

## OFFICE LEASE

THIS OFFICE LEASE (the "Lease") is entered into by Landlord (as defined below) and Tenant (as defined below),

### ARTICLE 1 – BASIC LEASE INFORMATION AND DEFINITIONS

1.1 Basic Lease Information. The following Basic Lease Information shall constitute a part of this Lease.

- (a) **DATE OF LEASE:** The date of this Lease shall, for all purposes, be deemed to be July 11, 2017 regardless of the date on which it is executed by any party.
- (b) **LANDLORD:** B.H. Camino Del Rio, LLC, a California limited liability company
- (c) **TENANT:** The City of San Diego, a California municipal corporation
- (d) **TRADE NAME:** The City of San Diego
- (e) **COMMENCEMENT DATE:** The later of substantial completion of tenant improvements or September 1, 2017.
- (f) **EXPIRATION DATE:** The final day of the thirty sixth (36<sup>th</sup>) full month after the Commencement Date.
- (g) **INTENTIONALLY OMITTED**
- (h) **BUILDING ADDRESS:** 4025 Camino Del Rio South  
San Diego, California 92108
- (i) **LANDLORD'S ADDRESS:** P.O. Box 49993  
Los Angeles, California 90049  
Attn: Arsalan Gozini  
Email: accounting@bhproperties.com
- (j) **TENANT'S ADDRESS:** 1200 Third Avenue  
San Diego, California 92101  
Attention: Director of Real Estate Assets Department  
Email: Thompsonc@sandiego.gov
- (k) **MONTHLY BASE RENT:**

|                |                             |
|----------------|-----------------------------|
| Months 1 - 12  | \$5,081.95 per month, gross |
| Months 13 – 24 | \$5,234.41 per month, gross |
| Months 25 – 36 | \$5,391.44 per month, gross |
- (l) **PERMITTED USE:** Tenant shall have the right to use and occupy the Premises for general office and administrative purposes, and any other legally permitted uses.
- (m) **PREMISES:** Suite 104 as shown on the floor plan attached to this Lease as **Exhibit B**.
- (n) **RENTABLE AREA OF PREMISES:** 2,747 Rentable Square Feet (determined according to measurement criteria established by Landlord, which criteria are agreed upon by Tenant).
- (o) **BROKER:** Colliers International as the Landlord's agent.

1.2 Basic Lease Definitions. In addition to the terms, which are defined elsewhere in this Lease, the following defined terms are used in this Lease:

- (a) **ADDITIONAL RENT:** "Additional Rent" shall mean all amounts, in addition to Monthly Base Rent, payable by Tenant and all additional payments due from any obligations of Tenant to Landlord pursuant to any other provision of this Lease.
- (b) **BUILDING:** "Building" shall mean the 3-story building located on the Land.
- (c) **COMMON AREA:** "Common Area" shall mean all portions of any facilities within the Building and the Project that are dedicated and intended for the non-exclusive use of Tenant, in common with Landlord, and all other tenants of the Project, and their respective employees, agents, invitees, licensees and other visitors. The Common Area includes, without limitation, all of the following facilities within the Project: parking areas, driveways and entryways, private streets and alleys, elevators, stairways, walkways and sidewalks, hallways, malls and promenades (enclosed or otherwise), drinking fountains, public toilets, and landscaped areas. The Common Area does not include space within the Building designed and set-aside exclusively for commercial rental purposes.
- (d) **LAND:** "Land" shall mean the parcel of real property located in the City of San Diego, County of San Diego, State of California on which the Building, the Common Areas and the Premises are located, the legal description of which is attached to this Lease as **Exhibit C**.
- (e) **LEASE YEAR:** "Lease Year" shall mean the twelve-month period commencing on the first day of the calendar month in which the Commencement Date occurs, and each subsequent twelve-month period during the Term.
- (f) **PROJECT:** "Project" shall refer to the aggregate of the Land, the Building and the Common Area (whether located inside or outside the Building).
- (g) **RENT:** "Rent" shall mean Monthly Base Rent plus Additional Rent.
- (h) **BASE YEAR:** 2017
- (i) **TENANT'S SHARE:** "Tenant's Share" shall be a percentage representing the ratio of the Rentable Area of the Premises to the Rentable Area of the Building. Unless and until there should be a change in the Rentable Area of the Premises or the Rentable Area of the Building, Tenant's Share shall be 5.97%.

1.3 Exhibits. The following exhibits shall be attached to and shall be a part of this Lease.

**EXHIBIT A – Lease Addendum**  
**EXHIBIT B – Floor Plan**  
**EXHIBIT C – Legal Description of Land**  
**EXHIBIT D – Rules and Regulations**  
**EXHIBIT E – Sign Criteria and Specifications**  
**EXHIBIT F – Landlord's Work**  
**EXHIBIT G – Tenant's Work**

## ARTICLE 2 – DEMISE OF PREMISES

Subject to Tenant's payment of Rent and performance of its covenants, conditions and obligations set forth herein, Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, on all of the terms and conditions set forth herein, and Landlord also grants Tenant the right to use the Common Areas, in common with the Landlord and other tenants of the Building, on the terms and conditions set forth in Article 11 of this Lease and in the Rules and Regulations.

## ARTICLE 3 – TERM, DELIVERY AND ACCEPTANCE OF PREMISES

3.1 Term. The Term shall begin on the Commencement Date and shall end on the Expiration Date, unless the Term should be extended pursuant to Tenant's Extension Option set forth in Section 3.4 of this Lease.

3.2 Delivery and Possession. Landlord shall deliver and Tenant shall take possession of the Premises on the Commencement Date. Tenant may take possession of the Premises two (2) weeks prior to the anticipated Commencement Date solely to install its furniture, fixtures and equipment, subject to Tenant's compliance with all of the provisions and covenants contained herein, except for Tenant's obligation to pay Monthly Base Rent. Notwithstanding the above, Tenant's early possession shall not delay Landlord's completion of the Tenant Improvements called for hereunder. If Tenant's early possession does so delay completion of the Tenant Improvements, then such delay shall be chargeable to Tenant by extending the Term an equal number of days as the total days Landlord was so delayed.

3.3 Condition of the Premises. Landlord will deliver the Premises to Tenant in their present condition as is, where is condition with all faults and defects except for Landlord's completion of the Landlord's Work described in **Exhibits F and F-1**, each attached hereto and made a part hereof. By taking possession of the Premises, Tenant accepts the Premises in their "as is" condition as of the date of delivery of possession. Landlord shall have no duty to make any repairs, alterations or improvements to the Premises other than the Landlord's Work. All repairs, alterations or improvements deemed necessary by Tenant (subject to the provisions of Article 14 of this Lease) shall be made by Tenant at Tenant's sole expense. Tenant acknowledges that Landlord has not made any representations or warranties concerning the Premises other than as explicitly set forth herein.

#### ARTICLE 4 – PAYMENT OF RENT

4.1 Monthly Base Rent. Upon Lease execution Tenant shall deposit with Landlord an amount equivalent to the first month's Monthly Base Rent. Throughout the Term, Tenant shall pay Monthly Base Rent to Landlord in advance, without deduction or offset of any kind, on or before the first day of each month, at Landlord's Address, or at such other place as Landlord may from time to time designate in writing. If the Term commences on a day other than the first day of a calendar month or ends on a day other than the last day of a calendar month, then Monthly Base Rent will be appropriately prorated for such month. If the Term commences on a day other than the first day of a month, then the Monthly Base Rent for such month will be paid on or before the first day of the Term.

4.2 Additional Rent. This Lease is what is commonly referred to as a "gross lease" it being understood that Tenant shall pay Monthly Base Rent, and any Additional Rent, including without limitation, Tenant's Share of Operating Expenses, that becomes due and payable. Tenant's obligation to pay Additional Rent shall be unconditional and shall not be subject to deduction or offset. Additional Rent shall be due from Tenant at the same time as Monthly Base Rent.

4.3 Late Payment Charge. Any amount of Rent (whether Monthly Base Rent or Additional Rent) or other amounts due under the terms of this Lease not paid within five (5) days after it is due shall be subject to a late charge equivalent to ten percent (10%) of the amount unpaid. Landlord's right to assess a late charge shall not be construed as granting Tenant a grace period within which to make payments. Any amount due to Landlord that is not paid when due shall bear interest from the date due until paid at the maximum legal rate permitted under California law. Tenant's failure to perform monetary obligations under this Lease shall have the same consequences as Tenant's failure to pay rent.

#### ARTICLE 5 – OPERATING EXPENSES

5.1 Certain Definitions. As used in this Lease:

(a) "Escalation Statement" means a statement by Landlord, setting forth the amount payable by Tenant or by Landlord, as the case may be, for a specified calendar year pursuant to this Article 5.

(b) "Operating Expenses" means all costs and expenses of every kind paid or incurred by Landlord relating to its ownership, management, operation, maintenance, security, and repair of the Building and every portion thereof and shall include (by way of illustration), but not be limited to, costs relating to the following: cleaning (excluding janitorial services in the Premises); painting; striping; policing and/or guard services (including costs of uniforms, equipment and all employment taxes) if any; regulating traffic and parking; furnishing water and sewer, lights, music, heat, ventilation and air-conditioning (including repair thereof) and other utilities; depreciation for machinery and equipment used in operating and maintaining common facilities, including the common area heating, air conditioning and ventilating equipment, and personal property taxes and other charges incurred in connection with such equipment;

costs and expenses of repairing roofs (including gutters and downspouts), exterior walls, foundations and structural portions of buildings; painting or staining exterior walls, trim and accessories; maintaining underground and overhead utility and service lines; repairing, resurfacing or replacing parking areas, driveways, curbs, walkways, sprinklers, drainage facilities and light standards; costs of licenses, permits and inspections; equipment and tools; costs and expenses of gardening, landscaping and replacing flowers, shrubbery and planters; legal and accounting fees; all Taxes (as defined below); management fees paid by Landlord to any third-party, which shall not exceed those reasonable and customary in the geographic area in which the Building is located; and all Insurance Costs (as defined below); together with an administrative charge by Landlord equal to 15% of the total (exclusive of depreciation of equipment) of said costs and expenses. Operating Expenses shall also include the cost or portion thereof of those capital improvements made to the Building by Landlord during the Term that (i) reduce other direct expenses and that were made to the Building by Landlord after the date of this Lease, or (ii) are required under any governmental law or regulation that was not applicable to the Building as of the Commencement Date. Said capital improvement costs, or the allocable portion thereof (as referred to in clauses (i) and (ii) above), shall be amortized pursuant to generally accepted accounting principles, together with interest on the unamortized balance at the rate of eight percent (8%) per annum. If the Building is not at least 95% occupied during all or a portion of any calendar year, Landlord may adjust the components of Operating Expenses for such year to determine the amount of Operating Expenses that would have been incurred if the Building had been at least 95% occupied during such year, and the amount so determined shall be deemed to have been the amount of Operating Expenses for such year.

(c) "Taxes" means, collectively, all real property taxes and assessments levied on or in connection with the Building and all improvements thereon, rent or gross receipts, taxes, all federal, state, county, or local governmental or municipal taxes, fees, charges or other impositions of every kind and nature, whether general, special, ordinary or extraordinary (including, without limitation, real estate taxes, general and special assessments, transit taxes, housing fund assessments or other housing charges, leasehold taxes or taxes based upon the receipt of rent, including gross receipts or sales taxes applicable to the receipt of rent, unless required to be paid by Tenant and any other ad valorem or margin taxes, rates, charges, levies and assessments imposed by paid or incurred during a calendar year (or portion thereof) upon or with respect to the Building and the personal property used by Landlord to operate the Building, whether paid to any governmental or quasi-governmental authority, and all taxes specifically imposed in lieu of any such taxes, including fees of counsel and experts, reasonably incurred by, or reimbursable by Landlord in connection with any reasonable application for a reduction in the assessed valuation of the Building and/or the land thereunder or for a judicial review thereof. Taxes shall include, without limitation, assessments, taxes, fees, levies and charges that may be imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, refuse removal and for other governmental services formerly provided without charge to property owners or occupants, and any governmental or private assessments or a contribution towards a governmental or private cost-sharing agreement for the purpose of augmenting or improving the quality of services and amenities normally provided by governmental agencies. Taxes shall exclude amounts referred to in Section 2.3 for which Tenant or other tenants in the Building are liable.

(d) "Insurance Costs" mean all premiums and other costs incurred by Landlord for Landlord's Policies.

(e) "Tenant's Share" is the percentage as set forth in Section 1.2, and is calculated by dividing the area of the Premises by the area of the Building.

(f) Tenant's "Base Year" shall be calendar year 2017.

5.2 Operating Expenses. If the Operating Expenses for any calendar year during this Term following the Base Year (a "Subsequent Year") (including the year in which this Lease expires or is otherwise terminated) exceed the Operating Expenses for the Base Year, then within the calendar month immediately following Tenant's receipt of an Escalation Statement relating to such Subsequent Year, Tenant shall, in the case of an increase, pay to Landlord as Additional Rent for such Subsequent Year an amount equal to the product obtained by multiplying such excess by Tenant's Share. Landlord may, at or after the start of any calendar year notify Tenant of the amount which Landlord estimates will be Tenant's monthly share of any such excess in Operating Expenses for such calendar year over the Base Year and the amount thereof shall be added to the monthly Fixed Rent payments required to be made by Tenant in such year. If Tenant's Share of any such excess in rent payable hereunder as shown on the Escalation Statement is greater or less than the total amounts actually billed to and paid by Tenant during the year covered by such statement, then within thirty (30) days thereafter, Tenant shall pay in cash any sums owed Landlord or, if applicable, Tenant shall receive a credit against any Fixed Rent next accruing for any sum owed Tenant.

