



Real Estate Assets Department

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LEGAL DOCUMENTS



Sub - Category

AGREEMENTS



61

ORIGINAL

SKY PARK OFFICE PARK

OFFICE LEASE

AG-PCPI SKY PARK OWNER, L.P.,
a Delaware limited partnership

as Landlord,

and

THE CITY OF SAN DIEGO,
a California municipal corporation

as Tenant.

DOCUMENT NO. RR-315164

FILED OCT 17 2023

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

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EXHIBITS:

- A FLOOR PLAN OF PREMISES
- B RULES AND REGULATIONS
- C AMENDMENT TO LEASE
- D TENANT WORK LETTER
- E ESTOPPEL CERTIFICATE

SKY PARK OFFICE PARK

SUMMARY OF BASIC LEASE INFORMATION

This Summary of Basic Lease Information (the "Summary") is hereby incorporated by reference into and made a part of the attached Office Lease. Each reference in the Office Lease to any term of this Summary shall have the meaning as set forth in this Summary for such term. In the event of a conflict between the terms of this Summary and the Office Lease, the terms of the Office Lease shall prevail. Any initially capitalized terms used in this Summary and not otherwise defined in this Summary shall have the meaning as set forth in the Office Lease.

TERMS OF LEASE
(References are to the Office Lease)

DESCRIPTION

1. Dated as of: October 31, 2023 (the "Effective Date")
2. Landlord: AG-PCPI SKY PARK OWNER, L.P.,
a Delaware limited partnership
3. Address of Landlord
(Section 25.15): c/o Parallel Capital Partners, Inc.
4105 Sorrento Valley Boulevard
San Diego, CA 92121
Attn: Mr. Matthew Root
4. Tenant: THE CITY OF SAN DIEGO,
a California municipal corporation
5. Address of Tenant
(Section 25.15): 1200 Third Avenue, Suite 1700
San Diego, CA 92101
Attn: Director
(Prior to Lease Commencement Date)

and

9325 Sky Park Court, Suite 100
San Diego, California 92123
Attn: Deputy Chief James Gaboury
(After Lease Commencement Date)
- 5.1. Premises: Approximately 13,005 rentable square feet of space
located on the first (1st) floor of the Building (as
defined below), as set forth in **Exhibit A** attached to
the Office Lease, known as Suite 100.
- 5.2. Building: The Premises are located in the "**Building**" whose
address is 9325 Sky Park Court, San Diego,
California 92123.
6. Term (Article 2):
 - 6.1. Lease Term: Eighty-four (84) months

- 6.2. Option Term: One (1) Option for thirty-six (36) months
- 6.3. Lease Commencement Date: The earlier to occur of (i) the date Tenant occupies all or a portion of the Premises (other than in connection with the construction of the same), and (ii) the date on which the Premises is Ready for Occupancy (as defined in Exhibit D attached to the Office Lease).
- 6.4. Lease Expiration Date: The last day of the eighty-fourth (84th) full calendar month occurring after the Lease Commencement Date.

7. Base Rent (Article 3):

Lease Months	Annual Base Rent	Monthly Installment of Base Rent*	Monthly Base Rental Rate per Rentable Square Foot**
1 – 12	\$557,134.20	\$46,427.85	\$3.57
13 – 24	\$573,848.23	\$47,820.69	\$3.68
25 – 36	\$591,063.67	\$49,255.31	\$3.79
37 – 48	\$608,795.58	\$50,732.97	\$3.90
49 – 60	\$627,059.45	\$52,254.95	\$4.02
61 – 72	\$645,871.23	\$53,822.60	\$4.14
73 – 84	\$665,247.37	\$55,437.28	\$4.26

*The initial Monthly Installment of Base Rent amount was calculated by multiplying the initial Monthly Base Rental Rate per Rentable Square Foot amount by the number of rentable square feet of space in the Premises. In all subsequent Base Rent payment periods during the Lease Term commencing as of the thirteenth (13th) full calendar month of the Lease Term, the calculation of each Monthly Installment of Base Rent amount reflects an annual increase of three percent (3%).

**The amounts identified in the column entitled "Monthly Base Rental Rate per Rentable Square Foot" are rounded amounts provided for informational purposes only.

- 7.1. Payment of Rent: Rent checks shall be made payable to and sent to the following lockbox address:
- AG-PCPI Sky Park Owner, L.P.
PO Box 741334
Los Angeles, CA 90074-1334

8. Additional Rent (Article 4):

- 8.1. Base Year (for determining Direct Expenses): Calendar year 2023

8.2.	Tenant's Share of Direct Expenses (including Utilities Costs):	6.40% (13,005 rentable square feet within the Premises/203,258 rentable square feet within the Building) (See Section 4.2.7 of the Office Lease).
9.	Security Deposit (Article 20):	None.
10.	Guarantor(s) (Article 20):	None.
11.	Parking Spaces (Article 24):	Thirty-nine (39) non-reserved spaces. Three (3) reserved spaces.
12.	Brokers (Section 25.20):	CBRE, Inc. represents Landlord.

The foregoing terms of this Summary are agreed to by Landlord and Tenant in conjunction with the terms and conditions of the attached Office Lease.

"Landlord"

AG-PCPI Sky Park Owner, L.P.,
a Delaware limited partnership

By: Parallel Capital Partners, Inc.
a California corporation
Its: Authorized Agent

By: Jim Ingebritsen
Name: Jim Ingebritsen
Title: President

"Tenant"

THE CITY OF SAN DIEGO,
a California municipal corporation

By: 
Penny Maus, Director
Department of Real Estate and Airport
Management

Approved as to form on: October 31, 2023.

MARA W. ELLIOTT
City Attorney

By: 
Delmar Williams
Deputy City Attorney

R-315164

SKY PARK OFFICE PARK

OFFICE LEASE

This Office Lease, which includes and incorporates the preceding attached Summary (the Office Lease and Summary to be known sometimes collectively hereafter as the "Lease"), dated as of the date set forth in Section 1 of the Summary, is made by and between AG-PCPI Sky Park Owner, L.P., a Delaware limited partnership ("Landlord") and THE CITY OF SAN DIEGO, a California municipal corporation ("Tenant").

ARTICLE 1

BUILDING COMPLEX, BUILDING AND PREMISES

1.1 **Building Complex, Building and Premises.** Upon and subject to the terms set forth in this Lease, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises (defined in Section 5.1 of the Summary) located in the Building (defined in Section 5.2 of the Summary). The Building is part of a multiple-building office building complex commonly known as Sky Park Office Park, and is located at 9325 Sky Park Court, San Diego, California 92123. The complex also includes the building located at 9275 Sky Park Court, California 92123 (the "Other Building"). The Building, the Other Building, the parking facilities (which currently consist of a surface parking area and may subsequently consist of either and/or both surface parking area(s) and/or parking structure(s), as determined by Landlord) located within such complex (the "Building Complex Parking Area"), any outside plaza areas, land and other improvements surrounding the Building and such other future buildings (if any), and the land upon which all of the foregoing are situated, all as owned by Landlord and operated as a single complex, are herein sometimes collectively referred to as the "Building Complex" or "Real Property." Tenant acknowledges that Landlord has made no representation or warranty that other office buildings will be constructed in the Building Complex, and Landlord may, at its sole discretion, elect to construct or not construct any such additional office buildings or phases within the Building Complex. Tenant further acknowledges that Landlord has made no representation or warranty regarding the condition of the Real Property except as specifically set forth in this Lease or the Tenant Work Letter attached to this Lease as Exhibit D. Tenant is hereby granted the right to the nonexclusive use of the common corridors and hallways, stairwells, elevators, restrooms and other public or common areas located on the Real Property. The manner in which such public and common areas are maintained and operated shall be at the reasonable discretion of Landlord and the use thereof shall be subject to the rules, regulations and restrictions attached to this Lease as Exhibit B (the "Rules and Regulations"), as the same may be modified by Landlord from time to time. Landlord reserves the right to make alterations or additions to or to change the location of elements of the Building Complex and the common areas thereof, exclusive of the Premises.

1.2 **Condition of Premises.** Except as expressly set forth in this Lease and in the Tenant Work Letter attached hereto as Exhibit D, Landlord shall not be obligated to provide or pay for any improvements, work or services related to the improvement, remodeling or refurbishment of the Premises, and Tenant shall accept the Premises in its "AS IS" condition on the Lease Commencement Date. Tenant also acknowledges that Landlord has made no representation or warranty regarding the condition of the Premises or the Building Complex, except as specifically set forth in this Lease and the Tenant Work Letter.

1.3 **Rentable Square Feet.** The parties hereby stipulate that the Premises contain the rentable square feet approximately as set forth in Section 5.1 of the Summary, and such square footage amount is not subject to adjustment or remeasurement by Landlord or Tenant. Accordingly, there shall be no adjustment in the Base Rent or other amounts set forth in this Lease that are determined upon rentable square feet of the Premises. For purposes hereof, the "rentable square feet" of the Premises and the Building and other buildings in the Building Complex means the rentable area calculated by Landlord pursuant to the Standard Method for Measuring Floor Area in Office Buildings, ANSI Z65.1-2017 ("BOMA"), as modified for the Building Complex pursuant to Landlord's standard rentable area measurements for the Building Complex, to include, among other calculations, a portion of the common areas and service areas of the Building and other buildings in the Building Complex.

ARTICLE 2
LEASE TERM; OPTION TERM; TEMPORARY SPACE; AND EARLY ACCESS

2.1 **Lease Term.** The terms and provisions of this Lease shall be effective as of the date of this Lease set forth in Section 1 of the Summary. The Lease Term shall be as set forth in Section 6.1 of the Summary and shall commence on the Lease Commencement Date set forth in Section 6.3 of the Summary, and shall terminate on the Lease Expiration Date set forth in Section 6.4 of the Summary, unless this Lease is sooner terminated as hereinafter provided or Tenant exercises its option to extend the Lease Term under Section 2.2. For purposes of this Lease, the term "Lease Year" shall mean each consecutive twelve (12) month period during the Lease Term; provided, however, that the first Lease Year shall commence on the Lease Commencement Date and the last Lease Year shall end on the Lease Expiration Date. At any time during the Lease Term, Landlord may deliver to Tenant an amendment to this Lease confirming the Lease Commencement Date and Lease Expiration Date, in the form attached to this Lease as **Exhibit C**, which Tenant shall sign and return to Landlord within five (5) days of receipt of such amendment signed by Landlord.

2.2 **Option Term.** Landlord hereby grants to the Tenant originally named in this Lease ("**Original Tenant**") the option to extend the Lease Term for the Option Term set forth in Section 6.2 of the Summary ("**Option**") which Option shall be exercisable only by written Notice ("**Option Notice**") delivered by Tenant to Landlord as provided in Section 2.2.2 below, provided that, as of the date of delivery of such Option Notice and, at Landlord's option, as of the last day of the initial Lease Term, no continuing event of default by Tenant exists. The Option contained in this Section 2.2 shall be personal to the Original Tenant and may only be exercised by the Original Tenant (and not any assignee, sublessee or other transferee of the Original Tenant's interest in this Lease) if the Original Tenant occupies the entire Premises as of the date of the Option Notice.

2.2.1 **Option Rent.** The Rent (defined in Section 3.1) payable by Tenant during the Option Term (the "**Option Rent**") shall be equal to the then prevailing fair market rent for the Premises as of the commencement date of the Option Term, but not below the sum of Base Rent plus Tenant's Share of Operating Expenses payable by Tenant immediately prior to the Option Term. The then prevailing fair market rent shall be the rental rate, including all escalations, at which new, non-renewal tenants, as of the commencement of the Option Term, are leasing non-sublease, non-encumbered space comparable in size, location and quality to the Premises for a comparable term, which comparable space is located in the Building Complex and in comparable buildings in the Kearny Mesa area of the City of San Diego, California, taking into consideration only the following concessions: tenant improvements or allowances provided or to be provided for such comparable space, taking into account, and deducting the cost of the existing improvements in the Premises, and based upon the fact that the precise tenant improvements existing in the Premises are specifically suitable to Tenant. In no event shall the Option Rent be less than the monthly Rent being paid in the last month of the initial Lease Term.

2.2.2 **Exercise of Option.** The Option shall be exercised by Tenant, if at all, only in the following manner: (i) Tenant shall deliver written notice ("**Interest Notice**") to Landlord on or before the date that is no more than twelve (12) months prior to the expiration of the initial Lease Term and no less than ten (10) months prior to the expiration of the initial Lease Term, stating that Tenant is interested in exercising its Option; (ii) Landlord, after receipt of Tenant's Notice, shall deliver Notice (the "**Option Rent Notice**") to Tenant not less than eight (8) months prior to the expiration of the initial Lease Term, setting forth the Option Rent; and (iii) if Tenant wishes to exercise the Option, Tenant shall, on or before the earlier of (A) the date occurring seven (7) months prior to the expiration of the initial Lease Term, and (B) the date occurring thirty (30) days after Tenant's receipt of the Option Rent Notice, exercise the Option by delivering the Option Notice to Landlord and upon, and concurrent with, such exercise, Tenant may, at its option, object to the Option Rent determined by Landlord. Failure of Tenant to deliver the Interest Notice to Landlord on or before the date specified in (i) above or to deliver the Option Notice to Landlord on or before the date specified in (iii) above shall constitute Tenant's failure to exercise its Option. If Tenant timely and properly exercises its Option, the Lease Term shall be extended for the Option Term upon all of the terms and conditions set forth in this Lease, except that the Rent shall be as indicated in the Option Rent Notice

unless Tenant, concurrently with its exercise of the Option, objects to the Option Rent contained in the Option Rent Notice, in which case the parties shall follow the procedure set forth in Section 2.2.3 below.

