a first come, first served basis free of charge to the Tenant.
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 provide a comprehensive accounting of all such materials and the means by which Landlord will maintain the premises in a safe condition throughout the term of the lease.
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.

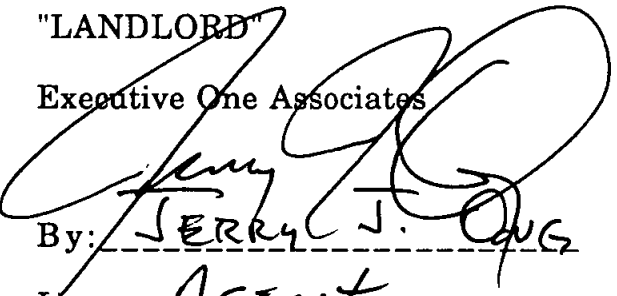
The nondisturbance agreement will be provided concurrently with Lease execution.
32. **TRANSPORTATION DEMAND MANAGEMENT ORDINANCE (TDMO):** Landlord agrees to comply with all present and future requirements and to notify Tenant in writing as to all such compliance.
33. **LEASE EXECUTION:** Landlord and 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"

Executive One Associates

By:  JERRY J. ONG

Its: AGENT

Dated: 9-6-91

"TENANT"

City of San Diego

By: 

Its: Property Director

Dated: 9/10/91