Notwithstanding anything to the contrary in this Article 5, if, in any Subsequent Year a new item of expense (e.g., for illustration purposes only and without limitation, earthquake insurance, concierge services, entry card systems) is included in Operating Expenses which was not included in the Base Year Operating Expenses, then the cost of such new item shall be added to the Base Year Operating Expenses for purposes of determining the Additional Rent payable pursuant to this Section 3.1(b) for such Subsequent Year. The same amount shall continue to be included in Base Year Operating Expenses for each Subsequent Year thereafter such that the additional charges for such Subsequent Year shall include the increase in the cost of such new item over the first Subsequent Year in which it appeared as an Operating Expense, provided, however, that if in any Subsequent Year thereafter such new item is not included in Operating Expenses, no such addition shall be made to Base Year Operating Expenses. Conversely, if, in any Subsequent Year, an item of expense as determined by Landlord in its sole discretion is no longer included in Operating Expenses that was included in the Base Year Operating Expenses, then the cost of such item shall be deleted from the Base Year Operating Expenses for purposes of determining the Additional Rent payable pursuant to this Section 3.2 for such Subsequent Year. The same amount shall continue to be deleted from the Base Year Operating Expenses for each Subsequent Year thereafter that the item is not included provided, however, that if such item is again included in any Subsequent Year, then the item shall be added back to the Base Year Operating Expenses. Additionally, in no event shall the portion of any billing rendered to Tenant and attributable to Taxes for a Subsequent Year be less than the billing for Taxes applicable to the Base Year.

### 5.3. Intentionally Omitted.

5.4. Definition of "Tenant's Pro Rata Share". "Tenant's Pro Rata Share" as said phrase is used in this Lease shall be a fraction, the numerator of which shall be the floor area of the Premises and the denominator of which shall be the total floor area of the Building which are completed and operating, including the Premises. The term "floor area" as used herein shall be computed by Landlord using its standard method of determination. The "floor area" shall be increased or decreased (at Landlord's option) for additional buildings or demolition of buildings (if appropriate) at Landlord's discretion and without Tenant's approval, with a corresponding increase or decrease in the denominator used in computing "Tenant's Pro Rata Share" of costs.

5.5. "Additional Rent"; "Rent". Every payment, charge or other amount required to be paid by Tenant pursuant to this Lease (other than Monthly Base Rent) shall be "additional rent" due Landlord hereunder, whether or not expressly designated as additional rent. Monthly Base Rent, and/or additional rent are referenced collectively hereunder, as applicable, as "rent".

## ARTICLE 6 – INSURANCE POLICIES AND PREMIUMS

6.1 Landlord's Insurance. At all times during the Term, Landlord shall carry and maintain: (1) fire and extended coverage insurance with respect to the Building and Common Area, its equipment, fixtures, and common area furnishings and improvements; (2) bodily injury and property damage insurance; and (3) such other insurance as Landlord or Landlord's lender, if any, determines necessary from time to time (collectively, the "Landlord's Policies"). The coverages and amounts of the Landlord's Policies shall be determined by Landlord in its reasonable discretion.

6.2 Tenant's Insurance. At all times during the Term, Tenant shall carry and maintain at Tenant's expense the following insurance, in the amounts specified below or such other amounts as Landlord may from time to time reasonably request, with insurance companies and on forms satisfactory to Landlord:

(a) Bodily injury and property damage liability insurance, with limits per occurrence and in the aggregate of not less than \$2,000,000. All such insurance will be on a commercial general liability form including, without limitation, personal injury and contractual liability coverage, adequate for the performance by Tenant of the indemnity agreements set forth in Article 21 of his Lease;

(b) Insurance covering all of Tenant's furniture, fixtures, machinery, equipment, inventory, stock and any other personal property owned or used by Tenant in its business, and found in, on or about the Premises, and also covering all leasehold improvements to the Premises, whether previously existing or constructed by Tenant, in an amount not less than full replacement cost. All such policies must provide coverage on an open perils basis insuring against "all risks of direct physical loss." All policy proceeds will be used for the repair or replacement of the property damaged or destroyed; provided, however, that if this Lease terminates as a result of an insured loss pursuant to the provisions of Article 18, Tenant shall be entitled to any proceeds resulting from damage to Tenant's furniture, fixtures, machinery, equipment, inventory, stock and all other personal property not attached to the Premises, and Landlord shall be entitled to any proceeds resulting from damage to Tenant's leasehold improvements and any other items of personal property that have become affixed to the Premises;

(c) Workers' compensation insurance insuring against and satisfying Tenant's obligations and liabilities under the workers compensation laws of the State of California; and

(d) If Tenant operates owned, hired or non-owned vehicles on the Project or in connection with the business conducted by Tenant at the Premises, comprehensive automobile liability with a liability limit of not less than \$2,000,000 combined bodily injury and property damage. Nothing in this subsection 6.2(d) shall be construed to require Tenant to maintain such insurance if automobiles are simply parked on the Premises.

6.3 Forms of Tenant's Policies. All of Tenant's Policies must name Landlord as an additional insured (entitling Landlord to recover under such policies for any loss sustained by it or its agents or employees as a result of the acts or omissions of Tenant) and shall further provide that no such policy may be terminated, canceled, or modified or amended to any material extent without thirty (30) days prior written notice having been given to Landlord (and for purposes of this provision, an insurer's decision not to renew a policy shall be considered the equivalent of a termination or cancellation of the policy). Tenant shall cause copies of all such policies, or at Landlord's option, certificates of insurance together with copies of all endorsements, to be delivered to Landlord prior to the Commencement Date or the date on which the Tenant occupies the Premises, whichever is earlier, and thereafter upon any renewal, cancellation, termination, amendment or modification of such policies. Each of Tenant's Policies must provide that it may not be terminated or canceled, nor may its coverage be reduced, except after thirty (30) days prior written notice to Landlord. Each commercial general liability and property policy maintained by Tenant must be written as a primary policy, not contributing with and not supplemental to the coverage that Landlord may carry, and must provide for coverage on an occurrence basis. Commercial general liability insurance required to be maintained by Tenant by this Article 6 may not be subject to a deductible. If Tenant fails to obtain and maintain any of Tenant's Policies, Landlord may, at its option, obtain and pay the premiums for any such policy for Tenant's account, and all sums advanced by Landlord in payment of premiums for any of Tenant's Policies shall constitute an obligation of Tenant to Landlord, which obligation shall also constitute Additional Rent under this Lease, payable by Tenant to Landlord upon Landlord's demand.

6.4 Waiver of Subrogation. Landlord and Tenant each waive any and all rights to recover against the other or against any other tenant or occupant of the Project, or against the officers, directors, shareholders, partners, joint ventures, employees, agents, customers, licensees, invitees or business visitors of such other party or of such other tenant or occupant of the Project, for any loss or damage to such waiving party arising from any occurrence covered by any insurance maintained by such party to the extent of the limits of such policy. Landlord and Tenant, from time to time, will cause their respective insurers to issue appropriate waiver of subrogation rights endorsements to all insurance policies carried in connection with the Project or Premises or the contents of the Project or the Premises. A waiver of subrogation rights in any insurance policy shall satisfy the requirements of this Section 6.4 if it reads substantially as follows: "This insurance shall not be invalidated should the insured waive, in writing prior to a loss, any and all right of recovery against any party for loss occurring to the insured property." Tenant agrees to cause all other occupants of the Premises claiming by, under or through Tenant to execute and deliver to Landlord such a waiver of claims and to obtain such waiver of subrogation rights endorsements.

6.5 Adequacy of Coverage. Neither Landlord nor its agents or employees make any representation that the limits of liability required to be carried by any party pursuant to this Article 6 are adequate to protect Tenant's interests. If Tenant believes that any of such insurance coverage is inadequate, Tenant will obtain such additional insurance coverage, as Tenant deems adequate, at Tenant's sole expense.

6.6 Tenant's Right to Self-Insure. Tenant shall have the right to self-insure and shall not be required to comply with Sections 6.2 – 6.5, inclusive. Any assignee or subtenant of Tenant will be required to comply with Sections 6.2 – 6.5 inclusive.

## ARTICLE 7 – TAXES

7.1 Intentionally Omitted.

7.2 Personal Property Taxes. Tenant shall be liable for all taxes levied against personal property and trade fixtures placed in the Premises by Tenant. If any such taxes are levied against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of Landlord's property is increased by inclusion of personal property and trade fixtures placed by Tenant in the Premises and Landlord elects to pay the taxes based on such increase, Tenant shall pay as Additional Rent to Landlord, upon demand, that part of such taxes for which Tenant is primarily liable.

7.3 Property Tax Appeals. Tenant may, alone or along with any other tenant of the Building, at its or their sole cost and expense, in its or their own names, dispute and contest any Personal Property Taxes by appropriate proceedings diligently conducted in good faith, but only after Tenant has deposited with Landlord cash or immediately available funds in the amount of 100% of the amount so contested and unpaid, or their respective Tenant's Shares thereof as the case may be (the "Appeal Deposit"). The Appeal Deposit shall be held by Landlord without obligation for interest until the termination of the proceedings, at which time the Appeal Deposit shall be applied by Landlord toward the payment of the items held valid (plus any court costs, interest, penalties and other liabilities associated with the proceedings), and any excess shall be returned to Tenant. Tenant further agrees to pay Landlord upon demand Tenant's pro-rata share (as among all tenants who participated in the contest) of all court costs, interest, penalties and other liabilities relating to such proceedings. Tenant hereby indemnifies and agrees to hold harmless the Landlord from and against any cost, damage or expense (including attorney's fees) in connection with any such proceedings.

## ARTICLE 8 – USE OF PREMISES

8.1 Permitted Use and Trade Name. Tenant agrees to use the Premises, and to permit the Premises to be used, only for the purpose or purposes described in the "Permitted Use" paragraph of Section 1.1 and for no other purpose or purposes. Tenant acknowledges that the statement of its intended use of the Premises was a material factor in Landlord's decision to enter into this Lease because the mix and variety of tenant uses and similar factors affect the success of the Project. Tenant further acknowledges that its use of the Premises in any manner inconsistent with that described Section 1.1 could result in violation of exclusivity provisions in leases of other portions of the Project. Tenant, therefore, agrees not to use the Premises for any purpose other than as specified in Section 1.1 without the prior written consent of Landlord, which consent Landlord may withhold in its discretion. In its transaction of business at the Premises the Tenant shall use only the Trade Name described in the "Trade Name" paragraph of Section 1.1, and no other name or fictitious name, without prior written consent of the Landlord.

8.2 Transaction of Business. Tenant's reasonable hours of business activities are between 8AM and 11PM, Monday through Friday, and Saturdays from 9AM until 1PM, holidays excepted. Landlord agrees to provide utilities to the building during these hours. Landlord agrees to provide access to the building 24 hours per day, 7 days per week through an appropriate means (a designated, outside door remaining unlocked or some other mechanical system which will reasonably allow the door to be opened by the Tenant or his clients). If the door remains unlocked, Tenant agrees to lock the door upon the departure of the last client on any given day. Tenant shall operate its business in an efficient, first-class and reputable manner.

8.3 Prohibited Activities. Tenant shall not conduct or permit to be conducted at the Premises any fire, auction, "going out of business" or bankruptcy sale. Tenant shall not (a) permit any objectionable or unpleasant odors to emanate from the Premises, not permit any radio, television, loud-speaker or amplifier on the roof or outside the Premises, or where such equipment can be seen or heard from outside the Premises or in the Common Area; (b) place any antenna or other projections on the exterior of the Premises; (c) solicit business or distribute leaflets or other advertising material in the Common Area; or (d) take any other action, which, in the exclusive but reasonably-exercised judgment of the Landlord, would constitute a nuisance, injure the reputation of the Project, disturb or endanger other tenants of the Project, or unreasonable interfere with the use by other tenants of the Project or their respective premises.

8.4 Permits and Licenses. Tenant shall procure, at its sole expense, any permits and licenses required for the transaction of its business at the Premises. In the transaction of its business Tenant shall comply at all times with all applicable laws, ordinances and governmental regulations. Tenant's failure to obtain or renew any permit or license necessary for the operation of its business shall constitute an Event of Default under this Lease.

8.5 Signs. Tenant shall submit to Landlord, prior to fabrication or installation of any Tenant's Signs, drawings, plans and specifications for such signage, which shall be in such detail as Landlord shall reasonably request, and such drawings, plans and specifications are subject to Landlord's prior written approval. Without Landlord's written consent, which consent Landlord may withhold in its discretion, Tenant shall not install any exterior lighting, decorations or paintings other than Tenant's Signs

8.6 Compliance with Rules and Regulations. Tenant shall at all times comply with the Rules and Regulations attached to this Lease as **Exhibit D**. Landlord shall have the right to, modify, delete or add to otherwise amend the Rules and Regulations from time to time, and Tenant shall at all times comply with Rules and Regulations, as amended.

8.7 Certain Insurance Risks. Tenant will not do or permit to be done any act or thing upon the Premises or the Project which would: (a) jeopardize or be in conflict with fire insurance policies covering the Project, or any

fixtures or personal property within the Project; or (b) increase the rate of fire insurance applicable to the Project to an amount higher than it otherwise would be for general retail and office use of the Project; or (c) subject Landlord to any liability or responsibility for injury to any person or persons or to property by reason of any business or operation being conducted upon the Premises.

## ARTICLE 9 – REQUIREMENTS OF LAW; ENVIRONMENTAL COVENANTS

9.1 General Compliance with Law. Tenant shall, at its sole cost and expense, promptly and continuously comply with all laws, statutes, ordinances and governmental rules, regulations and requirements now and hereafter in force, and with the requirements of any board of fire underwriters or other similar body now or hereafter constituted, and with any direction or occupancy certificate issued pursuant to any law by any public officer or officers, as well as the provisions of all recorded documents affecting the Land, insofar as they relate to: (a) the condition, maintenance, use or occupancy of the Premises; (b) Tenant's acts and omissions; (c) Tenant's business; and (d) Tenant's improvements to the Premises.