2.2.3 Determination of Option Rent. In the event Tenant exercises its Option but objects to Landlord's determination of the Option Rent concurrently with its exercise of the Option, Landlord and Tenant shall attempt to agree in good faith upon the Option Rent. If Landlord and Tenant fail to reach agreement within thirty (30) days following Tenant's delivery of the Option Notice (the "**Outside Agreement Date**"), then Tenant may withdraw its Option Notice and this Lease shall expire in accordance with its terms.

2.3 Temporary Space. During the period ("**Temporary Space Term**") commencing as of the date that is five (5) calendar days following signing and delivery of this Lease by Landlord and Tenant and continuing until that date that is two (2) business days after the Lease Commencement Date, Landlord shall lease to Tenant and Tenant shall lease from Landlord certain storage space commonly known as Suite 270 located on the second (2nd) floor within the building located at 9325 Sky Park Court, San Diego, California 92123, as shown on **Exhibit A-1** attached to this Lease, which consists of approximately 1,506 rentable square feet ("**Temporary Space**") for the sole purpose of storing Tenant's furniture, fixtures and equipment. Tenant's lease of the Temporary Space shall be subject to all of the terms, conditions and limitations set forth in this Lease regarding the Premises except as follows:

2.3.1 Tenant shall have no obligation to pay Base Rent or pay for any Operating Expenses in connection with Tenant's lease of the Temporary Space during the Temporary Space Term; provided, however, that all other obligations of Tenant contained in this Lease with respect to the Premises (including, without limitation, Tenant's indemnification obligation, Tenant's obligation to obtain and maintain insurance and Tenant's obligation to pay for utilities) shall be applicable with respect to the Temporary Space throughout the Temporary Space Term.

2.3.2 Tenant agrees that Tenant shall accept the Temporary Space in its then "as-is" condition, and that Landlord shall not be required to construct any improvements in, or contribute any improvement allowance for, the Temporary Space; consequently, the Tenant Work Letter attached to this Lease as **Exhibit D** shall not be applicable with respect to the Temporary Space. Tenant further acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the Temporary Space or its suitability for storing Tenant's furniture, fixtures, and equipment.

2.3.3 Tenant shall vacate and surrender the Temporary Space in the same condition as received, reasonable wear and tear excepted, on or before the expiration of the Temporary Space Term. If Tenant fails to so surrender the Temporary Space on or before said date, the terms and conditions of Article 16 below shall apply to Tenant's occupancy of the Temporary Space after expiration of the Temporary Space Term.

2.4 Early Access. Landlord shall allow Tenant access to the Premises fifteen (15) days prior to the Lease Commencement Date for the sole purpose of Tenant's installation of furniture, fixtures, equipment, and wiring in the Premises so long as Tenant does not interfere with Landlord's remaining work in the Premises, if any. Prior to Tenant's entry into the Premises as permitted by the terms of this Section 2.4, Tenant shall provide Landlord with evidence of insurance (required to be provided by Tenant under this Lease) and shall submit a schedule to Landlord for its approval, which schedule shall detail the timing and purpose of Tenant's entry. Tenant acknowledges and agrees that any such entry into and occupancy of the Premises or any portion thereof by Tenant or any person or entity working for or on behalf of Tenant shall be deemed to be subject to all of the terms, covenants, conditions and provisions of the Lease, excluding only the covenant to pay Base Rent (until the occurrence of the Lease Commencement Date).

ARTICLE 3

BASE RENT

3.1 **Base Rent.** Tenant shall pay, without Notice or demand, to Landlord at the management office of the Building Complex, or, at Landlord's option, such other place as Landlord may from time to time designate in writing, in currency or a check for currency which, at the time of payment, is legal tender for private or public debts in the United States of America, base rent ("**Base Rent**") as set forth in Section 8 of the Summary, payable in equal monthly installments as set forth in Section 8 of the Summary in advance on or before the first day of each and every calendar month during the Lease Term, without any setoff or deduction whatsoever, except as set forth in Section 4.7. The Base Rent for the first full calendar month of the Lease Term shall be paid at the time of Tenant's signing and delivery of this Lease to Landlord. If any rental payment date (including the Lease Commencement Date) falls on a day of a calendar month other than the first day of such calendar month or if any Rent payment is for a period which is shorter than one calendar month (such as during the last month of the Lease Term), the Rent for any fractional calendar month shall be the proportionate amount of a full calendar month's rental based on the proportion that the number of days in such fractional month bears to the total number of days in the calendar month during which such fractional month occurs. All other payments or adjustments required to be made under the terms of this Lease that require proration on a time basis shall be prorated on the same basis. All Base Rent, Additional Rent and other charges payable by Tenant to Landlord under this Lease are hereinafter collectively referred to as "**Rent**". Each Rent payment is made by Tenant in consideration of Tenant's access to and right to use, occupancy, and quiet enjoyment of the Premises.

ARTICLE 4

ADDITIONAL RENT

4.1 **Additional Rent.** In addition to paying the Base Rent specified in Article 3 of this Lease, Tenant shall pay as additional rent:

4.1.1 Tenant's Share of the annual Direct Expenses, as those terms are defined in Sections 4.2.7 and 4.2.2 of this Lease, respectively, which are in excess of the amount of Direct Expenses applicable to the Base Year, as that term is defined in Section 4.2.1 of this Lease; and

4.2 **Definitions.** As used in this Article 4, the following terms shall have the meanings hereinafter set forth:

4.2.1 "**Base Year**" shall mean the year set forth in Section 8.1 of the Summary.

4.2.2 "**Direct Expenses**" shall mean "Operating Expenses" and "Tax Expenses."

4.2.3 "**Expense Year**" shall mean each calendar year in which any portion of the Lease Term falls, through and including the calendar year in which the Lease Term expires; provided, that Landlord, upon Notice to Tenant, may change the Expense Year from time to time to any twelve (12) consecutive month period, and, in the event of any such change, Tenant's Share of the Direct Expenses shall be equitably adjusted for any Expense Year involved in any such change.

4.2.4 "**Operating Expenses**" shall mean all expenses, costs and amounts of every kind and nature which Landlord shall pay or incur during any Expense Year because of or in connection with the ownership, management, maintenance, repair, replacement, restoration or operation of the Real Property, including, without limitation, any amounts paid or incurred for: (i) all Utilities Costs; (ii) the cost of janitorial service, alarm and security service, window cleaning, and trash removal, the cost of operating, maintaining, repairing, replacing, renovating, managing and complying with conservation measures in connection with the utility systems, mechanical systems, sanitary and storm drainage systems, and escalator and elevator systems, and the cost of supplies, tools, and equipment and maintenance and service contracts in connection therewith; (iii) the cost of licenses, certificates, permits and inspections and the cost of contesting the validity or applicability of any governmental enactments which may affect Operating

Expenses, and the costs incurred in connection with the implementation and operation of a transportation system management program or similar program; (iv) the cost of insurance carried by Landlord in connection with the Real Property, in such amounts as Landlord may reasonably determine, or as may be required by any mortgagees, or the lessor of any underlying or ground lease affecting the Real Property; (v) the cost of landscaping, relamping, supplies, tools, equipment (including equipment rental agreements) and materials, and all fees, charges and other costs, including management fees (or amounts in lieu thereof), consulting fees, legal fees and accounting fees, incurred in connection with the management, operation, administration, maintenance and repair of the Real Property; (vi) the cost of parking area repair, restoration and maintenance, including, but not limited to, resurfacing, repainting, restriping, and cleaning; (vii) fees, charges and other costs, including consulting fees, legal fees and accounting fees, of all contractors and consultants; (viii) payments under any equipment rental agreements or management agreements (including the cost of any management fee and the fair rental value of any office space provided thereunder); (ix) wages, salaries and other compensation and benefits of all persons engaged in the operation, management, maintenance or security of the Real Property, and employer's Social Security taxes, unemployment taxes or insurance, and any other taxes which may be levied on such wages, salaries, compensation and benefits; (x) payments under any easement, license, operating agreement, declaration, restrictive covenant, or instrument pertaining to the sharing of costs by the Real Property; (xi) amortization (including interest on the unamortized cost at a rate equal to the floating commercial loan rate announced from time to time by Bank of America, a national banking association, or its successor, as its prime rate, plus 2% per annum (the "Interest Rate")) of the cost of acquiring or the rental expense of personal property used in the maintenance, operation and repair of the Real Property; (xii) the cost (including rent) of Landlord's property management office for the Real Property and all utilities, supplies and materials used in connection therewith; and (xiii) the cost of any capital alterations, capital additions, or capital improvements made to the Real Property or any portion thereof (A) which relate to the operation, repair, maintenance and replacement of all systems, equipment or facilities which serve the Real Property in the whole or in part (including replacement of wall and floor coverings, ceiling tiles and fixtures in lobbies, corridors, restrooms and other common or public areas or facilities, maintenance and replacement of curbs, walkways and parking areas, and repairs to roofs and reroofing of improvements), (B) which are intended as a labor-saving device or to effect other economies in the operation or maintenance of the Real Property, or any portion thereof, or (C) that are required under any governmental law or regulation that is then being enforced by a federal, state or local governmental agency; provided, however, that each such permitted capital expenditure shall be amortized (including interest on the unamortized cost at the Interest Rate in effect at the time such expenditure is placed in service) over its useful life as Landlord shall reasonably determine. If Landlord is not furnishing any particular work or service (the cost of which, if performed or provided by Landlord, would be included in Operating Expenses) to a tenant who has undertaken to perform such work or service in lieu of the performance thereof by Landlord, Operating Expenses shall be deemed to be increased by an amount equal to the additional Operating Expenses which would reasonably have been incurred during such period by Landlord if it had at its own expense furnished such work or service to such tenant. If the Building (and any additional buildings constructed in the Building Complex) is not ninety-five percent (95%) occupied during all or a portion of any Expense Year (including the Base Year), Landlord shall make an appropriate adjustment to the variable components of Operating Expenses for such Expense Year (including the Base Year) as reasonably determined by Landlord employing sound accounting and management principles, to determine the amount of Operating Expenses that would have been paid had such building(s) been ninety-five percent (95%) occupied, and the amount so determined shall be deemed to have been the amount of Operating Expenses for such Expense Year. Notwithstanding anything to the contrary set forth in this Article 4, when calculating Direct Expenses for the Base Year, Operating Expenses shall exclude market-wide labor-rate increases due to extraordinary circumstances, including, but not limited to, boycotts and strikes, utility rate increases due to extraordinary circumstances, including, without limitation, conservation surcharges, boycotts, embargoes or other shortages, and costs relating to capital improvements or expenditures.

Landlord shall have the right, from time to time, to equitably allocate and prorate some or all of the Direct Expenses among different tenants and/or different buildings of the Building Complex and/or on a building-by-building basis (the "Cost Pools"). Such Cost Pools may include, without limitation, the office space tenants and retail space tenants of the buildings in the Building Complex and may be modified to take into account the addition of any additional office buildings within the Building Complex.

Notwithstanding the foregoing, for purposes of this Lease, Operating Expenses shall not, however, include: (A) except as otherwise set forth above in this Section 4.2.4, interest on debt and amortization on mortgages; (B) ground lease payments; (C) costs of leasing commissions, attorneys' fees and other costs and expenses incurred in connection with negotiations or disputes with present or prospective tenants or other occupants of the Real Property; (D) any costs expressly excluded from Operating Expenses elsewhere in this Lease; (E) costs of any items to the extent Landlord receives reimbursement from insurance proceeds (such proceeds to be excluded from Operating Expenses in the year in which received, except that any deductible amount under any insurance policy shall be included within Operating Expenses) or from a third party; (F) tax penalties incurred as a result of Landlord's negligence, inability or unwillingness to make payments or file returns when due; or (G) costs arising from Landlord's charitable or political contributions.

4.2.5 "Tax Expenses" shall mean 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 or charges, business or license taxes or fees, annual or periodic license or use fees, open space charges, housing fund assessments, leasehold taxes or taxes based upon the receipt of rent, including gross receipts or sales taxes applicable to the receipt of rent, personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, systems and equipment, appurtenances, furniture and other personal property used in connection with the Building Complex), which Landlord shall pay or incur during any Expense Year (without regard to any different fiscal year used by such governmental or municipal authority) because of or in connection with the ownership, leasing and operation of the Real Property or Landlord's interest therein.

4.2.5.1 Tax Expenses shall include, without limitation:

(i) any assessment, tax, fee, levy or charge in addition to, or in substitution, partially or totally, of any assessment, tax, fee, levy or charge previously included within the definition of real property tax, it being acknowledged by Tenant and Landlord that Proposition 13 was adopted by the voters of the State of California in the June 1978 election ("Proposition 13") and that assessments, taxes, fees, levies and charges may be imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, conservation, refuse removal and for other governmental services formerly provided without charge to property owners or occupants, and, in further recognition of the decrease in the level and quality of governmental services and amenities as a result of Proposition 13, Tax Expenses shall also include any governmental or private assessments or the contribution of the Building Complex 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. It is the intention of Tenant and Landlord that all such new and increased assessments, taxes, fees, levies, and charges and all similar assessments, taxes, fees, levies and charges be included within the definition of Tax Expenses for purposes of this Lease;

(ii) any assessment, tax, fee, levy, or charge allocable to or measured by the area of the Premises or the Rent payable under this Lease, including, without limitation, any gross income tax with respect to the receipt of such Rent, or upon or with respect to the possession, leasing, operating, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises, or any portion thereof;

(iii) any assessment, tax, fee, levy or charge, upon this transaction or any document to which Tenant is a party, creating or transferring an interest or an estate in the Premises;

(iv) any possessory taxes charged or levied in lieu of real estate taxes;
and

(v) any expenses incurred by Landlord in attempting to protest, reduce or minimize Tax Expenses.