9.2 Environmental Covenants. (a) When used in this Section 9.2 or elsewhere in this Lease, the following terms shall have the following meanings:

(1) "Hazardous Material[s]" shall mean (i) Any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, 42 §6901 et seq. ("RCRA"), as amended or replaced from time to time; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 §9601 et seq. ("CERCLA"), as amended from time to time; (iii) any hazardous waste, hazardous materials, toxic waste, toxic materials, toxic substances, or hazardous substances as defined in any Environmental Law (defined below) now existing or hereafter enacted; (iv) any asbestos-containing materials; (v) any polychlorinated biphenyls; (vi) any radioactive materials; (vii) any chemicals or compounds known to cause cancer or reproductive toxicity; (viii) any spilled or leaked petroleum products, distillates, or fractions; (ix) any substance the presence of which on any property is prohibited or regulated by any Environmental Law[s]; and (x) any substance for which any Environmental Law[s] require a permit or special handling in its use, collection, storage, treatment, or disposal.

(2) "Environmental Law[s]" shall mean any and all applicable federal, state, or local statutes, laws, ordinances, codes, rules, regulations, and decrees regulating the installation, use, generation, manufacture, treatment, handling, refining, production, processing, storage, disposition, release, or location of any Hazardous Materials, including, without limitation, RCRA, CERCLA, the Superfund Amendments and Reauthorization Act, 10 U.S.C. §2701 et seq., the Federal Water Pollution Control Act of 1972, 33 U.S.C. §1251 et seq., the Clean water Act of 1977, 33 U.S.C. §1251; the Toxic Substances Control Act, 15 U.S.C. §2601 et seq., the Safe Drinking Water Act, 42 U.S.C. §201 et seq., and all existing and future amendments to those statutes, laws, ordinances, codes, rules, regulations and decrees.

(3) "Release" shall mean any act or omission by which any Hazardous Material is brought onto, used, kept, stored, generated, or disposed of at, on, within, or under the Premises the Building, the Common Area, or the Land, as well as any event defined at 42 U.S.C. §9601(22), as amended or replaced from time to time.

(b) Tenant shall keep the Premises and any portion of the Common Area or Building used by Tenant, in full compliance with all Environmental Laws. Tenant shall not cause or permit any Release of any Hazardous Material on, within or under the Premises, the Building or the Common Area. Tenant shall be responsible for the compliance, and be liable for the noncompliance, with any of the Environmental Covenants in this Section 9.2 by its agents, employees, licensees, invitees and contractors.

(c) Tenant shall respond immediately to any Release or threatened Release of any Hazardous Material (1) at or from the Premises or (2) at or from any portion of the Building or Common Area if the Release or Threatened Release is caused or contributed to by Tenant or its agents, employees, licensees, invitees and contractors. Upon any Release or threatened Release described in clauses (c)(1) or (c)(2), Tenant shall, at Tenant's sole expense, promptly take any and all necessary actions to return the affected property to the condition existing prior to such Release, or take any and all necessary actions to prevent a threatened Release.

(d) Tenant shall notify the Landlord within 24 hours of discovering or receiving oral or written notice of: (1) any violation of an Environmental Law; (2) any Release or threatened Release of a Hazardous Material at or from the Premises, the Building or the Common Area; (3) any request for information or notice of potential responsibility under the Environmental Laws with respect to cleanup of the Premises, the Building or the Common Area; (4) the imposition of any lien imposed under the Environmental Laws; or (5) the commencement of any litigation, enforcement action or investigation under any Environmental Law with respect to the Premises, the Building and the Common Area.

(e) Tenant agrees to indemnify, defend, protect and hold Landlord harmless against any and all losses, costs, damages, liabilities, expenses (including attorneys' fees and expenses), obligations, remediation costs, fines, penalties, judgments, and charges, including but not limited to Superfund liability, that Landlord may sustain as a result of or in connection with the failure by the Tenant, or any of the Tenant's subtenants or assignees, to perform any of its, or their, obligations imposed by any of the provisions of this Section 9.2. Tenant's obligation to so indemnify Landlord shall survive the expiration or sooner termination of the Term.

## ARTICLE 10 – ASSIGNMENT AND SUBLETTING

10.1 General. Tenant, for itself, its heirs, successors, personal representative and assigns, covenants that it will not assign, mortgage or encumber this Lease, any of its interest in this Lease or the Premises, nor sublease, or permit the Premises or any part of the Premises to be used or occupied by others, without the prior written consent of Landlord in each instance other than subleases to any related entity, subsidiary or successor; provided that Tenant provides Landlord with prior written notice of such sublease. Any assignment or sublease in violation of this Article 10 will be void. If this Lease should be assigned, or if the Premises or any part of the Premises should be subleased or occupied by anyone other than Tenant, Landlord may collect rent directly from the assignee, subtenant or occupant and apply the net amount collected to the Rent due from Tenant. No assignment, sublease, occupancy or collection of Rent will be deemed a waiver of Landlord's right of consent and of the other provisions in this Section 10.1. No assignment, sublease, occupancy or collection of rent will be deemed an acceptance of the assignee, subtenant or occupant as tenant, or a release of Tenant from further performance by Tenant of covenants on the part of the Tenant contained in this Lease. Landlord's written consent to any one or more assignments or subleases shall not be construed as a waiver of Landlord's right of consent to subsequent assignments or subleases, nor shall such events be construed as relieving Tenant from the duty to obtain Landlord's prior written consent to any further assignment or sublease. No permitted assignee or subtenant may assign or encumber its interest in the Lease or its sublease or further assign or sublease all or any portion of its interest in the Premises, or otherwise permit the Premises or any portion thereof to be occupied by others, without Landlord's prior written consent in each instance.

10.2 Submission of Information. If Tenant requests Landlord's consent to a specific assignment or sublease, Tenant will submit in writing to Landlord: (a) the name and address of the proposed assignee or subtenant; (b) a counterpart of the proposed agreement of assignment or sublease; (c) reasonably satisfactory information as to the nature and character of the business of the proposed assignee or subtenant, and as to the nature of its proposed use of the Premises or portion thereof; (d) current financial statements (audited if available) of the proposed assignee or subtenant; and (e) banking, personal references and credit information reasonably sufficient to enable Landlord to determine the financial responsibility and character of the proposed assignee or subtenant.

10.3 Consent Not to be Unreasonably Withheld. Landlord will not unreasonably withhold, condition or delay its consent to Tenant's request for consent to a specific assignment or sublease if the conditions in Section 10.2 and all of the following conditions are satisfied.

(a) Intentionally omitted.

(b) In Landlord's judgment, the intended use of the Premises by the transferee: (1) is lawful; (2) is consistent with the Permitted Use of the Premises under this Lease; (3) is consistent with the general character of business carried on by tenants of a first class office development; (4) does not conflict with any exclusive rights or covenants not to compete in favor of any other tenant or proposed tenant in the Project; (5) will not increase the likelihood of damage or destruction to, or increase the rate of wear and tear to, the Premises, the Building or the Common Area; (6) will not likely cause an increase in insurance premiums for insurance policies applicable to the Project; and (7) will not require new tenant improvements incompatible with then existing Building or Project systems and components.

(c) Tenant pays Landlord's reasonable attorneys' fees and costs incurred in connection with negotiation, review, documentation and processing of the assignment or sublease, in an amount equal to one thousand dollars (\$1,000.00).

(d) The proposed transferee has demonstrated to the reasonable satisfaction of Landlord that it has good character and a good reputation in the general business community.

(e) At the time of the proposed transfer there is no Event of Default under this Lease.

(f) The assignment or sublease will not otherwise have or cause a material adverse impact on the value of Landlord's interest in the Building, the Premises, or the Project.

(g) If Landlord consents to the proposed assignment or sublease, Tenant complies with the further provisions of Section 10.4.

Notwithstanding the foregoing, Landlord may withhold consent to any specific assignment or sublease if the proposed transferee's projected use of the Premises involves the use, storage, generation, or disposal of Hazardous Materials. Tenant shall have the burden of demonstrating that each of the foregoing conditions is satisfied.

**10.4 Form of Assignment or Sublease.** Subject to Landlord's written consent to any proposed assignment or sublease, any sublease will provide that, among other things, the subtenant will comply with all applicable terms and conditions of this Lease. Any assignment will contain, among other things, an assumption by the assignee of all of the terms, covenants and conditions which this Lease requires Tenant to perform. Landlord's consent will not be effective unless and until Tenant delivers to Landlord an original duly executed assignment or sublease, as the case may be, and pays Landlord the amounts required under Section 10.3(c).

10.5 Intentionally Omitted.

10.6 Intentionally Omitted.

10.7 Intentionally Omitted.

**10.8 Consent of Mortgagee.** Any transfer for which consent is required of any party having a mortgage, deed of trust or other encumbrance on any part of the Project shall not be effective unless and until such consent is given.

## ARTICLE 11 – COMMON AREA

**11.1 Right to Use of Common Area.** So long as Tenant is not in default under this Lease, Tenant and his employees, invitees, licensees, customers and other visitors shall have the right, on a non-exclusive basis in common with Landlord, other tenants and their respective employees, invitees, licensees, customers and other visitors, to the use and enjoyment of the Common Area, subject to the provisions of this Lease and further subject to the Rules and Regulations attached to this Lease as **Exhibit D**, as they may be amended from time to time by Landlord.

**11.2 Changes in Common Area.** Notwithstanding any contrary provision of this Lease, Landlord may from time to time change the dimensions and locations of the Common Area, as well as the dimensions, identity, and types of buildings in the Building. Landlord may, from time to time, and without the consent of or liability to Tenant:

(a) Establish, amend, modify, supplement and enforce reasonable rules and regulations concerning the maintenance, management, use and operation of the Common Area (including applicable provisions of the Rules and Regulations attached hereto as **Exhibit D**);

(b) Close off any of the Common Area to whatever extent required in the opinion of Landlord to prevent a public dedication of any of the Common Areas or the accrual of any rights by any person or the public in the Common Area, provided such closure does not materially deprive Tenant of the substantial benefit and enjoyment of the Premises;

(c) Temporarily close all or any portion of the Common Area from time to time for maintenance, alteration or improvement purposes;

(d) Select, appoint or contract with any person, whether or not they are affiliated with the Landlord, for the purpose of operating and maintaining the Common Area, on such terms and conditions as the Landlord may deem reasonable;

(e) Change the size, use, configuration, shape or nature of any portion of the Common Area, provided that such change does not materially deprive Tenant of the substantial benefit and enjoyment of the Premises. So long as Tenant is not thus materially deprived of the substantial use and benefit of the Premises, Landlord will also have the right at any time to change the arrangement or location of, or both, or to regulate or eliminate the use of, any concourse, parking spaces, garage, or any elevators, stairs, toilets or other public conveniences in the Project, without

incurring any liability to Tenant or entitling Tenant to any abatement of Rent, and such action will not constitute an actual or constructive eviction of Tenant; and

(f) Expand the existing Building to cover a portion of the Common Area, convert a portion of the Common Areas to a portion of the Building, or convert any portion of the Building (excluding the Premises) to Common Area.

#### ARTICLE 12-LANDLORD'S SERVICES; UTILITIES

12.1 Landlord's Repair and Maintenance Obligations. Landlord shall keep the foundation, the exterior walls (except glass store fronts, plate glass windows, and painting or other treatment of interior walls, all of which shall be Tenant's responsibility and expense), the heating, ventilating and air conditioning system servicing the Premises and the roof of the Premises and the Building in good repair, except that Landlord shall not be required to make any repairs occasioned by the negligence, act or omission of tenant, its agents, employees, subtenants, licensees and concessionaires, which repairs shall be made by Tenant at Tenant's sole cost and expense. If Tenant fails to make repairs as required by Tenant in this Section 12.1, Landlord may, at its option, make such repairs, and Tenant shall pay to Landlord immediately upon demand as Additional Rent the cost of such repairs plus ten percent (10%) of the amount thereof, and failure to do so shall constitute an Event of Default. If the Premises require repairs, which are to be made by Landlord pursuant to this Section 12.1, Tenant shall give immediate written notice of the need for the repairs to the Landlord and Landlord shall promptly make such repairs within a reasonable time after receipt of Tenant's written notice. Landlord shall have no obligation to make repairs to the Premises except as specified in this Section 12.1, and those repairs so specified shall be referred to in this Lease as "Landlord's Repairs."

12.2 Electric Lighting. Landlord shall furnish, maintain and replace all electric lights, bulbs, tubes and tube casings, and all other hardware and supplies necessary for the lighting of the Premises. Landlord shall furnish, maintain and replace all electric lights, bulbs, tubes and tube casings, and all other hardware and supplies necessary for the lighting of the Common Area, and the costs incurred by Landlord in doing so shall be the sole cost of Landlord.

#### 12.3 Intentionally Omitted.

12.4 Utilities and Services. Landlord shall provide and maintain, or cause to be provided and maintained, the necessary mains, and other physical facilities necessary to supply water, electricity, telephone service, sewage service and other utilities furnished to the Premises (collectively, the "Utilities"). Beginning on the Commencement Date, Tenant will pay to Landlord each month, Tenant's Share of the electrical costs as Additional Rent.

12.5 Interruptions. Landlord shall not be liable for any interruption or failure whatsoever in the provision of any utility service unless such interruption is as a result, directly or indirectly, of the action or inaction of Landlord or its officers, agents, contractors, employees, lessees, licensees or invitees. Landlord shall not be liable to Tenant or Tenant's employees, agents, invitees, licensees, customers, and other visitors for any personal injury, property damage, or any other loss, caused by any bursting of, leakage from, or malfunction of, any water line, sewer line, or sprinkler system (if any) located at the Premises. Tenant shall indemnify and hold Landlord harmless from and against any such claims asserted against Landlord by any third party.

12.6 Janitorial Services. Landlord shall be responsible for furnishing 5-days per week janitorial services required for the interior maintenance of the Premises and for maintenance of the Common Area, the cost of which shall be Landlord's sole expense.

#### ARTICLE 13 – INTENTIONALLY OMITTED

#### ARTICLE 14 – ALTERATIONS

14.1 Alterations by Tenant. Tenant shall not make, install or erect in or upon the Premises any installations, alterations, modifications, additions, partitions or other improvements without submitting the drawings, plans and specifications to Landlord and obtaining Landlord's prior written consent in each instance. Furthermore, Tenant shall obtain Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed, to any change or changes in such drawings, plans or specifications submitted as aforesaid. Tenant shall pay Landlord the reasonable cost of having Landlord's architects, engineers, and other consultants review such plans and changes thereto prior to proceeding with any work based on such drawings, plans and specifications. All such work shall be performed in a good and workmanlike manner, free and clear of all mechanics' liens, and in compliance with the provisions of Article 9 of this Lease, and once commenced shall be diligently pursued through completion. Landlord shall have no liability for the performance of such work, or for the adequacy of the drawings, plans and specifications notwithstanding its consent to any of them. All contractors and subcontractors performing such work must meet

Landlord's specifications and standards as to minimum requirements for insurance, bonds, quality of work, experience and such other reasonably applicable factors. Tenant shall submit to Landlord's supervision in the construction of any alterations, shall provide Landlord upon request with financial assurances prior to the commencement of alterations, and promptly pay to Landlord's or Tenant's contractors and subcontractors, as the case may be, when due, the costs of all such work and of all materials, labor and services involved therein and of all decoration and all changes in the Building, its equipment or services necessitated by Tenant's alterations. Tenant covenants that it shall not permit any mechanics' or other liens for work, labor, services or materials ordered by Tenant or for the cost of which Tenant may be in any way obligated, to attach to the Premises, the Common Area, the Building, the Project, or the Land, and that it shall comply with the provisions of Article 15 in the event any mechanics' lien claim should be filed.

14.2 ADA Compliance. Without limiting any of the general covenants of Section 14.1, Tenant specifically agrees that any improvements or alterations that it shall make to the Premises shall be made in compliance with the requirements of title III of the Americans With Disabilities Act of 1990, as amended (the "ADA"). Upon request, Tenant shall provide Landlord with evidence reasonably satisfactory to Landlord that Tenant's improvements and alterations comply with the ADA. Tenant further agrees to conduct its business and its occupancy of the Premises in compliance with the ADA, and at its own expense to make any additional changes, alterations, and improvements to the Premises that should become necessary to establish or maintain compliance with the ADA, if such compliance is due to Tenant's use of the Premises.

14.3 Alterations by Landlord. Landlord hereby reserves the right at any time and from time to time and without any liability to Tenant whatsoever, to make changes in, additions to, subtractions from or rearrangements of the Building, or the Common Areas including, without limitation, all entrances and exits thereto, and to grant, modify and terminate easements or other agreements pertaining to the Building or the Common Area including, but not limited to, the entrance foyer and lobby, the common corridors and the parking areas, and to make changes or additions to the pipes, conduits, ducts, utilities and other building services in the Premises which serve other portions of the Building (together, "Modifications"), provided such Modifications do not materially deprive Tenant of the substantial benefit and enjoyment of the Premises. Any expense by Landlord of the above rights including entry upon the Premises shall be without liability to Tenant, including any claims of interference and without affecting this Lease or the obligations of Tenant under this Lease. Landlord shall use reasonable effort to avoid interference with Tenant's business in the Premises.

## ARTICLE 15 – MECHANICS' LIENS

15.1 Prevention and Removal of Liens. Tenant shall pay or cause to be paid all costs and charges: (a) for work done by Tenant or caused to be done by Tenant, in or to the Premises, and (b) for all materials furnished for or in connection with such work. Tenant shall indemnify Landlord against and hold Landlord, the Premises and the Project free, clear and harmless of and from all mechanics' liens and claims of liens, and all other liabilities, liens, claims and demands on account of such work by or on behalf of Tenant. If any such lien, at any time, is filed against the Premises, or any part of the Project, Tenant shall cause such lien to be discharged of record within 20 business days after the filing of such lien, except that if Tenant desires to contest such lien, it will furnish Landlord, within such 20 business-day period, a cash bond or other security reasonably satisfactory to Landlord in an amount at least 125% of the amount of the claim, plus estimated costs and interest. If a final judgment establishing the validity or existence of a lien for any amount is entered, Tenant shall pay and satisfy the same at once. If Tenant fails to pay any charge for which a mechanic's lien has been filed, and has not given Landlord security as described above, Landlord may, at its option, pay such charge and related costs and interest, and the amount so paid, together with reasonable attorneys' fees incurred in connection with such lien, shall be immediately due from Tenant to Landlord as Additional Rent. Nothing contained in this Lease will be deemed the consent or agreement of Landlord to subject Landlord's interest in the Premises or the Project to liability under any mechanics' or other lien law. If Tenant receives notice that a lien has been or is about to be filed against the Premises or the Project, or any action affecting title to the Premises or the Project has been commenced on account of work done by or for or materials furnished to or for Tenant, it will immediately notify Landlord of that occurrence in writing.

15.2 Prior Notice of Commencement of Work on Premises. At least ten (10) days prior to the commencement of any work required or permitted to be done on the Premises by Tenant or its employees, representatives, agents or contractors, Tenant shall notify Landlord of the proposed work and the names and addresses of the persons supplying labor and materials for the proposed work so that Landlord may post notices of non-responsibility upon the Premises and otherwise avail itself of the provisions of California law which Landlord may deem proper for the protection of Landlord's interest in the Premises. During any such work on the Premises, Landlord, or its representatives, shall have the right to go upon and inspect the Premises at all reasonable times and to take any further action which Landlord may deem to be proper for the protection of Landlord's interest in the Premises.

## ARTICLE 16 – SURRENDER OF POSSESSION

At the end of the Term of this Lease, or upon earlier termination or recovery of possession of the Premises because of an Event of Default, Tenant will promptly quit and surrender the Premises broom-clean, in good order and repair, ordinary wear and tear excepted. Tenant may remove from Premises any trade fixtures, equipment and moveable furniture placed in the Premises by Tenant will remove such alterations, additions, improvements, trade fixtures, equipment and furniture within 30 days after Tenant's surrender of possession of the Premises. Tenant will fully repair any damage to the Premises or the Building occasioned by the removal of any trade fixtures, equipment, furniture, alterations, additions and improvements. All trade fixtures, equipment, furniture, inventory, effects, alterations, additions and improvements remaining on or within the Premises after the 30-day period from the date of Tenant's surrender of possession of the Premises will be deemed conclusively to have been abandoned and may be appropriated, sold, stored, destroyed or otherwise disposed of by Landlord without notice to Tenant or any other person and without obligation to account for them or for their proceeds, and Tenant will pay Landlord for all expenses incurred in connection with the removal of such property, including, but not limited to, the cost of repairing any damage to the Building or Premises caused by the removal of such property. Tenant's obligation to observe and perform this covenant will survive the expiration or other termination of this Lease.

## ARTICLE 17 – EMINENT DOMAIN

17.1 Rights to Terminate Lease Under Certain Conditions. If all of the Premises should be taken by exercise of the power of eminent domain (or conveyed by Landlord in lieu of such exercise) this Lease shall terminate on the date upon which title to the Premises is vested in the condemning authority (the "Termination Date.") If more than 25% of the Rentable Area of the Premises should be so taken, Tenant shall have the right to terminate this Lease by written notice to Landlord given within 20 business days after the Termination Date. If less than 25% of the Rentable Area of the Premises should be so taken, or if the Tenant does not terminate this Lease pursuant to the preceding sentence, the Monthly Base Rent and Additional Rent shall be abated in the proportion of the ratio of the Rentable Area of the Premises so taken to the Rentable Area of the Premises immediately before such taking, and Tenant's Share shall be appropriately recalculated. If all, or in Landlord's sole discretion, a significant portion of the Building or the Project should be so taken, Landlord may terminate this Lease upon thirty (30) days written notice to Tenant.

17.2 Rights to Condemnation Award. Landlord and Tenant shall have the right to seek compensation for their respective interest in the Premises.

## ARTICLE 18 – DAMAGE AND DESTRUCTION

18.1 Notice of Time Necessary for Repair. If the Premises or the Building should be damaged by fire, storm or other insured casualty of any kind, Landlord shall notify Tenant, in writing, of the amount of time that shall be necessary to repair such damage, as determined by Landlord in its sole discretion, and of the election (if any) which Landlord has made according to this Article 18. Such written notice shall be given before the 30<sup>th</sup> day after the fire or other insured casualty (the "Notice Date").

18.2 Repairs Capable of Completion Within 180 Days. If the Premises or the Building should be damaged to an extent that the Premises or Building, as the case may be, can be repaired within 180 days after the date of the casualty, as determined by Landlord, Landlord shall begin to repair the damage on or before the Notice Date and shall diligently pursue the completion of such repair. In that event, this Lease shall continue in full force and effect except that the Rent payable by Tenant shall be abated, except as provided in Section 18.5, from the date of the insured casualty until the date of the completion of such repairs (the "Repair Period") based on the ratio of that portion of the Rentable Area of the Premises that is not available for Tenant's use during the Repair Period to the entire Rentable Area of the Premises.

18.3 Repairs Not Capable of Completion Within 180 Days. If the Premises or the Building should be damaged to an extent that the Premises or Building, as the case may be, cannot be repaired within 180 days after the date of the casualty, as determined by Landlord, then: (a) Landlord may terminate this Lease as of the date of such damage by written notice given to Tenant on or before the Notice Date; or (b) Tenant may terminate this Lease as of the date of such damage by written notice given to Landlord within 30 days after Landlord's delivery of notice that the repairs cannot be made within such 180 day period. If neither Landlord nor Tenant so elects to terminate this Lease, Landlord shall repair the Building and Premises and the Rent payable by Tenant shall be abated throughout the Repair Period, except as provided in Section 18.5, based on the ratio of that portion of the Rentable Area of the Premises that is not available for Tenant's use during the Repair Period to the entire Rentable Area of the Premises.

18.4 Uninsured Casualty. Notwithstanding any contrary provision of this Article 18, if the casualty is not covered by insurance, or if the proceeds of insurance are insufficient to pay the entire cost of repair of any damage to the Premises or the Building, Landlord shall have the option to repair such damage or terminate this Lease as of the date of such casualty by written notice to Tenant on or before the Notice Date.

18.5 Casualty Caused by Tenant. Notwithstanding any contrary provision of this Article 18, of any casualty causing damage to the Premises or Building should be the result of willful conduct, negligence, or a failure to act of Tenant or its agents, contractors, employees or invitees, there shall be no abatement of Tenant's Rent as otherwise provided for in this Article 18.

18.6 Intentionally Omitted.

## ARTICLE 19 – SUBORDINATION

19.1 Subordination of Lease.

(a) Subject to the non-disturbance provisions set forth in paragraph (b) of this section, this Lease and the rights of Tenant hereunder shall be subject and subordinate to the lien of any mortgages or deeds of trust now or hereafter existing against the Land or the Project, and to all renewals, modifications, consolidations, replacements, and extensions thereof and to all advances made, or hereafter to be made, upon the security thereof. Although such subordination shall be self-operating, Tenant, or its successors in interest, shall upon Landlord's request, execute and deliver within 15 business days any and all instruments requested by Landlord, subordinating this Lease, in the manner reasonably requested by Landlord, to any such mortgage or deed of trust.

(b) Notwithstanding any contrary provision of this Lease, including the provisions of paragraph (a) of this Section, Tenant's interest in this Lease and in the Premises shall not be subordinate to the interest of any other person or entity unless that person or entity agrees that Tenant's quiet enjoyment of the Premises shall not be disturbed, and Tenant's occupancy of the Premises shall not be interfered with, throughout the Term of this Lease, so long as Tenant shall pay all Rent and perform all covenants required of it under this Lease.

19.2 Foreclosure. Should any mortgage or deed of trust affecting the Project be foreclosed, or if title to the Project should be transferred by deed in lieu of foreclosure, then: (a) the liability of the mortgagee, beneficiary or purchaser at such foreclosure sale or transfer in lieu of foreclosure shall exist only as to the liability and obligations of Landlord accruing or arising after the date of such transfer and only so long as such mortgagee, beneficiary or purchaser is the owner of the Project and such liability shall not continue or survive after further transfer of ownership; and (b) the liability for any security deposits or prepaid rents of the mortgagee, beneficiary or purchaser at such foreclosure sale or transfer in lieu of foreclosure shall exist only to the extent that the mortgagee, beneficiary or purchaser actually received the security deposits or prepaid rents and failed to apply such sums in accordance with the Lease or, if applicable, failed to transfer or assign such sums to any subsequent purchaser or transferee. As used in this Article 19 "mortgagee" and "beneficiary" shall include successors and assigns of any such party, whether immediate or remote, the purchaser of any mortgage or deed of trust, whether at foreclosure or otherwise, and the successors, assigns and mortgagees and beneficiaries of such purchaser, whether immediate or remote.

19.3 Attornment. If any mortgage or deed of trust affecting the Project should be foreclosed, or if title to the Project should be transferred by deed in lieu of foreclosure, or if Landlord should sell or otherwise convey its interest in the Project to any third party (collectively referred to as "Transfer"), then Tenant shall be deemed to have attorned, as Tenant under this Lease, to the purchaser at any foreclosure sale or transferee pursuant to a deed in lieu of foreclosure, or any other transferee of the Project, and this Lease shall continue in full force and effect as a direct lease between and binding upon Tenant and such purchaser or transferee. Tenant shall pay to such purchaser, transferee, or other successor in interest all Rents subsequently payable under this Lease. Further, such purchaser, transferee or successor in interest of Landlord shall not be bound by any amendment or modification of this Lease made after the Transfer without written consent of such purchaser, transferee or successor in interest. Upon request by purchaser, transferee or successor in interest and without cost to Landlord or such purchaser, transferee or successor in interest, Tenant will execute, acknowledge and deliver an instrument or instruments confirming the attornment.