4.2.5.2 In no event shall Tax Expenses for any Expense Year be less than the Tax Expenses during the Base Year.

4.2.5.3 Notwithstanding anything to the contrary contained in this Section 4.2.5, there shall be excluded from Tax Expenses: (i) all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, and other taxes to the extent applicable to Landlord's general or net income (as opposed to rents, receipts or income attributable to operations at the Building Complex); and (ii) any items paid by Tenant under Section 4.4 of this Lease.

4.2.6 **"Utilities Costs"** shall mean the cost of all utilities supplied for the Building Complex (including, without limitation, water, sewer, electricity, telephone and HVAC), other than those utilities which are paid directly by Tenant and other tenants of the Building Complex for excess consumption and after-hours HVAC pursuant to Section 6.2 of this Lease or similar provisions in other tenants' leases. Notwithstanding anything herein to the contrary, and in addition to Tenant's obligations to pay items of Additional Rent as described in this Lease, throughout Tenant's occupancy of the Premises, whether prior to, during or after the Lease Term, Tenant shall pay directly for all utilities and services supplied to the Premises, including, but not limited to, electricity, telephone, water and/or gas, together with any taxes thereon (**"Tenant's Utilities"**). If any of Tenant's Utilities are not separately metered or billed to the Premises, Tenant shall pay to Landlord, as Additional Rent, a reasonable proportion to be determined by Landlord of all such charges jointly metered or billed with other premises in the Building, in the manner and within the time periods set forth above for Additional Rent. The responsibility for providing and the cost of any such Tenant's Utilities delivered to or consumed on the Premises (except for standard air conditioning and heating) shall be controlled by the terms and conditions of this Article 4. Tenant agrees to provide all, and Landlord shall not provide any, of such utilities to the Premises.

4.2.6.1 To the extent possible at the Premises, Tenant, at its sole expense, shall maintain separate meters for Tenant's use of Tenant's Utilities. Tenant shall contract directly with the appropriate utility companies and/or public entities for the provision of such utilities, and shall pay directly such companies' charges and any governmental fees, taxes or other charges payable in connection with such utility service.

4.2.6.2 Tenant agrees that the heating, ventilation and air conditioning systems within the Premises are adequate for Tenant's use. Tenant shall use its best efforts to conserve energy in the operation of its heating, ventilation and air conditioning systems, and shall cooperate with Landlord in any energy conservation programs.

4.2.6.3 Tenant agrees that the lighting systems within the Premises are adequate for Tenant's use. Tenant shall use its best efforts to conserve energy in the operation of its lighting systems, and shall cooperate with Landlord in any energy conservation programs.

4.2.6.4 If Tenant fails to provide any of the utility or other services as required by this Section 4.2.6 or is, in Landlord's reasonable judgment, about to so fail, Landlord may, but shall not be required to, provide such services on Tenant's account. Any costs incurred by Landlord in providing such services shall be deemed Additional Rent under this Lease, and shall be billed as set forth in this Lease. If Tenant fails to make any such payment of Additional Rent that includes the cost of utility or other services, then without prejudice to any other remedy that Landlord may have by reason of such failure to pay, Landlord may discontinue any such utility service to the Premises, without thereby incurring any liability to Tenant. Any such discontinuance of utility or other service shall not be deemed an eviction (constructive or otherwise), a disturbance of possession, nor an election by Landlord to terminate the Lease.

4.2.7 **"Tenant's Share"** shall mean the percentage set forth in Section 8.2 of the Summary. Tenant's Share was calculated by dividing the number of rentable square feet of the Premises by the total rentable square feet in the Building and multiplying the product by 100. Landlord shall have the right from time to time, in its discretion, to include or exclude existing or future buildings in the Building Complex in the calculation of the total rentable square feet of the Building Complex, for purposes of

determining the "Building's Share" of Direct Expenses, and/or the provision of various services and amenities thereto, including equitable allocation of Direct Expenses in Cost Pools (as described in Section 4.2.4 above); in such event, Tenant's Share shall be calculated on only the Building's Share of Direct Expenses. In addition, in the event either the rentable square feet of the Premises and/or the Building and other buildings in the Building Complex is changed, Tenant's Share and/or the Building's Share shall be appropriately adjusted, and, as to the Expense Year in which such change occurs, Tenant's Share and/or the Building's Share for such year shall be determined on the basis of the number of days during such Expense Year that each such Tenant's Share and/or the Building's Share was in effect.

4.3 Calculation and Payment of Additional Rent.

4.3.1 Calculation of Excess. For each Expense Year ending or commencing within the Lease Term, Tenant shall pay to Landlord, in the manner set forth in Section 4.3.2, below, and as Additional Rent the amount by which Tenant's Share of Direct Expenses for such Expense Year exceeds Tenant's Share of the Direct Expenses for the Base Year (Tenant's Share of such excess amount is hereinafter referred to as the "Excess").

4.3.2 Statement of Actual Direct Expenses and Payment by Tenant. Following the end of each Expense Year, Landlord shall give to Tenant a statement (the "Statement"), which shall indicate the Direct Expenses incurred or accrued for such preceding Expense Year, and which shall indicate the amount, if any, of any Excess. Upon receipt of the Statement for each Expense Year ending during the Lease Term, Tenant shall pay, with its next installment of Base Rent due, but in no event later than thirty (30) days after receipt of such Statement, (A) the full amount of any Excess for such Expense Year, less the amounts, if any, paid during such Expense Year as "Estimated Excess," as that term is defined in Section 4.3.3, below. The failure of Landlord to timely furnish the Statement for any Expense Year shall not prejudice Landlord from enforcing its rights under this Article 4. Even though the Lease Term has expired and Tenant has vacated the Premises, when the final determination is made of the Direct Expenses for the Expense Year in which this Lease terminates, taking into consideration that the Lease Expiration Date may have occurred prior to the final day of the applicable Expense Year, Tenant shall pay to Landlord, within thirty (30) calendar days after Tenant receives the Statement for the final Expense Year, Tenant's Share of the Excess for the portion of such final Expense Year while this Lease was in effect. The provisions of this Section 4.3.2 shall survive the expiration or earlier termination of the Lease Term.

4.3.3 Statement of Estimated Direct Expenses. In addition, Landlord shall give Tenant a yearly expense estimate statement (the "Estimate Statement") which shall set forth in reasonable detail Landlord's reasonable estimate (the "Estimate") of what the total amount of Direct Expenses for the then-current Expense Year shall be and the estimated Excess (the "Estimated Excess") as calculated by comparing Tenant's Share of Direct Expenses for such then-current Expense Year, which shall be based upon the Estimate, to Tenant's Share of Direct Expenses for the Base Year. The Estimate Statement may be revised and reissued by Landlord from time to time. The failure of Landlord to timely furnish the Estimate Statement for any Expense Year shall not preclude Landlord from enforcing its rights to collect any Estimated Excess under this Article 4. Within thirty (30) days after receipt of such Estimate Statement, Tenant shall pay to Landlord an amount equal to (A) a fraction of the Estimated Excess (or the increase in the Estimated Excess if pursuant to a revised Estimate Statement) for the then-current Expense Year (reduced by any amounts paid as Estimated Excess pursuant to the last sentence of this Section 4.3.3). Such fraction shall have as its numerator the number of months which have elapsed in such current Expense Year to the month of such payment, both months inclusive, and shall have twelve (12) as its denominator. Until a new Estimate Statement is furnished, Tenant shall pay monthly, with the monthly Base Rent installments, an amount equal to the sum of (x) one-twelfth (1/12) of the total Estimated Excess set forth in the previous Estimate Statement delivered by Landlord to Tenant.

4.3.4 Cap on Controllable Operating Expenses. Notwithstanding anything to the contrary contained in this Article 4, the aggregate Controllable Expenses (as hereinafter defined) included in Operating Expenses in any Expense Year after the 2023 Base Year shall not increase by more than five percent (5%) on an annual basis, over the actual aggregate Controllable Expenses included in Operating Expenses for any preceding Expense Year, but with no such limit on the amount of Controllable Expenses

which may be included in the Operating Expenses incurred during the Base Year. For purposes of this Section 4.3.4, "**Controllable Expenses**" shall mean all Operating Expenses except: (i) Utilities Costs; (ii) any and all assessments, including assessment districts and government-mandated charges with respect to the Building or Real Property, or any part thereof; (iii) insurance carried by Landlord with respect to the Real Property and/or the operation thereof; (iv) janitorial and cleaning expenses; and (v) costs of capital expenditures, including, without limitation, costs of capital improvements, capital alterations, capital repairs, reasonable wages, salaries and other compensation and benefits paid to Landlord's employees, agents or contractors engaged in the operation, management, maintenance or security of the Building or Real Property, to the extent such wages, salaries and other compensation are for union personnel. The provisions of this Section 4.3.4 do not apply to Tax Expenses.

4.4 Taxes and Other Charges for Which Tenant Is Directly Responsible. Tenant shall reimburse Landlord, as Additional Rent, within ten (10) days after demand, for any and all taxes required to be paid by Landlord (except to the extent included in Tax Expenses by Landlord), excluding state, local and federal personal or corporate income taxes measured by the net income of Landlord from all sources and estate and inheritance taxes, whether or not now customary or within the contemplation of the parties hereto, when:

4.4.1 said taxes are measured by or reasonably attributable to the cost or value of Tenant's equipment, furniture, fixtures and other personal property located in the Premises, or by the cost or value of any leasehold improvements made in or to the Premises by or for Tenant, to the extent the cost or value of such leasehold improvements exceeds the cost or value of a building standard build-out as determined by Landlord regardless of whether title to such improvements shall be vested in Tenant or Landlord;

4.4.2 said taxes are assessed upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion of the Building Complex; or

4.4.3 said taxes are assessed upon this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises.

4.5 Late Charges. If any installment of Rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee by the due date therefor, then Tenant shall pay to Landlord a late charge equal to five percent (5%) of the amount due plus any attorneys' fees incurred by Landlord by reason of Tenant's failure to pay Rent and/or other charges when due under this Lease. The late charge shall be deemed Additional Rent and the right to require it shall be in addition to all of Landlord's other rights and remedies under this Lease, at law and/or in equity and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner. In addition to the late charge described above, any Rent or other amounts owing under this Lease which are not paid by the date they are due shall thereafter bear interest until paid at a rate equal to the lesser of (i) the Interest Rate set forth in Section 4.2.4 above, or (ii) the highest rate permitted by applicable law.

4.6 Tenant's Right to Audit. If Tenant disputes the amount set forth in a Statement, Tenant shall have the right, at Tenant's sole expense, not later than ninety (90) days following receipt of such Statement, to cause Landlord's books and records with respect to the Expense Year which is the subject of the Statement to be audited by a regionally recognized accounting firm mutually acceptable to Landlord and Tenant; provided, however, that Landlord's approval shall not be unreasonably withheld, and the sixty (60) day period for Tenant to commence the audit as described below, shall be tolled for the period during which Landlord is determining whether to approve such certified public accountant. The audit shall take place at the offices of Landlord in San Diego County, California where its books and records are located at a mutually convenient time during Landlord's regular business hours. The accountant conducting the audit shall be compensated on an hourly basis and shall not be compensated based upon a percentage of overcharges it discovers. No subtenant shall have any right to conduct an audit, and no assignee shall conduct an audit for any period during which such assignee was not in possession of the Premises. Tenant's right to undertake an audit with respect to any Expense Year shall expire ninety (90) days after

Tenant's receipt of the Statement for such Expense Year, and such Statement shall be final and binding upon Tenant and shall, as between the parties, be conclusively deemed correct, at the end of such ninety (90) day period, unless prior thereto Tenant shall have given Landlord written Notice of its intention to audit Operating Expenses for the Expense Year which is the subject of the Statement. If Tenant gives Landlord Notice of its intention to audit Operating Expenses, it must commence such audit within sixty (60) days after such Notice is delivered to Landlord, and the audit must be completed within one hundred twenty (120) days after such Notice is delivered to Landlord. If Tenant does not commence and complete the audit within such periods, the Statement which Tenant elected to audit shall be deemed final and binding upon Tenant and shall, as between the parties, be conclusively deemed correct. Notwithstanding any such timely inspection, objection, dispute, and/or audit, and as a condition precedent to Tenant's exercise of its right of inspection, objection, dispute, and/or audit as set forth in this Section 4.6, Tenant shall not be permitted to withhold payment of, and Tenant shall timely pay to Landlord, the full amounts as required by the provisions of this Article 4 in accordance with such Statement. However, such payment may be made under protest pending the outcome of any audit. Tenant agrees to pay the cost of such audit unless it is subsequently determined that Landlord's original Statement which was the subject of such audit was in error to Tenant's disadvantage by five percent (5%) or more of the total Operating Expenses which was the subject of the audit (in which case Landlord shall pay the cost of such audit).

ARTICLE 5

USE OF PREMISES

5.1 **Use.** Tenant shall use the Premises solely for general office use and physical rehabilitation purposes consistent with the character of the Building Complex as a first-class office building project, and Tenant shall not use or permit the Premises to be used for any other purpose or purposes whatsoever. Tenant further covenants and agrees that it shall not use, or suffer or permit any person or persons to use, the Premises or any part thereof for any use or purpose contrary to the Rules and Regulations, or in violation of the laws of the United States of America, the State of California, or the ordinances, regulations or requirements of the local municipal or county governing body or other lawful authorities having jurisdiction over the Building Complex (including laws pertaining to Hazardous Materials, as defined below). Tenant shall comply with the Rules and Regulations. Landlord shall not be responsible to Tenant for the nonperformance of any of such Rules and Regulations by or otherwise with respect to the acts or omissions of any other tenants or occupants of the Building Complex. Tenant shall comply with all recorded covenants, conditions, and restrictions now affecting the Real Property.

5.2 Hazardous Materials.

5.2.1 **Prohibition on Use.** Tenant shall not use or allow another person or entity to use any part of the Premises for the storage, use, treatment, manufacture or sale of Hazardous Materials. Landlord acknowledges, however, that Tenant will maintain products in the Premises which are incidental to the operation of its offices, such as photocopy supplies, secretarial supplies and limited janitorial supplies, which products contain chemicals which are categorized as Hazardous Materials. Landlord agrees that the use of such products in the Premises in compliance with all applicable laws and in the manner in which such products are designed to be used shall not be a violation by Tenant of this Section 5.2.1.

5.2.2 **Remedial Work.** In the event any investigation or monitoring of site conditions or any clean-up, containment, restoration, removal or other remedial work (collectively, the "**Remedial Work**") is required under any applicable federal, state or local laws or by any judicial order, or by any governmental entity as the result of operations or activities upon, or any use or occupancy of any portion of the Premises by Tenant or Tenant Affiliates, Tenant shall perform or cause to be performed the Remedial Work in compliance with such laws or order. All Remedial Work shall be performed by one or more contractors, selected by Tenant and approved in advance in writing by Landlord. All costs and expenses of such Remedial Work shall be paid by Tenant, including, without limitation, the charges of such contractor(s), the consulting engineers, and Landlord's reasonable attorneys' fees and costs incurred in connection with monitoring or review of such Remedial Work.

5.2.3 Definition of Hazardous Materials. As used in this Lease, the term "**Hazardous Materials**" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government, including, without limitation, any material or substance which is (i) defined or listed as a "hazardous waste," "extremely hazardous waste," "restricted hazardous waste," "hazardous substance" or "hazardous material" under any applicable federal, state or local law or administrative code promulgated thereunder, (ii) petroleum, or (iii) asbestos.

ARTICLE 6

SERVICES AND UTILITIES

6.1 Standard Tenant Services. Landlord shall provide the following services on all days during the Lease Term, unless otherwise stated below.

6.1.1 Subject to all governmental rules, regulations and guidelines applicable thereto, Landlord shall provide heating, ventilation and air conditioning (collectively, "**HVAC**") when necessary for normal comfort for normal office use in the Premises, from Monday through Friday, during the period from 8:00 a.m. to 6:00 p.m., and on Saturdays during the period from 9:00 a.m. to 1:00 p.m. (collectively, the "**Building Hours**"), except for nationally and locally recognized holidays as designated by Landlord (collectively, the "**Holidays**").

6.1.2 Landlord shall provide adequate electrical wiring and facilities and power for normal general office use as reasonably determined by Landlord. Tenant shall bear the cost of replacement of lamps, starters and ballasts for non-Building standard lighting fixtures within the Premises.

6.1.3 Landlord shall provide city water from the regular Building outlets for drinking, lavatory and toilet purposes.

6.1.4 Landlord shall provide janitorial services five (5) days per week, except the dates of observation of the Holidays, in and about the Premises.

6.1.5 Landlord shall provide nonexclusive automatic elevator service at all times.

6.2 Overstandard Tenant Use. Tenant shall not, without Landlord's prior written consent, use heat-generating machines, machines other than normal fractional horsepower office machines, or equipment or lighting other than building standard lights in the Premises, which may adversely affect the temperature otherwise maintained by the air conditioning system or increase the water normally furnished for the Premises by Landlord pursuant to the terms of Section 6.1 of this Lease. If Tenant uses water or HVAC in excess of that supplied by Landlord pursuant to Section 6.1 of this Lease, or if Tenant's consumption of electricity shall exceed an average of two (2) watts per useable square foot of the Premises, connected load, calculated on a monthly basis during the Building Hours set forth in Section 6.1.1 above, then Tenant shall pay to Landlord, within ten (10) days after billing, the cost of such excess consumption, the cost of the installation, operation, and maintenance of equipment which is installed in order to supply such excess consumption, administrative and overhead costs incurred in connection with such excess consumption, and the cost of the increased wear and tear on existing equipment caused by such excess consumption; and Landlord may install devices to separately meter any increased use and in such event Tenant shall pay the increased cost directly to Landlord, within ten (10) days after demand, including the cost of such additional metering devices. If Tenant desires to use HVAC during hours other than the Building Hours, (i) Tenant shall give Landlord such prior Notice, as Landlord shall from time to time establish as appropriate, of Tenant's desired use, (ii) Landlord shall supply such after-hours HVAC to Tenant at such hourly cost (which shall include, without limitation, the cost of the use of such HVAC, administrative and overhead charges, and the cost of maintenance and increased wear and tear on equipment used to provide such after-hours HVAC) to Tenant as Landlord shall from time to time establish, and (iii) Tenant shall pay such cost within ten (10) days after billing.

6.3 Interruption of Use. Subject to Section 6.5, Article 11, and Article 12, Tenant agrees that Landlord shall not be liable for damages, by abatement of Rent or otherwise, for failure to furnish or delay in furnishing any service (including telephone and telecommunication services) described in Section 6.1, or for any diminution in the quality or quantity thereof, when such failure or delay or diminution is occasioned, in whole or in part, by repairs, replacements, or improvements, by any strike, lockout or other labor trouble, by inability to secure electricity, gas, water, or other fuel at the Building after reasonable effort to do so, by any accident or casualty whatsoever, by act or default of Tenant or other parties, or by any other cause beyond Landlord's reasonable control; and such failures or delays or diminution shall never be deemed to constitute an eviction or termination of Tenant's use and possession of the Premises or, except as provided in and subject to Section 6.5, Article 11, and Article 12, relieve Tenant from paying Rent or performing any of its obligations under this Lease. Furthermore, Landlord shall not be liable under any circumstances for a loss of, or injury to, property or for injury to, or interference with, Tenant's business, including, without limitation, loss of profits, however occurring, through or in connection with or incidental to a failure to furnish any of the services or utilities described in Section 6.1.

6.4 Additional Services. Landlord shall also have the exclusive right, but not the obligation, to provide any additional services which may be required by Tenant, including, without limitation, locksmithing, additional janitorial service, and additional repairs and maintenance, provided that Tenant shall pay to Landlord, within thirty (30) days after billing, the sum of all costs to Landlord of such additional services plus an administration fee. Charges for any service for which Tenant is required to pay from time to time under this Article 6 and not payable under another provision of this Lease, shall be deemed Additional Rent and shall be billed on a monthly basis.

6.5 Abatement of Rent When Tenant is Prevented From Using Premises. Exclusive of Rent abatement under Article 11 or Article 12, in the event that Tenant is prevented from using, and does not use, the Premises or any portion thereof, for five (5) consecutive business days (the "Eligibility Period") as a result of (i) any repair, maintenance or alteration performed by Landlord after the Lease Commencement Date and required to be performed by Landlord under this Lease or permitted pursuant to Section 25.27 below, or (ii) any failure by Landlord to provide to the Premises any of the facilities for essential utilities or any services required to be provided in Section 6.1, or (iii) any failure by Landlord to provide access to the Premises, then Tenant's obligation to pay Base Rent and Tenant's Share of Direct Expenses shall be abated or reduced, as the case may be, from and after the first (1st) day of the Eligibility Period until the first date Tenant is no longer prevented from using, and does not use, the Premises or a portion thereof, in the proportion that the rentable square feet of the portion of the Premises that Tenant is prevented from using, and does not use, bears to the total rentable square feet of the Premises. For clarification, to the extent Tenant shall be entitled to abatement of Rent because of a damage or destruction under Article 11 or a taking under Article 12, then the Eligibility Period shall not be applicable to such Rent abatement.

ARTICLE 7

REPAIRS

7.1 Tenant's Repairs. Subject to Landlord's repair obligations in Sections 7.2 and 11.1 below, Tenant shall, at Tenant's own expense, keep the Premises, including all improvements, fixtures and furnishings therein, in good order, repair and condition at all times during the Lease Term, which repair obligations shall include, without limitation, the obligation to promptly and adequately repair all damage to the Premises and replace or repair all damaged or broken fixtures and appurtenances.

7.2 Landlord's Repairs. Anything contained in Section 7.1 above to the contrary notwithstanding, and subject to Articles 11 and 12 of this Lease, Landlord shall repair and maintain the structural portions of the Building and the basic plumbing, heating, ventilating, air conditioning and electrical systems serving the Building and not located in the Premises; provided, however, to the extent such maintenance and repairs are caused in part or in whole by the negligence of Tenant, its agents, contractors, employees, licensees or invitees, Tenant shall pay to Landlord, as Additional Rent, the reasonable cost of such maintenance and repairs. Landlord may, but shall not be required to, enter the Premises at all reasonable times to make any repairs, alterations, improvements or additions to the Premises or to the

Building Complex or to any equipment located in the Building Complex as Landlord shall desire or deem necessary or as Landlord may be required to do by governmental or quasi-governmental authority or court order or decree. Tenant hereby waives and releases its right to make repairs at Landlord's expense under any law, statute, or ordinance now or hereafter in effect.

ARTICLE 8

ADDITIONS AND ALTERATIONS

8.1 Landlord's Consent to Alterations. Tenant may not make any improvements, alterations, additions or changes to the Premises (collectively, the "Alterations") without first procuring the prior written consent of Landlord to such Alterations, which consent shall be requested by Tenant not less than thirty (30) days prior to the commencement thereof, and which consent shall not be unreasonably withheld by Landlord; provided, however, Landlord may withhold its consent in its sole and absolute discretion with respect to any Alterations which (i) may affect the structural components of the Building, or the Building's mechanical, electrical, heating, ventilating, air-conditioning, or life safety systems, or (ii) are visible from outside the Premises. Notwithstanding the foregoing, Tenant may make strictly cosmetic changes to the finish work in the Premises, not requiring any structural or other substantial modifications to the Premises, upon thirty (30) days prior written Notice to Landlord. The construction of the initial improvements to the Premises shall be governed by the terms of the Tenant Work Letter, attached to this Lease as **Exhibit D**, and not the terms of this Article 8.

8.2 Manner of Construction. Landlord may impose, as a condition of its consent to any and all Alterations or repairs of the Premises or about the Premises, such requirements as Landlord in its reasonable discretion may deem desirable, including, but not limited to, the requirement that upon Landlord's request, Tenant shall, at Tenant's expense, remove such Alterations upon the expiration or any early termination of the Lease Term (upon Tenant's request, Landlord shall specify, at the time of its consent, which Alteration, if any, must be removed upon expiration or early termination of the Lease Term), and/or the requirement that Tenant utilize for such purposes only contractors, materials, mechanics and materialmen reasonably approved by Landlord. Tenant shall construct such Alterations and perform such repairs in conformance with any and all applicable rules and regulations of any federal, state, county or municipal code or ordinance and pursuant to a valid building permit, issued by the City of San Diego in conformance with Landlord's construction rules and regulations. All work with respect to any Alterations must be done in a good and workmanlike manner and diligently prosecuted to completion to the end that the Premises shall at all times be a complete unit except during the period of work. In performing the work of any such Alterations, Tenant shall have the work performed in such manner as not to obstruct access to the Building or Building Complex or the common areas by any other tenant of the Building Complex, and as not to obstruct the business of Landlord or other tenants in the Building Complex, or interfere with the labor force working in the Building Complex. If Tenant makes any Alterations, Tenant agrees to carry "Builder's All Risk" insurance in an amount approved by Landlord covering the construction of such Alterations, and such other insurance as Landlord may require, it being understood and agreed that all of such Alterations shall be insured by Tenant pursuant to Article 10 of this Lease immediately upon completion thereof. In addition, Landlord may, in its sole and absolute discretion, require Tenant to obtain performance and labor and material payment bonds or some alternate form of security satisfactory to Landlord in an amount sufficient to ensure the lien-free completion of such Alterations and naming Landlord as a co-obligee. Upon completion of any Alterations, Tenant shall (i) cause a timely Notice of Completion to be recorded in the office of the Recorder of San Diego County in accordance with the terms of Section 3093 of the Civil Code of the State of California or any successor statute, (ii) deliver to the Building Complex management office a reproducible copy of the "as built" drawings of the Alterations, and (iii) deliver to Landlord evidence of payment, contractors' affidavits and full and final waivers of all liens for labor, services or materials.

8.3 Payment for Alterations. If Tenant orders any Alterations or repair work directly from Landlord, Tenant shall pay to Landlord, within ten (10) days after demand, all charges for such work, including a percentage of the cost of such work (such percentage to be established on a uniform basis for the Building) sufficient to compensate Landlord for all overhead, general conditions, fees and other costs and expenses arising from Landlord's involvement with such work. If Tenant does not order any work

directly from Landlord, Tenant shall reimburse Landlord, within thirty (30) days after demand, for Landlord's out-of-pocket costs and expenses incurred in connection with Landlord's review of such work, plus a Landlord administrative fee equal to the lesser of (i) five percent (5%) of the total cost of such work or (ii) \$5,000.