## ARTICLE 20 – ENTRY BY LANDLORD

20.1 Entry. Landlord, its agents, employees, and contractors may enter the Premises at any time in response to an emergency, and during regular business hours with reasonable prior notice to: (a) inspect the Premises; (b) exhibit the Premises to prospective purchasers, lenders or tenants of or with respect to the Premises or the Project; (c) determine whether Tenant is complying with all its obligations in this Lease; (d) supply any other service to be provided by Landlord to Tenant according to Lease; (e) post notices of non-responsibility or similar

notices; or (f) make repairs required of Landlord under the terms of this Lease or repairs to any adjoining spaces or utility services or make repairs, alterations or improvements to any other portion of the Building or the Project. Landlord shall have the right of access to the roof of the Building at all times for all reasonable purposes.

20.2 Waivers By Tenant. Tenant, by this Article 20, waives any claim against Landlord, its agents, employees or contractors for damages for any injury or inconvenience to or interfere with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises or any other loss occasioned by such entry other than loss caused by gross negligence or willful misconduct of Landlord, its agent, employees or contractors. Landlord shall have the right to use any and all means which Landlord may deem proper to open doors in and to the Premises in an emergency in order to obtain entry to the Premises. Any entry to the Premises obtained by Landlord for any purpose or by any means permitted by this Article 20 will not under any circumstances be construed or deemed to be a forcible or unlawful entry into or a detainer of the Premises or an eviction, actual or constructive, of Tenant from the Premises, or any portion of the Premises, nor will any such entry entitle Tenant to damages or an abatement of Monthly Base Rent, Additional Rent, or other charges which this Lease requires Tenant to pay.

## ARTICLE 21 – INDEMNIFICATION, WAIVER AND RELEASE

### 21.1 Indemnification.

(a) Tenant will neither hold nor attempt to hold Landlord or its employees, agents, representatives or affiliates liable for, and Tenant shall indemnify and hold harmless Landlord and its employees, agents, representatives and affiliates, and the successors and assigns of each, from and against, any and all demands, claims, causes of action, fines, penalties, damages (including incidental and consequential damages), liabilities, judgments, and expenses (including, without limitation, attorney's fees) incurred in connection with or arising from: (i) the use or occupancy or, manner of use or occupancy, of the Premises by Tenant or any person claiming under Tenant or the contractors, agents, employees, licensees, invitees or customers of Tenant; (ii) any activity, work, or thing done, or permitted to be done by or on behalf of Tenant in or about the Premises, the Building, the Common Area or the Project; (iii) any acts, omissions or negligence of Tenant or any person claiming under Tenant, or the contractors, agents, employees, licensees, invitees or customers of Tenant; (iv) any breach, violation or nonperformance by Tenant or any person claiming under Tenant or the employees, agents, contractors, licensees, invitees or customers of Tenant, or any term, covenant, condition or provision of this Lease, or of any law, ordinance or governmental requirement of any kind; or (v) any injury or damage to the person, property or business of Tenant, or any person claiming under Tenant, or any other person entering upon the Premises, the Building, the Common Area or the Project under the express or implied invitation of Tenant, except for any injury or damage to persons or property on the Premises, the Building, the Common Area or the Project which injury or damage is proximately caused by or results proximately from the gross negligence or willful misconduct of Landlord or its employees, agents, representatives or affiliates.

(b) Landlord shall indemnify Tenant from all liability, loss or other damages or claims for obligations resulting from any injuries or losses to persons or property occurring in the Common Areas, including reasonable attorney's fees and court costs, to the extent caused by the gross negligence or willful misconduct of Landlord or its agents or employees or independent contractors.

21.2 Defense of Claims. If any action or proceeding is brought against Landlord or its employees, agents, representatives or affiliates, or against the successors or assigns of any of them, by reason of any claim comprehended by this Article 21, for which Tenant has indemnified Landlord, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense.

## ARTICLE 22 – RIGHT OF FIRST REFUSAL

In the event Suite 101 ("Adjacent Suite") becomes available, then Tenant shall have the Right of First Offer to lease the Adjacent Suite. If Landlord receives an acceptable third party offer to lease the Adjacent Suite, Landlord shall give Tenant a written summary of the price and terms of that third party offer. Upon Tenant's receipt of summary of the price and terms, Tenant shall have seven (7) business days to accept or reject the same price and terms for the lease of the Adjacent Suite. If Tenant does not exercise its right set forth in this Article 22, then Landlord will be free to lease the Adjacent Suite and the rights set forth in this Article 22 shall have no further force or effect.

## ARTICLE 23 – QUIET ENJOYMENT

So long as Tenant timely pays all Rent, and timely observes and performs all the terms, covenants and conditions of this Lease on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Premises subject, nevertheless, to the terms and conditions of this Lease and Tenant's possession will not be disturbed by anyone claiming by through or under Landlord.

#### ARTICLE 24 – EFFECT OF SALE OF BUILDING OR PROJECT

A sale, conveyance or assignment of the Building or the Project will operate to release Landlord from liability from and after the effective date of such sale, conveyance or assignment, upon all of the covenants, terms and conditions of this Lease, express or implied, except those liabilities which arose prior to such effective date, and, after such effective date Tenant will look solely to Landlord's successor in interest in and to this Lease, in each case upon the assumption thereof by such successor. This Lease will not be affected by any such sale, conveyance or assignment, and Tenant will attorn to Landlord's successor in interest to this Lease.

#### ARTICLE 25 – DEFAULT

25.1. Events of Default. The following are referred to collectively, as "Events of Default," or individually, as an "Event of Default":

(a) Tenant fails to pay any payment or installment of Monthly Base Rent or Additional Rent when it is due, and such failure continues for three (3) days after written notice and demand given by Landlord or its agent.

(b) Tenant vacates or abandons the Premises.

(c) This Lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subject to any attachment by any creditor of Tenant or claimant against Tenant, and said attachment is not discharged or disposed of within 15 days after its levy;

(d) Tenant files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state (as now in effect or as hereafter amended), or admits the material allegations of any such petition by answer or otherwise, or is dissolved or makes an assignment for the benefit of creditors;

(e) Involuntary proceedings under the bankruptcy laws of the United States or under any insolvency act of any state, or a receiver or trustee is appointed for all or substantially all of the property of Tenant, and such bankruptcy or receivership proceeding is not dismissed or vacated within 60 days after its commencement.

(f) Tenant fails to take possession of the Premises on the Commencement Date, or fails continuously throughout the Term to operate at the Premises the type of business described in the "Permitted Use" paragraph of Section 1.1 of this Lease.

(g) Tenant breaches any of the other agreements, terms, covenants or conditions which this Lease requires Tenant to perform (including but not limited to those acts or omissions specifically referred to in this Lease as "Events of Default") and such breach continues for a period of 45 days after notice from Landlord to Tenant; or if such breach cannot be cured reasonably within such 45 day period and Tenant fails to commence to cure such breach within 15 days after notice from Landlord or fails to proceed diligently to cure such breach within a reasonable time period thereafter.

(h) Tenant assigns this Lease or sublets its interest in the Premises, in full or in part, in violation of the provisions of this Lease.

(i) Tenant fails to execute and deliver to Landlord any instrument required by Article 19 of this Lease.

25.2 Landlord's Remedies. (a) If any one or more Events of Default set forth in Section 25.1 should occur, then Landlord shall have the following rights and remedies, all of which Landlord may exercise, individually or cumulatively, at its discretion:

(1) To terminate this Lease by giving Tenant written notice of termination, in which case Tenant shall immediately surrender possession of the Premises and this Lease will be terminated, except as to Tenant's liability; or

(2) Without further demand or notice, and without terminating the Lease, to reenter and take possession of the Premises or any part of the Premises, repossess the same, expel Tenant and those claiming through or under Tenant, and remove the effects of both or either, using such force for such purposes as may be necessary, without being liable for prosecution, without being deemed guilty of any manner of trespass, and without prejudice to any remedies for arrears of Rent or other amounts payable under this Lease or as a result of any preceding breach of covenants or conditions; or

(3) Without further demand or notice to cure any Event of Default and to charge Tenant for the cost of effecting such cure, including, without limitation, attorneys' fees and interest at the rate of 18% per year compounded annually, or the maximum amount allowed by California law, whichever is lesser, provided that Landlord will have no obligation to cure any such Event of Default of Tenant.

(b) Should Landlord elect to reenter and take possession of the Premises as provided in subsection (a)(2), or should Landlord take possession pursuant to legal proceedings or pursuant to any notice provided by law, Landlord may, from time to time, without terminating this Lease, relet the Premises or any part of the Premises in Landlord's or Tenant's name, but for the account of Tenant, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term) and on such conditions and upon such other terms (which, may include concessions of free rent and allowances for alteration and repair of the Premises) as Landlord, in its sole discretion, may determine, and Landlord may collect and receive the rent upon such reletting. No such reentry or taking possession of the Premises by Landlord will be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention is given to Tenant. No notice from Landlord under subsection (a)(2) or under a forcible or unlawful entry and detainer statute or similar law will constitute an election by Landlord to terminate this Lease unless such notice specifically so states. Landlord reserves the right following any such reentry or reletting to exercise its right to terminate this Lease by giving Tenant such written notice, in which event this Lease will terminate as specified in such notice. Landlord will in no way be responsible or liable for any failure to relet the Premises, or any part of the Premises, or for any failure to collect any rent due upon such reletting, except as provided herein.

**25.3 Damages Upon Recovery of Possession Without Termination.** In the event that Landlord does not elect to terminate this Lease as permitted in Section 25.2(a)(1), but instead, elects to take possession as provided in Section 25.2(a)(2), Tenant shall be liable to Landlord for Monthly Base Rent, Additional Rent, and other sums as provided in this Lease, which would be payable under this Lease if such repossession had not occurred, less the net proceeds, if any, of any reletting of the Premises (after deducting all of Landlord's reasonable expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage commissions, attorneys' fees, expenses of employees, alteration and repair costs and expenses of preparation for such reletting. In addition, Landlord shall be entitled to recover the amount of any "free rent", tenant finish allowances or any other concession or item of value granted by Landlord to Tenant pursuant to this Lease. If, in connection with any reletting, the new lease term extends beyond the existing Term, or the Premises covered by such new lease, include other premises not part of the Premises, a fair apportionment of the rent received from such reletting and the expenses incurred in connection with such reletting as provided in this Section 25.3 shall be made in determining the net proceeds from such reletting, and any rent concessions will be equally apportioned over the term of the new lease. Tenant will pay such rent and other sums to Landlord monthly on the day on which the Monthly Base Rent and Additional Rent would have been payable under this Lease if possession had not been retaken and Landlord will be entitled to receive such rent and other sums from Tenant on each such day.

**25.4 Damages Upon Termination of Lease.** If this Lease is terminated on account of an Event of Default, Tenant will remain liable to Landlord for damages in an amount equal to the Monthly Base Rent, Additional Rent, and other amounts which would have been owing by Tenant before the balance of the Term had this Lease not been terminated, less the net proceeds, if any, of any reletting of the Premises by Landlord subsequent to such termination, after deducting all of Landlord's expenses in connection with such reletting, including, but without limitation, the expenses enumerated in Section 25.3 (including the amount of any "free rent", tenant finish allowances or any other concession or item of value granted by Landlord to Tenant pursuant to this Lease). Landlord will be entitled to collect such damages from Tenant monthly on the day on which Monthly Base Rent and Additional Rent would have been payable under this Lease if this Lease had not been terminated, and Landlord will be entitled to receive such amounts from Tenant on each such day. Alternatively, at the option of Landlord, in the event this Lease is so terminated, Landlord will be entitled to recover against Tenant as damages for loss of the bargain and not as a penalty: (a) the value at the time of award of unpaid Rent which had been earned at the time of termination; plus (b) the value at the time of award or 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 (c) the value at the time of award of the amount by which the unpaid Rent for the balance of the Term of this Lease (had the same not been so terminated by Landlord) after the time of award exceeds the amount of such rental loss that Tenant

proves could be reasonably avoided; plus (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligation under this Lease or which in the ordinary course of things would be likely to result therefrom. The "value at the time of award" of the amounts referred to in Section 25.4(a) and (b) is computed by adding interest at the per annum rate of the Prime Rate plus 5 percentage points on the date on which this Lease is terminated from the date of termination until the time of the award. The "value at the time of award" of the amount referred to in Section 25.4(c) is computed by discounting such amount at the then effective discount rate of the Federal Reserve Bank of San Francisco, California, at the time of award plus one percentage point.

#### 25.5 Cumulative Remedies; Recovery of Attorneys' Fees.

(a) Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for in this Lease or now or after the Date of this Lease existing at law or in equity or by statute or otherwise. Either party's exercise of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by said party of any or all other rights or remedies provided for in this Lease or now or hereafter existing law or in equity or by statute or otherwise.

(b) All costs incurred by either party in collection of any amounts and damages owing by the other party pursuant to the provisions of this Lease or to enforce any provision of this Lease, including reasonable attorney's fees from the date any such matter is turned over to an attorney, whether or not one or more actions are commenced, will also be recoverable by the prevailing party in such action.