8.4 Landlord's Property. All Alterations, improvements and fixtures which may be installed or placed in or about the Premises, and all signs installed in, on or about the Premises, from time to time, shall be at the sole cost of Tenant, except as otherwise provided in this Lease or by separate agreement between Landlord and Tenant, and shall be and become the property of Landlord. Notwithstanding the following, Landlord may, by written Notice to Tenant prior to the end of the Lease Term, require Tenant at Tenant's expense to remove any Alterations from the Premises that were made by Tenant and repair any damage to the Premises and Building caused by such removal. If Tenant fails to complete such removal and/or repair damage caused by the removal of any Alterations by the end of the Lease Term, Landlord may do so and may charge the cost thereof to Tenant.

ARTICLE 9 **COVENANT AGAINST LIENS**

Tenant has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by act of Tenant, operation of law or otherwise, to attach to or be placed upon the Real Property or any portion thereof, and any and all liens and encumbrances created by Tenant shall attach to Tenant's interest only. Landlord shall have the right at all times to post and keep posted on the Premises any notice which it deems necessary for protection from such liens. Tenant covenants and agrees not to suffer or permit any lien of mechanics or materialmen or others to be placed against the Real Property or any portion thereof, with respect to work or services claimed to have been performed for or materials claimed to have been furnished to Tenant or the Premises, and, in case of any such lien attaching or notice of any lien, Tenant covenants and agrees to cause it to be released and removed of record within a reasonable time after Tenant receives written notice of such lien. Notwithstanding anything to the contrary set forth in this Lease, in the event that such lien is not released and removed on or before the date occurring thirty (30) days after notice of such lien is delivered by Landlord to Tenant, Landlord, at its sole option, may immediately take all action necessary to release and remove such lien, without any duty to investigate the validity thereof, and all sums, costs and expenses, including reasonable attorneys' fees and costs, incurred by Landlord in connection with remaining such lien shall be deemed Additional Rent under this Lease payable by Tenant.

ARTICLE 10 **INSURANCE**

10.1 Indemnification and Waiver. Landlord, its partners and subpartners, and their respective officers, directors, shareholders, agents, property managers, employees and independent contractors are collectively, the "**Landlord Parties**". Tenant shall indemnify, defend, protect and hold harmless the Landlord Parties from and against any and all loss, cost, damage, expense, cause of action, claims and liability, including without limitation court costs and reasonable attorneys' fees (collectively "**Claims**") arising from any intentional act or negligence of Tenant or of any of Tenant's contractors, agents, employees, licensees or invitees (collectively, "**Tenant Affiliates**") and occurring in, on or about the Real Property, provided that the terms of the foregoing indemnity shall not apply to any Claims to the extent resulting from the negligence or willful misconduct of Landlord or the other Landlord Parties; provided, however, that Tenant's indemnity obligations under this Lease shall be limited to the extent Tenant may be held liable under applicable law, including all limitations on Tenant's liability, all exemptions from liability in favor of Tenant, all claim presentment requirements for bringing an action regarding any liability of Tenant, and/or all limitations periods applicable to liability of Tenant, all as set forth in Government Code sections 800, *et seq.*, sections 900, *et seq.*, or in any other law, or require Tenant to Indemnify Landlord or any other person beyond such limitations on Tenant's liability. Tenant's agreement to indemnify Landlord pursuant to this Section 10.1 is not intended and shall not relieve any insurance carrier of its obligations under policies required to be carried by Tenant pursuant to the provision of this Lease. The provisions of this Section 10.1

shall survive the expiration or sooner termination of this Lease with respect to any Claims occurring prior to such expiration or termination.

10.2 Tenant's Compliance with Landlord's Fire and Casualty Insurance. Tenant shall, at Tenant's expense, comply with all insurance company requirements of which Tenant receives Notice from Landlord pertaining to the use of the Premises under insurance policies covering risks associated with the Real Property and carried by Landlord. To the extent Tenant's conduct or use of the Premises causes any increase in the premium for any insurance policies carried by Landlord, then Tenant shall reimburse Landlord for any such increase. Tenant, at Tenant's expense, shall comply with all rules, orders, regulations or requirements of the American Insurance Association (formerly the National Board of Fire Underwriters) and with any similar body.

10.3 Tenant's Insurance. Tenant shall maintain the following coverages in the following amounts at all times following the date (the "**Insurance Start Date**") which is the earlier of (i) Tenant's entry into the Premises to perform any work therein, or (ii) the Lease Commencement Date, and continuing thereafter throughout the Lease Term:

10.3.1 Commercial General Liability Insurance covering the insured against claims of bodily injury, personal injury and property damage arising out of Tenant's operations, assumed liabilities or use of the Premises, including a Commercial General Liability endorsement covering the insuring provisions of this Lease and the performance by Tenant of the indemnity agreements set forth in Section 10.1 of this Lease, for limits of liability not less than: (i) Bodily Injury and Property Damage Liability – \$5,000,000 each occurrence and \$5,000,000 annual aggregate, and (ii) Personal Injury Liability – \$5,000,000 each occurrence and \$5,000,000 annual aggregate.

10.3.2 Physical Damage Insurance covering (i) all office furniture, trade fixtures, office equipment, merchandise and all other items of Tenant's property on the Premises installed by, for, or at the expense of Tenant, and (ii) all Alterations and other improvements and additions in and to the Premises whether owned by Landlord or Tenant pursuant to this Lease. Such insurance shall be written on an "all risks" of physical loss or damage basis, for the guaranteed replacement cost value new without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance and shall include a vandalism and malicious mischief endorsement, sprinkler leakage coverage and earthquake sprinkler leakage coverage.

10.3.3 Business interruption, loss-of-income and extra-expense insurance in such amounts as will reimburse Tenant for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent tenants or attributable to prevention of access to the Premises or to the Building as a result of such perils.

10.3.4 The minimum limits of policies of insurance required of Tenant under this Lease shall in no event limit the liability of Tenant under this Lease. Such insurance shall be primary insurance as to all claims thereunder and provide that any insurance carried by Landlord is excess and is non-contributing with any insurance requirement of Tenant. Tenant shall deliver a Letter of Self-Insurance to Landlord on or before the Insurance Start Date and at least thirty (30) days before the expiration dates thereof. In the event Tenant shall fail to deliver a Letter of Self-Insurance to Landlord, Landlord may, at its option, procure required insurance policies for the account of Tenant, and the costs of it shall be paid to Landlord as Additional Rent within five (5) days after delivery to Tenant of bills therefor.

10.4 Subrogation. Tenant agrees to have its insurance company issuing property damage, loss of income and/or rental interruption and extra expense insurance, if any, waive any rights of subrogation that such company may have against Landlord. Tenant hereby waives any right that Tenant may have against Landlord on account of any loss or damage to its property. If Tenant fails to carry the amounts and types of insurance required to be carried by it pursuant to this Article 10, in addition to any remedies Landlord may have under this Lease, such failure shall be deemed to be a covenant and agreement by Tenant to self-insure with respect to the type and amount of insurance which Tenant so failed to carry, with full waiver of subrogation with respect thereto.

10.5 Self-Insurance. Notwithstanding anything to the contrary contained in this Lease, the Original Tenant (and not any assignee, subtenant or other transferee) may fulfill its insurance obligations under Section 10.3 by self-insurance. Any self-insurance so maintained by Tenant shall be deemed to contain all of the terms and conditions applicable to such insurance as required in this Article 10, including, without limitation, a waiver of subrogation; consequently, Landlord shall be treated, for all purposes, as if Tenant had actually purchased such insurance from a third party. If Tenant elects to so self-insure, then with respect to any claims which may result from incidents occurring during the Lease Term, such self-insurance obligation shall survive the expiration or earlier termination of this Lease to the same extent as the insurance required hereunder would survive.

10.6 Landlord's Insurance. During the Lease Term, Landlord shall maintain property insurance covering the Building (excluding the property which Tenant is obligated to insure pursuant to the terms hereof). Such policy shall provide protection against "all risk of physical loss". Landlord shall also maintain commercial general liability and property damage insurance with respect to the operation of the Building. Such insurance shall be in such amounts and with such deductibles as Landlord reasonably deems appropriate. Landlord may, but shall not be obligated to, obtain and carry any other form or forms of insurance as Landlord or Landlord's mortgagees or deed of trust beneficiaries may determine prudent. Notwithstanding any contribution by Tenant to the cost of insurance as provided in this Lease, Tenant acknowledges that it has no right to receive any proceeds from any insurance policies maintained by Landlord and will not be named as an additional insured thereunder.

10.7 Additional Insurance Obligations. Tenant shall carry and maintain during the entire Lease Term, at Tenant's sole cost and expense, increased amounts of the insurance required to be carried by Tenant pursuant to this Article 10, and such other reasonable types of insurance coverage and in such reasonable amounts covering the Premises and Tenant's operations therein, as may be reasonably requested by Landlord, but in no event shall such increased amounts of insurance or such other reasonable types of insurance be in excess of that required by landlords of comparable Class "A" buildings located in the Kearny Mesa area of San Diego County.

ARTICLE 11

DAMAGE AND DESTRUCTION

11.1 Repair of Damage to Premises by Landlord. Tenant shall promptly notify Landlord of any material damage to the Premises resulting from fire or any other casualty or any condition existing in the Premises as a result of a fire or other casualty. If the Premises or any common areas of the Building Complex serving or providing access to the Premises shall be damaged by fire or other casualty or be subject to a condition existing as a result of a fire or other casualty, Landlord shall promptly and diligently, subject to reasonable delays for insurance adjustment or other matters beyond Landlord's reasonable control, and subject to all other terms of this Article 11, restore the base, shell, and core of the Premises and such common areas to substantially the same condition as existed prior to the fire or other casualty, including modifications required by zoning and building codes and other laws or by the holder of a mortgage on the Building Complex (or any portion thereof) or any other modifications to the common areas deemed desirable by Landlord, provided that access to the Premises and any common restrooms serving the Premises shall not be materially impaired. If such fire or other casualty shall have damaged the Premises or common areas in a manner that reasonably prevents Tenant's occupancy of all or a portion of the Premises, and if such fire or casualty is not solely the result of the negligence or willful misconduct of Tenant or Tenant's agents, employees, contractors, licensees or invitees, then: (A) Tenant's obligation to pay Base Rent and Tenant's Share of Direct Expenses shall be abated or reduced, as the case may be, during the time Tenant is prevented from using all or a portion of the Premises in the proportion that the rentable square feet of the portion of the Premises that Tenant is prevented from using bears to the total rentable square feet of the Premises; and (B) Landlord shall repair all injury or damage to the Tenant Improvements and Alterations in the Premises and shall return such Tenant Improvements and Alterations to their original condition. In connection with such repairs to the Tenant Improvements and Alterations, Tenant shall, prior to the commencement of construction, submit to Landlord, for Landlord's review and approval, all plans, specifications and working drawings relating thereto.

11.2 Landlord's Option to Repair. Notwithstanding the terms of Section 11.1 of this Lease, after a casualty affecting the Premises, Landlord may elect not to rebuild and/or restore the Premises and/or Building and/or any other portion of the Building Complex and instead terminate this Lease by notifying Tenant in writing of such termination within sixty (60) days after the date of damage, such Notice to include a termination date giving Tenant sixty (60) days to vacate the Premises, but Landlord may so elect only if the Building Complex shall be damaged by fire or other casualty or cause or be subject to a condition existing as a result of such a fire or other casualty or cause, whether or not the Premises are affected, and one or more of the following conditions is present: (i) repairs cannot reasonably be completed within one hundred eighty (180) days of the date of damage (when such repairs are made without the payment of overtime or other premiums); (ii) the holder of any mortgage on the Real Property or ground lessor with respect to the Real Property shall require that the insurance proceeds or any portion thereof be used to retire the mortgage debt, or shall terminate the ground lease, as the case may be; or (iii) the damage or condition arising as a result of such damage is not fully covered, except for deductible amounts, by Landlord's insurance policies. In addition, if the Premises, the Building or any portion of the Building Complex is destroyed or damaged to any substantial extent, rendering all or part of the Premises unusable during the last eighteen (18) months of the Lease Term, then notwithstanding anything contained in this Article 11, Landlord shall have the option to terminate this Lease by giving written Notice to Tenant of the exercise of such option within thirty (30) days after such damage or destruction, in which event this Lease shall cease and terminate as of the date of such Notice. Upon such termination of this Lease pursuant to this Section 11.2, Tenant shall pay the Base Rent and Additional Rent, properly apportioned up to such date of damage or destruction and both parties shall thereafter be freed and discharged of all further obligations under this Lease, except as provided for in provisions of this Lease which by their terms survive the expiration or earlier termination of this Lease Term.

11.3 Waiver of Statutory Provisions. The provisions of this Lease, including this Article 11, constitute an express agreement between Landlord and Tenant with respect to any and all damage to, or destruction of, all or any part of the Real Property, and any statute or regulation of the State of California, including, without limitation, Sections 1932(2) and 1933(4) of the California Civil Code, with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties, and any other statute or regulation, now or hereafter in effect, shall have no application to this Lease or any damage or destruction to all or any part of the Real Property.