#### 25.6 Intentionally Omitted.

25.7 Disposition of Personal Property of Tenant Upon an Event of Default. If Landlord takes possession of the Premises pursuant to this Article 25, then Landlord shall have the rights to keep in place and use all of the leasehold improvements, furniture, fixtures, equipment and merchandise (collectively, the "Personal Property") at the Premises, including that which is owned by or leased to Tenant at all times prior to any foreclosure thereon by Landlord or repossession thereof by any lessor thereof or third party having a lien thereon. Landlord shall also have the right to remove from the Premises (without notice to Tenant and without the necessity of obtaining a distress warrant writ of sequestration or other legal process) any or all Personal Property located at the Premises and to place the Personal Property in storage at any location within the county in which the Premises are located. In such event, Tenant shall be liable to Landlord for costs incurred by Landlord in connection with such removal and storage and shall indemnify and hold Landlord harmless from all loss, damage, cost, expense and liability in connection with such removal and storage. Landlord shall also have the right to relinquish possession of all or any portion of such Personal Property to any person claiming to be entitled to possession thereof (a "Claimant") who presents to Landlord a copy of any instrument represented to Landlord by Claimant to have been executed by Tenant (or any predecessor of Tenant) granting Claimant the right under various circumstances to take possession of such Personal Property without the necessity of Landlord's making any investigation or inquiry as to the validity of the factual or legal basis upon which Claimant purports to act. Tenant agrees to indemnify and hold Landlord harmless from all costs, expenses, losses, damages and liabilities incident to Landlord's relinquishment of possession of all or any portion of the Personal Property to Claimant. The rights of Landlord herein stated shall be in addition to any and all other rights which Landlord has or may hereafter have at law or in equity, and Tenant agrees that the rights herein granted Landlord are commercially reasonable.

### ARTICLE 26 – RULES AND REGULATIONS

26.1 Rules and Regulations; Amendments. Tenant and its contractors, employees, agents, customers, licensees, invitees and visitors must at all times observe faithfully and comply strictly with the rules and regulations enacted by Landlord with respect to the Project. A copy of the current rules and regulations is attached to this Lease as **Exhibit D**. Landlord may from time to time reasonably amend or modify existing rules and regulations, or adopt reasonable new rules and regulations pertaining to the use, safety, cleanliness and care of the Premises the Building, and the Project, and to the comfort and convenience of occupants of the Project and their respective employees, agents, customers, licensees, invitees and visitors. Modifications or additions to the rules and regulations will be effective upon notice to Tenant from Landlord. In the event of any breach of any rules or regulations or any amendments or additions to such rules and regulations, Landlord shall have all remedies which this Lease provides for an Event of Default by Tenant, and shall, in addition, have any additional remedies available at law or in equity, including the right to enjoin any breach of such rules and regulations.

26.2 Tenant Responsibility for Compliance With Rules and Regulations by Others. Tenant shall have the duty to cause all of its contractors, employees, agents, customers, licensees, invitees and visitors to comply at all times with the rules and regulations then in effect. Any material violation of the rules and regulations by any contractor, employee, agent, customer, licensee, invitee or visitor of Tenant shall be deemed an Event of Default by Tenant. Upon written notice from the Tenant to Landlord of a violation, Landlord shall be responsible for addressing said violations of such rules and regulations by any other tenant or another's tenant's contractors, employees, agents, customers, licensees, invitees and visitors so as not to impede upon Tenant's quiet enjoyment of the Premises. In the event of any irreconcilable conflict between the provisions of this Lease and the rules and regulations, the provisions of this Lease will govern.

## ARTICLE 27 – PARKING

All parking spaces and parking areas of the Project shall be part of the Common Area. Accordingly, Tenant and its employees, agents, customers, licensees, invitees and visitors shall have the right to use of such parking spaces and parking areas, in common with Landlord, other tenants, and all of their respective employees, agents, customers, licensees, invitees and visitors. However, the use of all parking spaces and parking areas by Tenant and its employees, agents, customers, licensees, invitees and visitors shall be subject to the provisions of Article 11 of this Lease, and to the provisions of the rules and regulations now in effect and hereafter enacted. Tenant agrees that it shall not have any reserved or assigned parking spaces for the exclusive use of its customers, licensees or invitees and visitors. In the event Landlord designates certain parking spaces as "Employee Parking" spaces, Tenant shall require all of its employees to park only in such spaces. At all times during the Term, Tenant shall have access to not less than 3 parking spaces per 1,000 square feet of leased space in the Premises. Said parking shall be free of charge for so long as the Landlord named herein owns the Project.

## ARTICLE 28 – INTENTIONALLY OMITTED

## ARTICLE 29 – MISCELLANEOUS

29.1 No Offer. This Lease is submitted to Tenant on the understanding that it will not be considered an offer and will not bind Landlord or Tenant in any way until the Lease is fully executed.

29.2 No Construction Against Landlord. Landlord and Tenant acknowledge that each of them and their counsel have had an opportunity to review this Lease and that this Lease will not be construed against Landlord merely because Landlord has prepared it.

29.3 Joint and Several Liability and Authority to Bind Tenant. If Tenant is composed of more than one signatory to this Lease, each signatory will be jointly and severally liable with each other signatory for payment and performance according to this Lease. The act of, notice to, notice from, refund to, or signature of, any signatory to this Lease (including without limitation modifications of this Lease made by fewer than all such signatories) will bind every other signatory as though every other signatory had so acted, or had received or given the notice or refund.

29.4 Force Majeure. Each party will have no liability to the other party, because of said party's failure to perform any of its obligations in the Lease if the failure is due to reasons beyond said party's reasonable control, including without limitation, strikes or other labor difficulties, inability to obtain necessary governmental permits and approvals (including building permits or certificates of occupancy), unavailability or scarcity of materials, war, riot, civil insurrection, accidents, acts of God and governmental preemption in connection with a national emergency.

29.5 Limitation on Recourse Against Landlord. Tenant agrees to look solely to Landlord's interest in the Project for the recovery of any judgments from Landlord.

29.6 Authority. Each party represents to the other party that such party is authorized to execute this Lease, and that if either party is a corporation, partnership, limited liability company or other entity, requisite action of the board of directors, or partners, members or managers, as the case may be, has been taken to authorize the person executing this Lease to do so.

29.7 Brokers' Commissions. Landlord and Tenant respectively represent and warrant to each other that neither of them has consulted or negotiated with, nor has either of them been represented by any broker or finder with regard to this Lease or the Premises, except the Brokers named in Section 1.1, if any (the "Disclosed Brokers"). Landlord and Tenant shall each indemnify the other against and hold the other harmless from any claims for fees or commissions from anyone with whom either of them has consulted or negotiated with regard to the Premises except

the Brokers. The respective liability of Landlord and Tenant to the Disclosed Brokers shall be only as indicated in Section 1.1.

29.8 Time of the Essence. Time is of the essence for each and every provision of this Lease.

29.9 Estoppel Certificates. At any time and from time to time Tenant will execute, acknowledge and deliver to Landlord, within 20 business days after Landlord's request, a certificate certifying: (a) that this Lease is unmodified and in full force and effect or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the date, terms of and nature of each modification; (b) the date, if any, to which rent and other sums payable under this Lease have been paid; and (c) that it has delivered no notice of any default to Landlord which default has not been cured, except as to defaults specified in said certificate. Any such certificate may be relied upon by any prospective purchaser or by any existing or prospective mortgagee or beneficiary under any deed of trust as to the Building or any part of the Project. Tenant's failure to deliver such a certificate within such time will be conclusive evidence of the truth, accuracy and completeness of any matter stated in the form of a certificate tendered to Tenant by Landlord.

29.10 No Merger. The voluntary or other surrender of this Lease by Tenant, or the termination of this Lease by mutual agreement of Tenant and Landlord, or the termination of this Lease on account of Tenant's default, shall not result in or work a merger, and shall, at Landlord's option: (a) terminate all or any subleases and subtenancies; or (b) operate as an assignment to Landlord of all or any subleases or subtenancies. Landlord's option under this Section 29.10 shall be exercised by Landlord's serving written notice to Tenant and all known sublessees or subtenants in the Premises or any part of the Premises.

29.11 Holding Over. If Tenant remains in possession of all or any part of the Premises after the expiration of the Term, with the express or implied consent of Landlord: (a) such tenancy will be deemed to be a tenancy from month-to-month only; (b) such tenancy will not constitute a renewal or extension of this Lease for any further term; and (c) such tenancy may be terminated by Landlord upon the earlier of (a) 30-day's prior written notice; or (b) the earliest date permitted by law. In the event of any holdover by Tenant, one hundred and fifty (150%) of the then Monthly Base Rent and all Additional Rent and any other sums due under this Lease will be payable in the amount and at the times specified in this Lease. Such month-to-month tenancy will be subject to every other term, condition, and covenant contained in this Lease.

29.12 Notices. Any notice, request, demand, consent, approval or other communication required or permitted under this Lease must be in writing and will be deemed to have been given when personally delivered or deposited in any depository regularly maintained by the United States Postal Service, postage prepaid, certified mail, return receipt requested, addressed to the party for whom it is intended at its address set forth in Section 1.1. Either Landlord or Tenant may add additional addresses or change its address for purposes of receipt of any such communication by giving ten (10) days prior written notice of such change to the other party in the manner prescribed in this Section 29.12.

29.13 Notice of Landlord's Default. In the event of any alleged default in the obligation of Landlord under this Lease, Tenant will deliver to Landlord written notice listing the reasons for Landlord's default and Landlord will have 30 days following the receipt of such notice to cure such alleged default or, in the event the alleged default cannot reasonably be cured within a 30 day period, to commence action and proceed diligently to cure such alleged default. A copy of such notice to Landlord will be sent to any holder of a mortgage or other encumbrance on the Building or Project of which Tenant has been notified in writing, and any such holder will also have the same time periods to cure such alleged default.

29.14 Severability. If any provision of this Lease should prove to be illegal, invalid or unenforceable, the remainder of this Lease will not be affected by such finding, and in lieu of each provision of this Lease that is illegal, invalid or unenforceable, a provision will be added as a part of this Lease as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

29.15 Written Amendment Required. No amendment, alteration, modification of or addition to the Lease will be valid or binding unless expressed in writing and signed by Landlord and Tenant. Tenant agrees to make any modifications of the terms and provisions of this Lease required or requested by any lending institution providing financing for the Building or the Project, as the case may be, provided that no such modifications will adversely affect the Tenant's debts and obligations under this Lease.

29.16 No Waiver. Landlord's waiver on one or more occasions of any agreement, condition or provision contained in this Lease shall not be deemed to be a waiver of Tenant's duty on all subsequent occasions to comply

with the same or any other agreement, condition or provision contained in this Lease, nor shall any custom or practice which may develop between the parties in the administration of this Lease be construed to waive or impair the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms of this Lease. A subsequent acceptance of Monthly Base Rent or Additional Rent by Landlord shall not constitute a waiver of any prior breach by Tenant of any agreement, condition or provision of this Lease, regardless of Landlord's knowledge of such prior breach at the time of its acceptance of such Rent.

29.17 Recording of Lease. Neither Landlord nor Tenant shall record a copy of this Lease, or a memorandum or short form hereof, in any real property records.

29.18 Intentionally Omitted.

29.19 Captions. The captions and titles of various Articles and Sections of this Lease are for convenience only and do not necessarily define, limit, describe or construe the contents of such Articles and Sections.

29.20 Entire Agreements. This Lease, the Exhibits and Addenda, if any, executed in connection with this Lease, contain the entire agreement between Landlord and Tenant concerning the subject matter of the Lease. No promises or representations, except as contained in this Lease, have been made to Tenant with respect to the condition of the manner of operating of the Premises, the Building, or the Project.

29.21 Governing Law. This Lease will be governed by and construed in accordance with the laws of the State of California. Any litigation between the parties concerning this Lease shall be initiated in the County of San Diego, State of California.

29.22 Binding On Successors and Assigns. The terms, provisions, covenants, conditions and agreements contained in this Lease will bind and inure to the benefit of Landlord and Tenant and their respective heirs, distributees, executors, administrators, personal representatives, successors, and except as otherwise provided in this Lease, their assigns.

[SIGNATURES ON NEXT PAGE]

Landlord and Tenant have executed this Lease as of the day and year first above written.

TENANT:

THE CITY OF SAN DIEGO,  
a California Municipal Corporation

By: [Signature]  
Name: CYBARE SHAWSON  
Title: Director Real Estate Affairs  
Date Signed: 7/19/17

Approved as to form this 20<sup>th</sup> day of July 2017  
MARA W. ELLIOTT, CITY ATTORNEY

By: [Signature]  
Name: Hilda R. Mendoza  
Deputy City Attorney  
Date: \_\_\_\_\_

LANDLORD:

B.H. CAMINO DEL RIO, LLC,  
a California limited liability company

By: B.H. Partnership B, L.P.,  
a Delaware limited partnership  
its Member

By: B.H. Holding Company I, Inc.,  
a Delaware corporation  
its General Partner

By: [Signature]  
Name: Arsalan Gozini  
Its: President

Date Signed: 7-11-17

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }

COUNTY OF \_\_\_\_\_ }

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me  
\_\_\_\_\_, (notary public), personally appeared

(print name), who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (notary public)

See attached Certificate  
(NOTARY SEAL)

## **CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

**CIVIL CODE §1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA )  
 ) §  
COUNTY OF San Diego )

On July 19, 2017 before me, Teresa Dolores Morse, Notary Public,  
*Date Here Insert Name and Title of Officer*

personally appeared Cybele Thompson  
Name of Signer

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



I certify under the PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

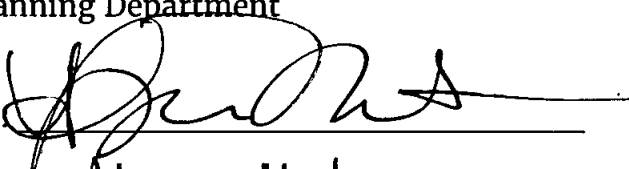
*Place Notary Seal Above*

Signature Teresa Delmas Morse

## Environmental Analysis Environmental Clearance

This activity is not a project as defined by the California Environmental Quality Act Section 21065 and State CEQA Guidelines Section 15378(b)(5), as it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment. Thus, this activity is not subject to CEQA, pursuant to CEQA Guidelines Section 15060(c)(3).

ALYSSA MUTO, Deputy Director  
Planning Department

By: 

Name: Alyssa Muto

Title: Deputy Director, Planning Dept.

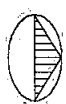
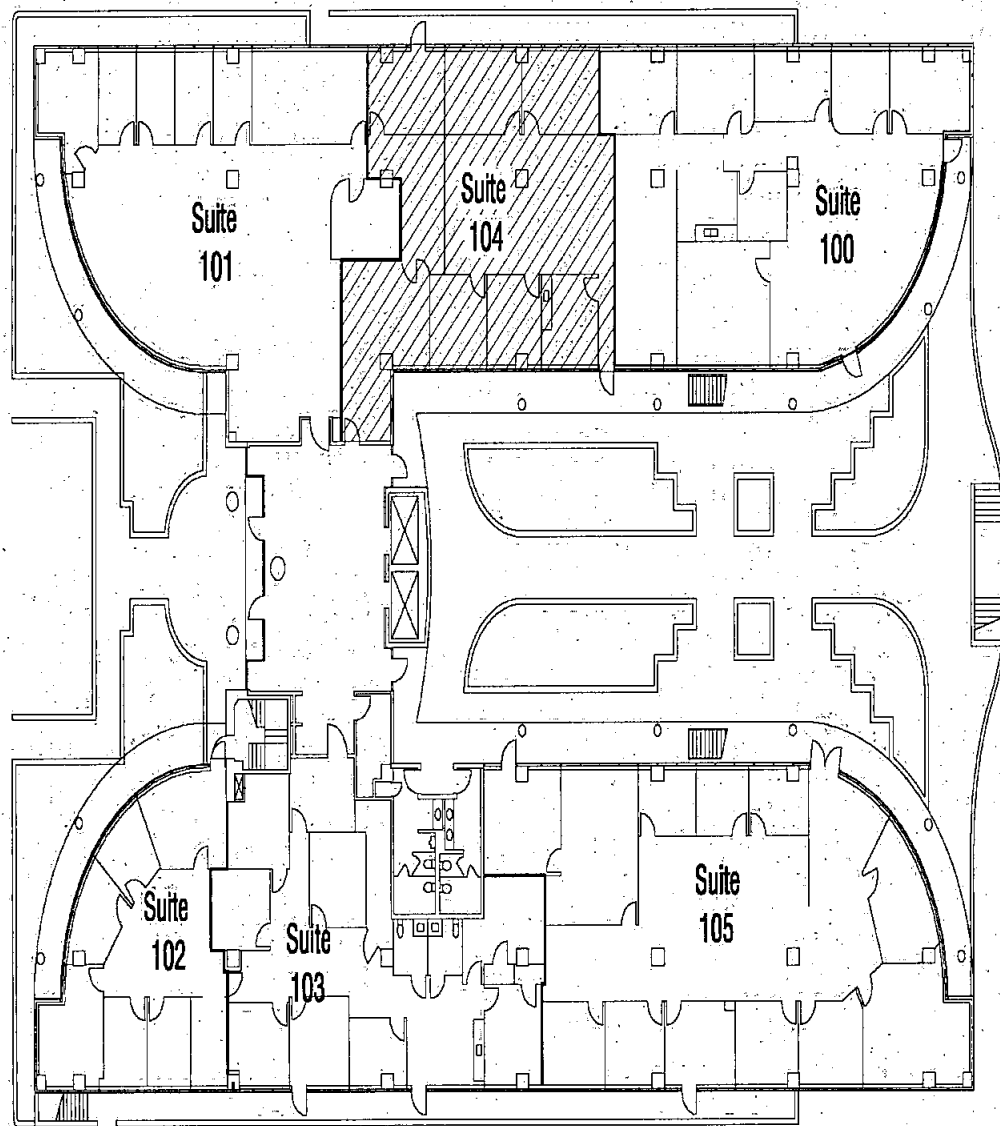
## **EXHIBIT A**

### **LEASE ADDENDUM**

1. **SIGNAGE**: Landlord agrees that Tenant may install Tenant's name and suite identification in the Building directory at Tenant's cost.
2. **HVAC SERVICES**: Provided that Tenant is not in default under the Lease, Landlord agrees to furnish to the Premises, Monday through Friday from 7AM until 7PM, and Saturdays from 7AM until 1PM, heating, ventilation and air conditioning ("HVAC") as required in Landlord's judgment for the comfortable use and occupancy of the Premises. HVAC services required by the Tenant at any other times, shall be subject to advance request and reimbursement by Tenant to Landlord of then prevailing costs established by Landlord for such use (as the same may be changed from time to time). Landlord shall use reasonable efforts to furnish such service upon reasonable notice from Tenant.

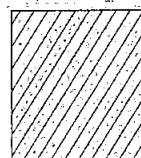
**EXHIBIT B**  
**FLOOR PLAN**

Exhibit B



**1ST FLOOR PLAN**

4025 Camino Del Rio South, San Diego, CA 92121



Demised  
Premises

## EXHIBIT C

### LEGAL DESCRIPTION OF LAND

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIEGO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOTS 1 AND 2, IN CALLAHAN SUBDIVISION UNIT NO. 3, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO: 8671, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SEPTEMBER 19, 1977.

APN: 440-670-49-00

## EXHIBIT D

### RULES AND REGULATIONS

The following are the Rules and Regulations applicable to tenancy at 4025 Camino Del Rio S, San Diego California. Landlord reserves the right, by giving 30 days written notice to all tenants, to amend, delete or add to the Rules and Regulations from time to time.

1. Tenant and Tenant's employees shall not in any way obstruct the sidewalks, entry passages, pedestrian passageways, driveways, entrances and exits to the Project and they shall use the same only as passageways to and from their respective work areas. This includes storage, even on a temporary basis, of boxes, goods and like items.
2. Any sash doors, sashes, windows, glass doors, lights and skylights that reflect or admit light into the common areas of the Project shall not be covered or obstructed by Tenant. Water closets, urinals and wash basins shall not be used for any purpose other than those for which they were constructed, and no rubbish, newspapers, food or other substance of any kind shall be thrown into them. Tenant shall not mark, drive nails, screw or drill into, paint or in any way deface the exterior walls, floor foundations, bearing walls or pillars without the prior written consent of Landlord. The expense of repairing any breakage, stoppage or damage resulting from a violation of this rule shall be borne by Tenant.
3. No awning or shade shall be affixed or installed over or in the show windows or the exterior of the Premises except with the consent of Landlord. If Tenant desires window drop curtains in the show windows of the Premises, the same must be of such uniform shape, color, material, and make as may be prescribed by Landlord and must be put up as directed by Landlord, and paid for by Tenant.
4. No boring or cutting for wires shall be allowed, except as provided in working drawings or with the consent of Landlord.
5. Tenant shall not do anything in the Premises, or bring or keep anything therein, which will in any way increase or tend to increase the risk of fire or the rate of fire insurance or which shall conflict with the regulations of the Fire Department or the law or with any insurance policy on the Premises or any part thereof, or with any rules or regulations established by any administrative body or official having jurisdiction, and it shall not use any machinery therein, even though its installation may have been permitted, which may cause any unreasonable noise or jar, or tremor to the floors or walls, or which by its weight might injure the floors of the Building.
6. Landlord may limit weight, size and position of all safes, fixtures and other equipment used in the Premises. In the event Tenant shall require extra heavy equipment, Tenant shall notify Landlord of such fact and shall pay the cost of structural bracing to accommodate same. All damage done to the Premises, Building or Project by putting in or taking out, or maintaining extra heavy equipment shall be repaired at the expense of Tenant.
7. Tenant and Tenant's officers, agents and employees shall not make nor permit any loud, unusual or improper noises nor interfere in any way with other tenants or those having business with them, nor bring into nor keep within the Project any animal or bird (with the exception of certified seeing-eye or assistance dogs), or any bicycle automobile or other vehicle, except such vehicles as Landlord may from time to time permit. Tenant and Tenant's officers, agents and employees shall not throw refuse or other substances or litter of any kind in or about the Project, except in receptacles placed therein for such purposes by Landlord or government authorities.
8. No machinery of any kind will be allowed in the Premises without the written consent of Landlord. This shall not apply, however, to customary office equipment or restaurant trade fixtures or package handling equipment.
9. All freight must be moved into, within and out of the Premises only during such hours and according to such regulations as may be posted from time to time by the Landlord.
10. No radio or television or other device shall be installed without first obtaining in each instance Landlord's consent in writing. No aerial shall be erected on the roof or exterior walls of the Building or Premises, or on the grounds of the Project, without in each instance, the written consent of Landlord. Any aerial so installed without such written consent shall be subject to removal without notice at any time.
11. All garbage, including wet garbage, refuse or trash shall be placed by the Tenant in the receptacles provided by the Landlord for that purpose and only during those times prescribed by the Landlord.

12. Tenant shall not burn any trash or garbage at any time in or about the Premises or any area of the Project.
13. Tenants are required to observe all security regulations issued by the Landlord and to comply with instructions and/or directions of any duly authorized security personnel for the protection of the Project and all tenants therein.
14. Any requirements of Tenant will be attended to only upon written application to Landlord.
15. No waiver of any rule or regulation by Landlord shall be effective unless expressed in writing and signed by Landlord or their authorized agent.
16. Landlord reserves the right to exclude or expel from the Project any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of the law or the rules and regulations of the Project.
17. Landlord reserves the right at any time to change or rescind any one or more of these rules or regulations or to make such other and further reasonable rules and regulations as in Landlord's judgment may from time to time be necessary for the management, safety, care and cleanliness of the Project, and for the preservation of good order therein, as well as for the convenience of other occupants and tenants of the Project.
18. Tenant shall abide by any additional rules or regulations that are ordered or requested by any governmental or military authority.
19. In the event of any conflict between these rules and regulations or any further or modified rules and regulations from time to time issued by Landlord and the lease provisions, the lease provisions shall govern and control.
20. Landlord specifically reserves to itself or to any person or firm it selects, the right to place in and upon the Project, coin operated machines for the sale of cigarettes, candy and other merchandise or service and the revenue resulting therefrom, including the sale of goods which may compete with those which Tenant is permitted to sell. Neither party shall place or permit vending machines in the Premises.
21. Distribution of handbills, brochures or fliers etc., in the common area of the Project is prohibited.

## EXHIBIT E

### SIGN CRITERIA AND SPECIFICATIONS

Landlord shall permit Tenant to utilize the upper-most available location on the monument sign.

1. SIGN COPY. Sign copy shall be limited to the name under which the Tenant conducts business.
2. LOGOS AND TRADEMARKS. Use of logos and trademarks shall be subject to Landlord's written approval, except for Tenant logos and trademarks. Landlord shall give special consideration to allowing the use of logos and trademarks which have been customarily displayed or associated with Tenant's specifications contained herein.
3. TYPE OF SIGN PERMITTED. Exterior signage shall consist of raceway mounted channel letters, internally illuminated and plastic face.
4. LETTER STYLE OF SIGNS. All signage styles will be permitted with the Landlord's prior written approval.
5. COLOR. The color of the plastic faces shall be Rohm & Haas Plexiglas of a color subject to Landlord's approval. The exposed metal portions of the letters shall be painted with color 313 Bronze. 6" x 8" raceway will be painted to match fascia.
6. LETTERS AND SIGN SIZES. Sign sizes will be limited to 75% of storefront footage centered over lease space. Maximum letter height should be limited to 30" while the minimum size to be 12" in height. Letter style is open and subject to prior written Landlord approval.
7. TRANSFORMERS. Transformers shall be copper wound "France" or "Jefferson" transformers. No transformer shall be loaded with more than the maximum linear footage of neon allowed by the manufacturer. All transformers to be installed in transformer boxes for fire protection.
8. ILLUMINATION. Illumination of the letter shall be with 15 millimeter, 30 milliamp, 6500 white neon tubing. Illumination shall be constant, without flickering, blinking, moving or interruption. Tenant agrees to keep its exterior sign illuminated during sign nighttime hours prior to midnight as may be established by Landlord.
9. CONSTRUCTION. Letter to be fabricated from aluminum (minimum .062").
10. INSTALLATION. All letters will be mounted on a 6" x 8" raceway. Two line copy will be permitted with prior written Landlord approval. All electrical work shall meet U.L. standards. All secondary wiring running between letters or transformers shall be concealed from view.
11. SUBMISSIONS FOR LANDLORD APPROVAL. Prior to fabrication or installation of any sign, Tenant shall submit for Landlord approval, three (3) sets of drawings showing dimensions, amp load specs., and installation details. Landlord reserves the right to remove, at Tenant's cost, any sign which has not been approved in writing by Landlord or has not been installed in accordance with the specifications of this criteria or Landlord's written approval of a variation therefrom.
12. PERMITS. Tenant shall be responsible for obtaining all necessary permits from the city prior to installation of the sign.
13. SIGNAGE FOR BUSINESS HOURS AND ADDRESSES. Tenant name and address to be 3" white vinyl characters, Helvetica medium font, centered over front doors of lease space. Business hours to be 1.5" in height.
14. WINDOW SIGNAGE. Tenant may not cover more than twenty percent (20%) of the total surface area of the glass with any type of signage or other marketing materials, including that in item 13, above.
15. MAINTENANCE. Tenant agrees to maintain its exterior sign in good operating condition during the term of the Lease.
16. TENANT RESPONSIBILITIES. Tenant shall be responsible for the cost of installing and removing, within seven (7) days after expiration or earlier termination of the Lease, any Tenant signage and shall also be responsible for:
  - A. All primary wiring and junction boxes.
  - B. Patching any mounting holes in the brick fascia upon removal of Tenant's sign.
  - C. Any damage to the building caused by Tenant's sign malfunctioning.