ARTICLE 12 **CONDEMNATION**

If ten percent (10%) or more of the Premises or Building Complex shall be taken by power of eminent domain or condemned by any competent authority for any public or quasi-public use or purpose, or if Landlord shall grant a deed or other instrument in lieu of such taking by eminent domain or condemnation, Landlord shall have the option to terminate this Lease upon one hundred twenty (120) days' Notice to Tenant, provided such Notice is given no later than one hundred eighty (180) days after the date of such taking, condemnation, reconfiguration, vacation, deed or other instrument. If more than twenty-five percent (25%) of the rentable square feet of the Premises is taken, or if access to the Premises is substantially impaired as a result of any taking of all or any portion of the Building Complex, Tenant shall have the option to terminate this Lease upon one hundred twenty (120) days' Notice to Landlord, provided such Notice is given no later than one hundred eighty (180) days after the date of such taking. Landlord shall be entitled to receive the entire award or payment in connection therewith, except that Tenant shall have the right to file any separate claim available to Tenant for any taking of Tenant's personal property and fixtures belonging to Tenant and removable by Tenant upon expiration of the Lease Term pursuant to the terms of this Lease, and for moving expenses, so long as such claim does not diminish the award available to Landlord, its ground lessor with respect to the Real Property or its mortgagee, and such claim is payable separately to Tenant. All Rent shall be apportioned as of the date of such termination, or the date of such taking, whichever shall first occur. If any part of the Premises shall be taken, and this Lease shall not be so terminated, the Base Rent shall be proportionately abated. Landlord and Tenant each waives any and all rights it might otherwise have pursuant to Section 1265.130 of the California Code of Civil Procedure.

ARTICLE 13
COVENANT OF QUIET ENJOYMENT

Landlord covenants that Tenant, on paying the Rent, charges for services and other payments under this Lease and on keeping, observing and performing all the other terms, covenants, conditions, provisions and agreements contained in this Lease on the part of Tenant to be kept, observed and performed, shall, during the Lease Term, peaceably and quietly have, hold and enjoy the Premises subject to the terms, covenants, conditions, provisions and agreements of this Lease without interference by any persons lawfully claiming by or through Landlord. The foregoing covenant is in lieu of any other covenant express or implied.

ARTICLE 14
ASSIGNMENT AND SUBLETTING

14.1 Transfers. Tenant shall not, without the prior written consent of Landlord, assign, mortgage, pledge, hypothecate, encumber, or permit any lien to attach to, or otherwise transfer, this Lease or any interest under this Lease, permit any assignment or other transfer of this Lease or any interest under this Lease by operation of law, sublet the Premises or any part thereof, or permit the use of the Premises by any persons other than Tenant and its employees and contractors (all of the foregoing are hereinafter sometimes referred to collectively as "**Transfers**" and any person to whom any Transfer is made or sought to be made is hereinafter sometimes referred to as a "**Transferee**"). If Tenant shall desire Landlord's consent to any Transfer, Tenant shall notify Landlord in writing, which Notice (the "**Transfer Notice**") shall include (i) the proposed effective date of the Transfer, which shall not be less than forty-five (45) days nor more than one hundred eighty (180) days after the date of delivery of the Transfer Notice, (ii) a description of the portion of the Premises to be transferred (the "**Subject Space**"), (iii) all of the terms of the proposed Transfer and the consideration therefor, including a calculation of the "**Transfer Premium**," as that term is defined in Section 14.3, below, in connection with such Transfer, the name and address of the proposed Transferee, and a copy of all existing and/or proposed documentation pertaining to the proposed Transfer, including all existing operative documents to be made to evidence such Transfer, (iv) current financial statements of the proposed Transferee certified by an officer, partner or owner thereof, and (v) such other information as Landlord may reasonably require. Any Transfer made without Landlord's prior written consent shall, at Landlord's option, be null, void and of no effect, and shall, at Landlord's option, constitute a default by Tenant under Section 19.1.2 of this Lease. Whether or not Landlord consents to any proposed Transfer, Tenant shall pay Landlord's review and processing fees not to exceed \$500.00, as well as any reasonable legal fees incurred by Landlord, within thirty (30) days after written request by Landlord.

14.2 Landlord's Consent. Subject to Landlord's rights in Section 14.4 below, Landlord shall not unreasonably withhold or delay its consent to any proposed Transfer of the Subject Space to the Transferee on the terms specified in the Transfer Notice. The parties hereby agree that it shall be deemed to be reasonable under this Lease and under any applicable law for Landlord to withhold consent to any proposed Transfer where one or more of the following apply, without limitation as to other reasonable grounds for withholding consent:

14.2.1 The Transferee is of a character or reputation or engaged in a business which is not consistent with the quality of the Building Complex, or would be a significantly less prestigious occupant of the Building than Tenant;

14.2.2 The Transferee's intended use of the Subject Space is not permitted under this Lease;

14.2.3 The Transfer will result in more than a reasonable and safe number of occupants per floor within the Subject Space;

14.2.4 The Transferee is a governmental entity or agency;

14.2.5 The Transferee is not a party of reasonable financial worth and/or financial stability in light of the responsibilities involved under this Lease on the date consent is requested;

14.2.6 The proposed Transfer would cause Landlord to be in violation of another lease or agreement to which Landlord is a party, or would give an occupant of the Building Complex a right to cancel its lease;

14.2.7 The terms of the proposed Transfer will allow the Transferee to exercise a right of renewal, right of expansion, right of first offer, or other similar right held by Tenant (or will allow the Transferee to occupy space leased by Tenant pursuant to any such right); or

14.2.8 Either the proposed Transferee, or any person or entity which directly or indirectly, controls, is controlled by, or is under common control with, the proposed Transferee, (i) occupies space in the Building Complex at the time of the request for consent, (ii) is negotiating with Landlord to lease space in the Building Complex at such time, or (iii) has negotiated with Landlord during the twelve (12)-month period immediately preceding the Transfer Notice.

If Landlord consents to any Transfer pursuant to the terms of this Section 14.2 (and does not exercise any recapture rights Landlord may have under Section 14.4 of this Lease), Tenant may within six (6) months after Landlord's consent, but not later than the expiration of said six (6)-month period, enter into such Transfer of the Subject Space, upon substantially the same terms and conditions as are set forth in the Transfer Notice furnished by Tenant to Landlord pursuant to Section 14.1 of this Lease, provided that if there are any changes in the terms and conditions from those specified in the Transfer Notice (i) such that Landlord would initially have been entitled to refuse its consent to such Transfer under this Section 14.2, or (ii) which would cause the proposed Transfer to be more favorable to the Transferee than the terms set forth in Tenant's original Transfer Notice, Tenant shall again submit the Transfer to Landlord for its approval and other action under this Article 14 (including Landlord's right of recapture, if any, under Section 14.4 of this Lease). Notwithstanding any contrary provisions of this Lease, if Tenant or any proposed Transferee claims that Landlord has unreasonably withheld or delayed its consent to a proposed Transfer or otherwise has breached its obligations under this Article 14, Tenant's and such Transferee's only remedy shall be to seek a declaratory judgment and/or injunctive relief, and Tenant, on behalf of itself and, to the extent permitted by law, such proposed Transferee, waives all other remedies against Landlord, including without limitation, the right to seek monetary damages or terminate this Lease.

14.3 Transfer Premium.

14.3.1 **Definition of Transfer Premium.** If Landlord consents to a Transfer, as a condition thereto which the parties hereby agree is reasonable, Tenant shall pay to Landlord fifty percent (50%) of the "Transfer Premium," as that term is defined in this Section 14.3, received by Tenant from such Transferee. "Transfer Premium" shall mean all rent, additional rent or other consideration payable by such Transferee in connection with the Transfer which is in excess of the Rent payable by Tenant under this Lease during the term of the Transfer, on a per rentable square foot basis if less than all of the Premises is transferred, after deducting the reasonable expenses incurred by Tenant for (i) any changes, alterations and improvements to the Premises in connection with the Transfer, and (ii) any brokerage commissions in connection with the Transfer (collectively, the "Subleasing Costs"). "Transfer Premium" shall also include, but not be limited to, key money and bonus money paid by Transferee to Tenant in connection with such Transfer, and any payment in excess of fair market value for services rendered by Tenant to Transferee or for assets, fixtures, inventory, equipment, or furniture transferred by Tenant to Transferee in connection with such Transfer.

14.3.2 **Payment of Transfer Premium.** The determination of the amount of the Transfer Premium shall be made on an annual basis in accordance with the terms of this Section 14.3.2, but an estimate of the amount of the Transfer Premium shall be made each month and one-twelfth of such estimated amount shall be paid to Landlord on or before the next date for payment of Base Rent under this Lease, subject to an annual reconciliation on each anniversary date of the Transfer. If the payments to Landlord under this Section 14.3.2 during the twelve (12) months preceding each annual reconciliation

exceed the amount of Transfer Premium determined on an annual basis, then Landlord shall credit the overpayment against Tenant's future obligations under this Section 14.3.2 or if the overpayment occurs during the last year of the Transfer in question, refund the excess to Tenant. If Tenant has underpaid the Transfer Premium, as determined by such annual reconciliation, Tenant shall pay the amount of such deficiency to Landlord promptly, but in no event later than the next date for payment of Basic Rent under this Lease. For purposes of calculating the Transfer Premium on an annual basis, Tenant's Subleasing Costs shall be deemed to be offset against the first rent, additional rent or other consideration payable by the Transferee, until such Subleasing Costs are exhausted.

14.3.3 Calculations of Rent. In the calculation of the Rent, as it relates to the Transfer Premium calculated under Section 14.3.1 above, the Rent paid during each annual period for the Subject Space by Tenant, shall be computed after adjusting such Rent to the actual effective rent to be paid, taking into consideration any and all leasehold concessions granted in connection therewith, including, but not limited to, any rent credit and tenant improvement allowance. For purposes of calculating any such effective rent, all such concessions shall be amortized on a straight-line basis over the relevant term.

14.4 Landlord's Option as to Subject Space. Notwithstanding anything to the contrary contained in this Article 14, Landlord shall have the option, by giving written Notice to Tenant within thirty (30) days after receipt of any Transfer Notice, to recapture the Subject Space. Such recapture Notice shall cancel and terminate this Lease with respect to the Subject Space as of the date stated in the Transfer Notice as the effective date of the proposed Transfer until the last day of the term of the Transfer as set forth in the Transfer Notice. If this Lease shall be canceled with respect to less than the entire Premises, the Rent reserved in this Lease shall be prorated on the basis of the number of rentable square feet retained by Tenant in proportion to the number of rentable square feet contained in the Premises, and this Lease as so amended shall continue thereafter in full force and effect, and upon request of either party, the parties shall execute written confirmation of the same. If Landlord declines, or fails to elect in a timely manner to recapture the Subject Space under this Section 14.4, then, provided Landlord has consented to the proposed Transfer, Tenant shall be entitled to proceed to transfer the Subject Space to the proposed Transferee, subject to provisions of the last paragraph of Section 14.2 of this Lease.

14.5 Effect of Transfer. If Landlord consents to a Transfer, (i) the terms and conditions of this Lease shall in no way be deemed to have been waived or modified, (ii) such consent shall not be deemed consent to any further Transfer by either Tenant or a Transferee, (iii) Tenant shall deliver to Landlord, promptly after execution, an original executed copy of all documentation pertaining to the Transfer, (iv) Tenant shall furnish upon Landlord's request a complete statement, setting forth in detail the computation of any Transfer Premium Tenant has derived and shall derive from such Transfer, and (v) no Transfer relating to this Lease or agreement entered into with respect thereto, whether with or without Landlord's consent, shall relieve Tenant or any guarantor of this Lease from liability under this Lease. Landlord or its authorized representatives shall have the right at all reasonable times to audit the books, records and papers of Tenant relating to any Transfer, and shall have the right to make copies thereof. If the Transfer Premium with respect to any Transfer shall be found understated, in an audit by more than 10%. Tenant shall, within thirty (30) days after demand, pay the deficiency and Landlord's costs of such audit.

14.6 Additional Transfers. For purposes of this Lease, the term "Transfer" shall also include (i) if Tenant is a partnership, the withdrawal or change, voluntary, involuntary or by operation of law, of twenty-five percent (25%) or more of the partners, or transfer of twenty-five percent or more of partnership interests, within a twelve (12)-month period, or the dissolution of the partnership without immediate reconstitution thereof, and (ii) if Tenant is a closely held corporation (i.e., whose stock is not publicly held and not traded through an exchange or over the counter), (A) the dissolution, merger, consolidation or other reorganization of Tenant, or (B) the sale or other transfer of more than an aggregate of twenty-five percent (25%) of the voting shares of Tenant (other than to immediate family members by reason of gift or death), within a twelve (12)-month period, or (C) the sale, mortgage, hypothecation or pledge of more than an aggregate of twenty-five percent (25%) of the value of the unencumbered assets of Tenant within a twelve (12)-month period.

ARTICLE 15
SURRENDER OF PREMISES; REMOVAL OF TRADE FIXTURES

15.1 Surrender of Premises. No act or thing done by Landlord, or any agent or employee of Landlord, during the Lease Term shall be deemed to constitute an acceptance by Landlord of a surrender of the Premises unless such intent is specifically acknowledged in a writing signed by Landlord. The delivery of keys to the Premises to Landlord or any agent or employee of Landlord shall not constitute a surrender of the Premises or effect a termination of this Lease, whether or not the keys are thereafter retained by Landlord, and notwithstanding such delivery Tenant shall be entitled to the return of such keys at any reasonable time upon request until this Lease shall have been terminated. The voluntary or other surrender of this Lease by Tenant, whether accepted by Landlord or not, or a mutual termination hereof, shall not work a merger, and at the option of Landlord shall operate as an assignment to Landlord of all subleases or subtenancies affecting the Premises.

15.2 Removal of Tenant Property by Tenant. All articles of personal property and all business and trade fixtures, machinery and equipment, furniture and movable partitions owned by Tenant or installed by Tenant at its expense in the Premises, which items are not a part of the tenant improvements installed in the Premises, shall remain the property of Tenant, and may be removed by Tenant at any time during the Lease Term. Upon the expiration of the Lease Term, or upon any earlier termination of this Lease, Tenant shall, subject to the provisions of this Article 15, quit and surrender possession of the Premises to Landlord in as good order and condition as when Tenant took possession and as thereafter improved by Landlord and/or Tenant, reasonable wear and tear and repairs which are specifically made the responsibility of Landlord under this Lease excepted. Upon such expiration or termination, Tenant shall, without expense to Landlord, remove or cause to be removed from the Premises all debris and rubbish, and such items of furniture, equipment, telecommunications cabling, free-standing cabinet work, and other articles of personal property owned by Tenant or installed or placed by Tenant at its expense in the Premises, and such similar articles of any other persons claiming under Tenant, as Landlord may, in its sole discretion, require to be removed, and Tenant shall repair at its own expense all damage to the Premises and Building resulting from such removal.

15.3 Removal of Tenant's Property by Landlord. Whenever Landlord shall re-enter the Premises as provided in this Lease, any personal property of Tenant not removed by Tenant upon the expiration of the Lease Term, or within five (5) business days after a termination by reason of the occurrence of an event of default by Tenant, shall be deemed abandoned by Tenant and may be disposed of by Landlord in accordance with Section 1174 of the California Code of Civil Procedure, or in accordance with any laws or judicial decisions which may supplement or supplant such law from time to time.

ARTICLE 16
HOLDING OVER

If Tenant holds over after the expiration of the Lease Term, with or without the express or implied consent of Landlord, such tenancy shall be from month-to-month only, and shall not constitute a renewal hereof or an extension for any further term, and in such case Base Rent shall be payable at a monthly rate equal to one hundred fifty percent (150%) of the greater of (i) the Base Rent applicable during the last rental period of the Lease Term under this Lease or (ii) the fair market rental rate for the Premises as of the commencement of such holdover period. Such month-to-month tenancy shall be subject to every other applicable term, covenant and agreement contained in this Lease. Nothing contained in this Article 16 shall be construed as consent by Landlord to any holding over by Tenant, and Landlord expressly reserves the right to require Tenant to surrender possession of the Premises to Landlord as provided in this Lease upon the expiration or other termination of this Lease. The provisions of this Article 16 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided in this Lease or at law. Tenant acknowledges that if Tenant holds over without Landlord's consent, such holding over may compromise or otherwise affect Landlord's ability to enter into new leases with prospective tenants regarding the Premises. Therefore, if Tenant remains in the Premises, without Landlord's consent, after the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from and against all Claims resulting

solely from Tenant's failure to surrender possession of the Premises, including, without limiting the generality of the foregoing, any Claims by any succeeding tenant of the Premises founded solely upon such failure to surrender possession of the Premises to Landlord.

ARTICLE 17

ESTOPPEL CERTIFICATES

Within ten (10) business days following a request in writing by a party, the other party shall execute and deliver to the requesting party an estoppel certificate which, as submitted by the requesting party, shall be substantially in the form of **Exhibit E** attached to this Lease (modified to reflect the party signing the estoppel certificate or such other form as may be reasonably required by the requesting party or any prospective mortgagee or purchaser of the Building Complex or any portion thereof), indicating therein any exceptions thereto that may exist at that time, and shall also contain any other information reasonably requested by Landlord or Landlord's mortgagee or prospective mortgagee or purchasers. Failure of a party to timely execute and deliver such estoppel certificate or other instruments shall constitute an acknowledgment by the party that the statements included in the estoppel certificate are true and correct, without exception.

ARTICLE 18

SUBORDINATION

This Lease shall be subject and subordinate to all easement agreements and covenants, conditions and restrictions recorded against the land underlying the Building Complex as of this date of this Lease, and to all ground or underlying leases of the Real Property existing as of the date of this Lease and to the lien of any mortgages or trust deeds in force against the Real Property as of the date of this Lease, if any, and to all renewals, extensions, modifications, consolidations and replacements of such mortgages or trust deeds, and to all advances made or hereafter to be made upon the security of such mortgages or trust deeds, unless the holders of such mortgages or trust deeds, or the lessors under such ground lease or underlying leases, require in writing that this Lease be superior thereto. Tenant covenants and agrees in the event any proceedings are brought for the foreclosure of any such mortgage or deed in lieu thereof, to attorn, to the purchaser or any successors thereto upon any such foreclosure sale or deed in lieu thereof if so requested to do so by such purchaser, and to recognize such purchaser as the lessor under this Lease. Tenant shall, within five (5) days of request by Landlord, sign such further instruments or assurances as Landlord may reasonably deem necessary to evidence or confirm the subordination or superiority of this Lease to any such mortgages, trust deeds, ground leases or underlying leases.

ARTICLE 19

DEFAULTS; REMEDIES

19.1 Defaults. All covenants and agreements to be kept or performed by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any reduction of Rent. The occurrence of any of the following shall constitute an "event of default" under this Lease by Tenant:

19.1.1 Any failure by Tenant to pay any Rent or any other charge required to be paid under this Lease, or any part thereof, when due and after five (5) days' Notice from Landlord to Tenant of such failure; provided, however, that any such Notice shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure Section 1161 or any similar or successor law; or

19.1.2 Any failure by Tenant to observe or perform any other provision, covenant or condition of this Lease to be observed or performed by Tenant where such failure continues for thirty (30) days after written Notice thereof from Landlord to Tenant of such failure; provided however, that any such Notice shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure Section 1161 or any similar or successor law; and provided further that if the nature of such default is such that the same cannot reasonably be cured within a thirty (30) day period, Tenant shall not be deemed to be in default if it diligently commences such cure within such period and thereafter diligently proceeds to rectify and cure said default, as soon as reasonably possible; or

19.1.3 Abandonment of the Premises by Tenant; or

19.1.4 To the extent permitted by law, a general assignment by Tenant or any guarantor of the Lease for the benefit of creditors, or the filing by or against Tenant or any guarantor of any proceeding under an insolvency or bankruptcy law, unless in the case of a proceeding filed against Tenant or any guarantor the same is dismissed within one hundred twenty (120) days, or the appointment of a trustee or receiver to take possession of all or substantially all of the assets of Tenant or any guarantor, unless possession is restored to Tenant or such guarantor within one hundred twenty (120) days, or any execution or other judicially authorized seizure of all or substantially all of Tenant's assets located upon the Premises or of Tenant's interest in this Lease, unless such seizure is discharged within one hundred twenty (120) days; or

19.1.5 The hypothecation or assignment of this Lease or subletting of the Premises, or attempts at such actions, in violation of Article 14 that is not cured within thirty (30) days after Tenant's receipt of Notice of such default from Landlord.

19.2 **Landlord Waiver of Rent Acceleration.** Notwithstanding anything to the contrary in this Lease, Landlord waives (1) all rights to accelerate Tenant's payment of Rent under this Lease for any time period after the later of the date Landlord terminates this Lease and the date Tenant vacates the Premises and (2) all rights under California Civil Code section 1951.2(a) or otherwise, to collect Rent for any time period after the later of the date Landlord terminates this Lease and the date Tenant vacates the Premises.

19.3 **Remedies Upon Event of Default.** Subject to Section 19.2, upon the occurrence of an event of default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity, the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive.

19.3.1 Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim or damages therefor; and Landlord may recover from Tenant the following:

(i) The worth at the time of award of any unpaid rent which has been earned at the time of such termination; plus

(ii) If Tenant vacates the Premises after the date of termination of this Lease, the worth at the time of award of the amount by which (1) the unpaid Rent which would have been earned after termination until the earlier of (A) the date Tenant vacates the Premises, and (B) the time of award, exceeds (2) the amount of such rental loss that Tenant proves could have been reasonably avoided; plus any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, but excluding the collection or acceleration of unpaid Rent accruing or which would have accrued after the later of (y) the date of the termination of this Lease and (z) the date Tenant vacates the Premises; and

(iii) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law, but excluding the collection or acceleration of unpaid Rent accruing or which would have accrued after the later of (A) the date of the termination of this Lease and (B) the date Tenant vacates the Premises.

The term "rent" as used in this Section 19.2 shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to Landlord or to others. As used in Sections 19.2.1(i) and (ii), the "worth at the time of award" shall be computed by

allowing interest at the Interest Rate set forth in Section 4.2.4, but in no case greater than the maximum amount of such interest permitted by law.

19.3.2 Landlord shall have the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease on account of any event of default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all rent as it becomes due.

19.3.3 Landlord may, but shall not be obligated to, make any such payment or perform or otherwise cure any such obligation, provision, covenant or condition on Tenant's part to be observed or performed (and may enter the Premises for such purposes), all at Tenant's expense, without waiving its rights based upon any event of default of Tenant and without releasing Tenant from any obligations under this Lease. In the event of Tenant's failure to perform any of its obligations or covenants under this Lease, and such failure to perform poses a material risk of injury or harm to persons or damage to or loss of property, then Landlord shall have the right to cure or otherwise perform such covenant or obligation at any time after such failure to perform by Tenant, whether or not any such Notice or cure period set forth in Section 19.1 above has expired. Any such actions undertaken by Landlord pursuant to the foregoing provisions of this Section 19.3.3 shall not be deemed a waiver of Landlord's rights and remedies as a result of Tenant's failure to perform and shall not release Tenant from any of its obligations under this Lease.

19.4 Payment by Tenant. Tenant shall pay to Landlord, within thirty (30) days after delivery by Landlord to Tenant of statements therefor, sums equal to expenditures reasonably made and obligations reasonably incurred by Landlord in connection with Landlord's performance or cure of any of Tenant's obligations pursuant to the provisions of Section 19.3.3. Tenant's obligations under this Section 19.4 shall survive the expiration or sooner termination of the Lease Term.

19.5 Subleases of Tenant. If Landlord elects to terminate this Lease on account of any event of default by Tenant, as set forth in this Article 19, following any such event of default by Tenant, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and affecting the Premises or may, in Landlord's sole discretion, succeed to Tenant's interest in such subleases, licenses, concessions or arrangements. In the event of Landlord's election to succeed to Tenant's interest in any such subleases, licenses, concessions or arrangements, Tenant shall, as of the date of Notice by Landlord of such election, have no further right to or interest in the rent or other consideration receivable thereunder.

19.6 Form of Payment After Event of Default. Following the occurrence of an event of default by Tenant, Landlord shall have the right to require that any or all subsequent amounts paid by Tenant to Landlord under this Lease, whether in the cure of the default in question or otherwise, be paid in the form of or certified check drawn on an institution reasonably acceptable to Landlord, or by other means reasonably approved by Landlord, notwithstanding any prior practice of accepting payments in any different form.

19.7 Waiver of Default. No waiver by Landlord of any default by Tenant of any of the terms, provisions and covenants in this Lease shall be deemed or construed to constitute a waiver of any other or later default by Tenant of the same or any other of the terms, provisions, and covenants in this Lease. Forbearance by Landlord in enforcement of one or more of the remedies in this Lease provided upon a default by Tenant shall not be deemed or construed to constitute a waiver of such default. The acceptance of any Rent under this Lease by Landlord following the occurrence of any default, whether or not known to Landlord, shall not be deemed a waiver of any such default, except only a default in the payment of the Rent so accepted.

19.8 Efforts to Relet. For the purposes of this Article 19, Tenant's right to possession shall not be deemed to have been terminated by efforts of Landlord to relet the Premises, by its acts of maintenance or preservation with respect to the Premises, or by appointment of a receiver to protect Landlord's interests

under this Lease. The foregoing enumeration is not exhaustive, but merely illustrative of acts which may be performed by Landlord without terminating Tenant's right to possession.

ARTICLE 20
INTENTIONALLY OMITTED

ARTICLE 21
SIGNS

21.1 **Multi-Tenant Floor Tenants.** If Tenant occupies less than the entire floor on which the Premises is located, Tenant's identifying signage shall be provided by Landlord, at Tenant's sole cost and expense, and such signage shall be comparable to that used by Landlord for other similar floors in the Building and shall comply with Landlord's Building standard signage program. Any additions, deletions or modifications to such Building standard signage shall be at Tenant's sole expense and subject to the prior written approval of Landlord, in Landlord's sole discretion.

21.2 **Prohibited Signage and Other Items.** Any signs, notices, logos, pictures, names or advertisements which are installed by the Tenant and that have not been separately approved by Landlord may be removed without Notice by Landlord at the sole expense of Tenant. Tenant may not install any signs on the exterior or roof of the Building or the common areas of the Building or the Real Property. Any signs, window coverings, or blinds (even if the same are located behind the Landlord approved window coverings for the Building), or other items visible from the exterior of the Premises or Building are subject to the prior written approval of Landlord, in its sole discretion.

21.3 **Building Directory.** Tenant shall, at Tenant's expense, be entitled to one (1) line on the Building directory to display Tenant's name and suite number.

ARTICLE 22
COMPLIANCE WITH LAW

Tenant shall not do anything or suffer anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or other governmental rule, regulation or requirement now in force or which may hereafter be enacted or promulgated. At its sole cost and expense, Tenant shall promptly comply with all such governmental measures (including those pertaining to Hazardous Materials), other than the making of structural changes to the Building (collectively, the "Excluded Changes"), except to the extent such Excluded Changes are required due to Tenant's alterations to or manner of use of the Premises. Should any standard or regulation now or hereafter be imposed on Tenant by a state, federal or local governmental body charged with the establishment, regulation and enforcement of occupational, health or safety standards for employers, employees, landlords or tenants, then Tenant agrees, at its sole cost and expense, to comply promptly with such standards or regulations.