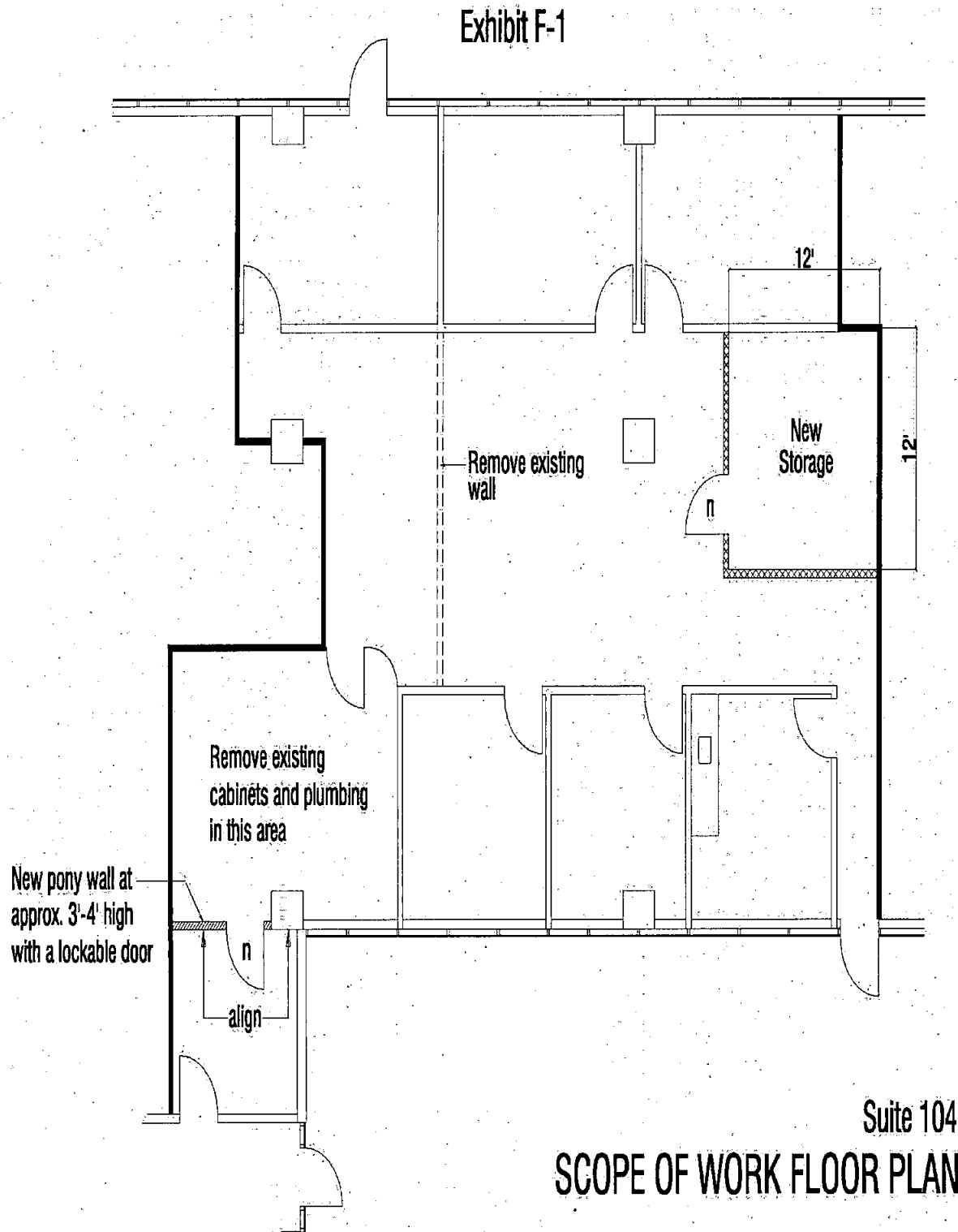
## **EXHIBIT F**

### **LANDLORD'S WORK**

Landlord shall complete the work ("Landlord's Work") shown below and as shown in Exhibit F-1 to Landlord's Building standard using Building standard materials:

1. Remove the walls separating the suites;
2. Install a storage room with electric outlets;
3. Remove cabinets and plumbing from the interior on the left side of the Premises;
4. Touch up and repaint as needed;
5. Replace any damaged ceiling tiles;
6. Install carpet in room where cabinets and plumbing were removed;
7. Install an approximately 3 ½' new wall with a lockable door; and
8. Install four (4) prong electrical outlets in all offices and storage room.

EXHIBIT F-1



## EXHIBIT G

### TENANTS'S WORK

#### CONSTRUCTION BY TENANT DURING TERM

**Section 1. Tenant to Complete.** If Tenant wishes to make changes to the Premises, such changes shall be completed pursuant to the provisions of Section 14 of the Lease and this Exhibit G. Tenant shall bear all costs of the Improvements, which shall be performed by Tenant's general contractor ("Contractor"). Tenant hereby represents and warrants that Contractor holds all necessary licenses and carries all necessary insurance.

Contractor shall complete construction to the Premises pursuant to final Plans and Specifications approved by Landlord and Tenant (the "Improvements"), in compliance with all applicable codes and regulations, any required permit or approvals, and recorded documents, and in a good and workmanlike manner free of defects. Tenant's selections of finishes and materials shall be indicated on the Plans and Specifications, and shall be equal to or better than the minimum Building standards and specifications.

**Section 2. Requirements Prior to Commencement.** Prior to commencing any work:

- a) Tenant's proposed Contractor and the Contractor's proposed principal subcontractors and suppliers shall be licensed and in good status with state and local jurisdictions, licensing boards and/or the equivalent;
- b) Contractor shall submit to Landlord and Tenant a written bid for completion of the Improvements. Said bid shall include Contractor's overhead, profit, and fees;
- c) Tenant or Contractor shall submit all Plans and Specifications to Landlord together with the location and use of any proposed "staging" areas, and no work on the Premises shall be commenced before Tenant has received Landlord's final written approval thereof, which shall not be unreasonably withheld, delayed or conditioned;
- d) Contractor shall complete all architectural and planning review and obtain all permits, including signage, required by the city, state or county in which the Premises are located;
- e) Contractor shall submit to Landlord verification of liability and workmen's compensation insurance adequate to fully protect Landlord and Tenant from and against any and all liability for death or injury to persons or damage to property caused in or about or by reason of the construction of any work done by Contractor or Contractor's subcontractors or suppliers; Landlord may determine the adequacy of such insurance, without limitation, in light of their consistency with the provisions in the Lease relating to Tenant's insurance; and
- f) Unless otherwise waived in writing by Landlord, which waiver shall be in Landlord's sole discretion, Contractor shall provide payment and performance bonds in an amount equal to one hundred percent (100%) of the estimated amount of Improvements, as approved by Landlord.

**Section 3. Landlord's Administration.** Contractor and Contractor's subcontractors and suppliers shall be subject to Landlord's reasonable administrative control and supervision, at no additional cost or mark-up to Tenant. Landlord shall provide Contractor and Contractor's subcontractors and suppliers with reasonable access to the Premises.

**Section 4. Contractor to Comply with Procedures.** During construction of the Improvements, Contractor shall adhere to the procedures shown in this Exhibit G, which represent Landlord's minimum requirements for completion of the Improvements.

**Section 5. Proof of Payment.** Upon completion of the Improvements, Tenant shall provide Landlord with such evidence as Landlord may reasonably request that the Contractor has been paid in full, and Contractor shall provide Landlord with lien releases as requested by Landlord, confirmation that no liens have been filed against the Premises or the Building. If any liens arise against the Premises or the Building as a result of the Improvements, Tenant shall immediately, at Tenant's sole expense, remove such liens and provide Landlord evidence that the title to the Building and Premises have been cleared of such liens.

#### CONSTRUCTION POLICY:

The following policies outlined are the construction procedures for the Building. As a material consideration to Landlord for granting Landlord's permission to Tenant to complete the construction contemplated hereunder, Tenant agrees to be bound by and follow the provisions contained herein below:

#### Section 6. Administration.

- a) Contractors must notify Landlord in writing to P.O. Box 49993 Los Angeles, CA 90049, attention: Michael Nielsen, Director of Construction (310/820-8888 ext. 107), prior to starting any work.
- b) As-built construction, including mechanical drawings and air balancing reports will be submitted at the end of each project.
- c) The Contractor must provide for the removal of all trash and debris arising during the course of construction. At no time are the Building's trash compactors and/or dumpsters to be used by the Contractor's clean-up crews for the disposal of any trash or debris accumulated during construction. Landlord assumes no responsibility for bins. Contractor is to monitor and resolve any problems with bin usage. Bins are to be emptied on a regular basis and **never** allowed to overflow. Trash is to be placed in the bin.
- d) All HVAC contractors must provide the following items to Landlord or its agent: (i) a plan showing the new ducting layout, all supply and return air grille locations and all thermostat locations, including the location of any fire dampers; and (ii) an Air Balance Report reflecting the supply air capacity throughout the suite, which is to be given to Landlord or its agent at the finish of the HVAC installation.
- e) All paint bids should reflect a one-time touch-up paint on all suites. This is to be completed approximately five (5) days after move-in date.
- f) Contractors will include in their proposals all costs to include: parking, elevator service, additional security (if required), restoration of carpets, etc., if and to the extent any of the same are available. Parking will be validated only if contractor is working directly for the Landlord.
- g) Any problems with construction per the plan, will be brought to the attention of and documented to the Landlord. Any material and substantial changes that need additional work not described in the Plans and Specifications must be approved in writing in advanced by Landlord.

#### **Section 7. Premises and the Building.**

Tenant shall make no alterations or improvements or do any other work which would result in diminished market value of the Premises or Building.

#### **Section 8. Building Facilities Coordination.**

- a) All deliveries of material will be made through the parking lot entrance (if applicable).
- b) Construction materials and equipment will not be stored in any area without prior written approval of the Landlord or its agent.
- c) Construction personnel with materials and/or tools shall not use the "passenger" elevators (if any), but instead (if applicable) shall use only the freight elevator.

#### **Section 9. Construction Requirements.**

- a) All Life and Safety and applicable codes will be strictly enforced (i.e. tempered glass, fire dampers, exit signs, smoke detectors, alarms, etc.). Tenant or its agent shall coordinate the same in advance with Landlord or its agent.
- b) Electric panel schedules must be brought up to date identifying all new circuits added.
- c) All electrical outlets and lighting circuits are to be properly identified. Outlets will be labeled on back side of each cover plate.
- d) All electrical and phone closets being used must have panels replaced and doors shut at the end of each day's work. Any electrical closet that is opened with the panel exposed must have a work person present.
- e) All electricians, telephone personnel, etc. will, upon completion of their respective projects, pick up and discard their trash leaving the telephone and electrical rooms clean. If this is not complied with, a clean-up will be conducted by the Building janitors and the general contractor will be back-charged for this service.
- f) Welding or burning with an open flame will not be done without prior approval of the Landlord or its agent. Fire extinguishers must be on hand at all times.
- g) Neither "anchoring" of walls or supports to the concrete or core drilling may be done during normal business hours. This work must be scheduled after hours.
- h) All HVAC work must be inspected by Landlord or its agent. The following procedures will be followed by the general contractor: i) a preliminary inspection of the HVAC work in progress will be scheduled through Landlord or its agent prior to the reinstallation of the ceiling grid, ii) a second inspection of the HVAC operation will also be

scheduled through Landlord or its agent and will take place with the attendance of the HVAC contractor's Air Balance Engineer. This inspection will take place when the suite in question is ready to be air-balanced, and (iii) Landlord or its agent will inspect the construction on a periodic basis as well.

- (i) All existing thermostats, ceiling tiles, lighting fixtures and air conditioning grilles shall be saved and turned over to Landlord or its agents.

#### **Section 10. Housekeeping.**

Good housekeeping rules and regulations shall be followed.

- a) During construction, entrance doors are to remain closed at all reasonable times, except when hauling or delivering construction materials.
- b) All construction done on the property that requires the use of common area corridors or other common flooring areas will have carpet or other floor protection.
- c) Restroom wash basins will not be used to fill buckets, make pastes, wash brushes, etc. If facilities are required, arrangements for utility closets will be made with the Landlord or its agent.
- d) Food and related lunch debris are *not* to be left in the construction or surrounding areas.
- e) General contractor and its sub-contractors must keep all areas clean. All areas in which the general contractor works will have construction debris removed prior to completion inspection. This includes dusting of all window sills, light diffusers, cleaning of cabinets and sinks. All common areas are to be kept clean of Building materials at all times so as to allow tenants access to their suites or the Building.

**The cost of repairing any damages that are caused by Tenant or Tenant's contractor during the course of construction shall be payable by Tenant.**

## LEASE CONFIRMATION/ ACCEPTANCE OF PREMISES

TO: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Re: Office Lease ("Lease") dated as of July \_\_, 2017, by and between **B.H. Camino del Rio, LLC** ("Landlord") and the **City of San Diego** ("Tenant")

Please acknowledge the following:

1. The Tenant Improvements are complete in accordance with the provisions of the Lease, and Tenant received possession of the Premises on \_\_\_\_\_. The Commencement Date is \_\_\_\_\_. The Expiration Date is \_\_\_\_\_.

2. Key Checklist:

|                      |                          |
|----------------------|--------------------------|
| Suite                | <input type="checkbox"/> |
| Office               | <input type="checkbox"/> |
| Lobby /Main entrance | <input type="checkbox"/> |
| Restroom             | <input type="checkbox"/> |
| Access Cards         | <input type="checkbox"/> |
| Mail Box             | <input type="checkbox"/> |

3. Certificate of Insurance \_\_\_\_\_

4. Utilities: Is account active? YES or NO  
Indicate any service(s) below:

|                    | <b>Electricity</b>       | <b>Water</b>             | <b>Gas</b>               |
|--------------------|--------------------------|--------------------------|--------------------------|
| <b>By Landlord</b> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>By Tenant</b>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

This date shall serve as delivery date for all intents and purposes of the lease between Tenant and Landlord. All Landlord work as described in the aforementioned lease has been completed.

**Landlord Representative**

\_\_\_\_\_  
**Name**  
\_\_\_\_\_  
**Signature**  
\_\_\_\_\_  
**Title**  
\_\_\_\_\_  
**Date**

**Tenant Representative**

\_\_\_\_\_  
**Name**  
\_\_\_\_\_  
**Signature**  
\_\_\_\_\_  
**Title**  
\_\_\_\_\_  
**Date**