ARTICLE 23
ENTRY BY LANDLORD

Landlord reserves the right at all reasonable times and upon prior reasonable written Notice to Tenant (except no such prior Notice shall be required in emergencies) to enter the Premises to: (i) inspect them; (ii) show the Premises to prospective purchasers, mortgagees or ground or underlying lessors, or, during the last twelve (12) months of the Lease Term, prospective tenants; (iii) post notices of nonresponsibility; or (iv) alter, improve or repair the Premises or the Building if necessary to comply with current building codes or other applicable laws, or for structural alterations, repairs or improvements to the Building, or as Landlord may otherwise reasonably desire or deem necessary. Notwithstanding anything to the contrary contained in this Article 23, Landlord may enter the Premises at any time, without Notice to Tenant, to (A) perform janitorial and other services required of Landlord, (B) take possession due to any event of default by Tenant under this Lease in the manner provided in this Lease; and (C) perform any covenants of Tenant which Tenant fails to perform. Any such entries shall be without the abatement of

Rent and shall include the right to take such reasonable steps as required to accomplish the stated purposes; provided, however, that any such entry shall be accomplished as expeditiously as reasonably possible and in a manner so as to cause as little interference to Tenant as reasonably possible. For each of the above purposes, Landlord shall at all times have a key with which to unlock all the doors in the Premises, excluding Tenant's vaults, safes and special security areas designated in advance by Tenant. In an emergency, Landlord shall have the right to use any means that Landlord may deem proper to open the doors in and to the Premises. Any entry into the Premises by Landlord in the manner hereinbefore described shall not be deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an actual or constructive eviction of Tenant from any portion of the Premises.

ARTICLE 24 **TENANT PARKING**

Tenant, at no cost to Tenant, shall be entitled to use throughout the initial Lease Term the number of unreserved parking passes and reserved parking spaces set forth in Section 12 of the Summary, in a location in the Building Complex Parking Area as designated by Landlord from time to time. During the Option Term, Tenant shall pay to Landlord for the use of such parking passes, on a monthly basis, the prevailing rate charged from time to time by Landlord or Landlord's parking operator for parking passes in the Building Complex Parking Area where such parking passes are located. Tenant's continued right to use the parking passes is conditioned upon Tenant abiding by all rules and regulations which are prescribed from time to time for the orderly operation and use of the Building Complex Parking Area and upon Tenant's cooperation in seeing that Tenant's employees and visitors also comply with such rules and regulations. In addition, Landlord may assign any parking spaces and/or make all or a portion of such spaces reserved or institute an attendant-assisted tandem parking program and/or valet parking program if Landlord determines in its sole discretion that such is necessary or desirable for orderly and efficient parking. Landlord specifically reserves the right, from time to time, to change the size, configuration, design, layout, location and all other aspects of the Building Complex Parking Area, and Tenant acknowledges and agrees that Landlord, from time to time, may, without incurring any liability to Tenant and without any abatement of Rent under this Lease temporarily close-off or restrict access to the Building Complex Parking Area, or temporarily relocate Tenant's parking spaces to other parking structures and/or surface parking areas within a reasonable distance from the Building Complex Parking Area, for purposes of permitting or facilitating any such construction, alteration or improvements or to accommodate or facilitate renovation, alteration, construction or other modification of other improvements or structures located on the Real Property. Landlord may delegate its responsibilities under this Article 24 to a parking operator in which case such parking operator shall have all the rights of control attributed hereby to Landlord. Tenant's visitors shall have the right to use the Building Complex Parking Area, subject to availability and to the rates, rules and regulations governing visitor parking from time to time adopted by Landlord (or, at Landlord's option, the operator or master lessee of the parking facilities).

ARTICLE 25 **MISCELLANEOUS PROVISIONS**

25.1 Binding Effect. Each of the provisions of this Lease shall extend to and shall, as the case may require, bind or inure to the benefit not only of Landlord and of Tenant, but also of their respective successors or assigns, provided this clause shall not permit any assignment by Tenant contrary to the provisions of Article 14 of this Lease.

25.2 No Air Rights. No rights to any view or to light or air over any property, whether belonging to Landlord or any other person, are granted to Tenant by this Lease. If at any time any windows of the Premises are temporarily darkened or the light or view therefrom is obstructed by reason of any repairs, improvements, maintenance or cleaning in or about the Building, the same shall be without liability to Landlord and without any reduction or diminution of Tenant's obligations under this Lease.

25.3 Modification of Lease. Should any current or prospective mortgagee or ground lessor for the Building Complex require a modification or modifications of this Lease, which modification or modifications will not cause an increased cost or expense to Tenant or in any other way materially and

adversely change the rights and obligations of Tenant under this Lease, then and in such event, Tenant agrees that this Lease may be so modified and agrees to sign documents reasonably required to make such modification and deliver the same to Landlord within twenty (20) business days following the request therefor. Should Landlord or any such prospective mortgagee or ground lessor require a memorandum of Lease for recording, containing, among other customary provisions, the names of the parties, a description of the Premises and the Lease Term, Tenant agrees to sign a memorandum of Lease and deliver the same to Landlord within twenty business days following the request therefor.

25.4 Transfer of Landlord's Interest. Tenant acknowledges that Landlord has the right to transfer all or any portion of its interest in the Real Property and in this Lease, and Tenant agrees that in the event of any such transfer and a transfer of the Security Deposit, Landlord shall automatically be released from all liability under this Lease and Tenant agrees to look solely to such transferee for the performance of Landlord's obligations under this Lease after the date of transfer. Tenant further acknowledges that Landlord may assign its interest in this Lease to the holder of any mortgage or deed of trust as additional security, but agrees that such an assignment shall not release Landlord from its obligations under this Lease and that Tenant shall continue to look to Landlord for the performance of its obligations under this Lease.

25.5 Prohibition Against Recording. Except as provided in Section 25.3 for a memorandum of this Lease, neither this Lease, nor any other writing with respect thereto, shall be recorded by Tenant or by anyone acting through, under or on behalf of Tenant, and the recording thereof in violation of this provision shall make this Lease null and void at Landlord's election.

25.6 Captions. The captions of Articles and Sections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such Articles and Sections.

25.7 Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Landlord and Tenant, it being expressly understood and agreed that neither the method of computation of Rent nor any act of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

25.8 Time of Essence. Time is of the essence of this Lease and each of its provisions.

25.9 Partial Invalidity. If any term, provision or condition contained in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this Lease shall be valid and enforceable to the fullest extent permitted by law.

25.10 Landlord Exculpation. It is expressly understood and agreed that notwithstanding anything in this Lease to the contrary, and notwithstanding any applicable law to the contrary, the liability of Landlord and the Landlord Parties under this Lease (including any successor landlord) and any recourse by Tenant against Landlord or the Landlord Parties (including any successor landlord) shall be limited solely and exclusively to an amount which is equal to the interest of Landlord in the Real Property and the Building Complex.

25.11 Child Care Facilities. Tenant acknowledges that any child care facilities located, or which may be located, in the Building Complex (the "**Child Care Facilities**") which are available to Tenant and Tenant's employees are provided by a third party (the "**Child Care Provider**") which is leasing space in the Building Complex, and not by Landlord. If Tenant or its employees choose to use the Child Care Facilities, Tenant acknowledges that Tenant and Tenant's employees are not relying upon any investigation which Landlord may have conducted concerning the Child Care Provider or any warranties or representation with respect thereto, it being the sole responsibility of Tenant and the individual user of the Child Care Facilities to conduct any and all investigations of the Child Care Facilities prior to making use thereof. Accordingly, Landlord shall have no responsibility with respect to the quality or care provided by the Child Care Facilities,

or for any acts or omissions of the Child Care Provider. Furthermore, Tenant hereby agrees that Landlord, its partners, subpartners and their respective officers, agents, servants, employees, and independent contractors shall not be liable for, and are hereby released from any responsibility for any loss, cost, damage, expense or liability, either to person or property, arising from the use of the Child Care Facilities by Tenant or Tenant's employees, except to the extent arising from the negligence or willful misconduct of Landlord or the Landlord Parties. Tenant agrees to inform all of Tenant's employees of the provisions of this Section 25.11 prior to such employees' use of the Child Care Facilities. Nothing contained in this Section 25.11 is intended to be a representation nor warranty by Landlord that any Child Care Facilities will be available during the Lease Term and Landlord shall have no obligation to provide, or to make available, any such Child Care Facilities.

25.12 Entire Agreement. It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Lease and this Lease supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. This Lease, the exhibits and schedules attached hereto, and any side letter or separate agreement signed by Landlord and Tenant in connection with this Lease and dated of even date herewith contain all of the terms, covenants, conditions, warranties and agreements of the parties relating in any manner to the rental, use and occupancy of the Premises, shall be considered to be the only agreement between the parties hereto and their representatives and agents, and none of the terms, covenants, conditions or provisions of this Lease can be modified, deleted or added to except in writing signed by the parties hereto.

25.13 Right to Lease. Landlord reserves the absolute right to effect such other tenancies in the Building Complex as Landlord in the exercise of its sole business judgment shall determine to best promote the interests of the Building Complex. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or type or number of tenants shall, during the Lease Term, occupy any space in the Building Complex.

25.14 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (collectively, the "**Force Majeure**"), except with respect to the obligations imposed with regard to Rent and other charges to be paid by Tenant pursuant to this Lease, notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure.

25.15 Notices. All notices, demands, statements, approvals or communications (collectively, "**Notices**") given or required to be given by either party to the other or any other person under this Lease shall be in writing, shall be sent by United States certified or registered mail, postage prepaid, return receipt requested, or delivered personally (i) to Tenant at the address(es) set forth in Section 5 of the Summary, or to such other place as Tenant may from time to time designate in a Notice to Landlord; or (ii) to Landlord at the addresses set forth in Section 3 of the Summary, or to such other place as Landlord may from time to time designate in a Notice to Tenant. Any Notice will be deemed given on the date which is two (2) business days after it is mailed as provided in this Section 25.15 or upon the date personal delivery is made. If Tenant is notified of the identity and address of Landlord's mortgagee or ground or underlying lessor, Tenant shall give to such mortgagee or ground or underlying lessor Notice of any default by Landlord under the terms of this Lease by registered or certified mail, and such mortgagee or ground or underlying lessor may cure such default within fifteen (15) business days after the expiration of Landlord's cure period for such default.

25.16 Joint and Several. If there is more than one Tenant, the obligations imposed upon Tenant under this Lease shall be joint and several.

25.17 Authority. If Tenant is a corporation or partnership, each individual signing this Lease on behalf of Tenant is authorized to do so.

25.18 Governing Law. This Lease shall be construed and enforced in accordance with the laws of the State of California.

25.19 Submission of Lease. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or an option for lease, and it is not effective as a lease or otherwise until it is signed and delivered by both Landlord and Tenant.

25.20 Brokers. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, excepting only the real estate brokers or agents specified in Section 13 of the Summary and Landlord's designated representative (the "**Brokers**"), and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Lease. Landlord shall pay the brokerage commissions owing to the Brokers in connection with the transaction contemplated by this Lease pursuant to the terms of a separate written agreement between Landlord and the Brokers. Each party agrees to indemnify, defend, protect and hold the other party harmless from and against any and all Claims with respect to any leasing commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any real estate broker or agent other than the Brokers. The terms of this Section 25.20 shall survive the expiration or earlier termination of the Lease Term.

25.21 Intentionally Omitted.

25.22 Building Name and Signage. Landlord shall have the right at any time to designate and/or change the name of the Building Complex, the Building and/or any other building in the Building Complex, and to install, affix and maintain any and all signs on the exterior and on the interior of the Building Complex, the Building and/or any other building in the Building Complex, as Landlord may, in Landlord's sole discretion, desire. Tenant shall not use the name of the Building Complex, the Building or any other building in the Building Complex, or use pictures or illustrations of the Building Complex, the Building or any other building in the Building Complex, in advertising or other publicity, without the prior written consent of Landlord.

25.23 Hazardous Materials. Tenant acknowledges that Landlord has agreed to make the existing Phase I Environmental Assessment Report, if any, available to Tenant upon Tenant's prior written request. Tenant acknowledges that Landlord may incur costs (a) for complying with laws, codes, regulations or ordinances relating to Hazardous Materials, or (b) otherwise in connection with Hazardous Materials including, without limitation, the following: (i) Hazardous Materials present in soil or ground water, (ii) Hazardous Materials that migrate, flow, percolate, diffuse or in any way move onto or under the Building Complex, (iii) Hazardous Materials present on or under the Building Complex as a result of any discharge, dumping or spilling (whether accidental or otherwise) on the Building Complex by other tenants of the Building Complex or their agents, employees, contractors or invitees, or by others, and (iv) material which becomes Hazardous Materials due to a change in laws, codes, regulations or ordinances which relate to hazardous or toxic material, substances or waste. Tenant agrees that the costs incurred by Landlord with respect to, or in connection with, the Building Complex for complying with laws, codes, regulations or ordinances relating to Hazardous Materials shall be an Operating Expense, unless the cost of such compliance, as between Landlord and Tenant, is made the responsibility of Tenant under this Lease. Notwithstanding the foregoing, Tenant shall not be responsible for any costs or expenses incurred in connection with any loss or injury caused by (A) the presence of any Hazardous Materials existing on the Building Complex prior to the Effective Date of this Lease, or (B) the release of any Hazardous Materials on the Building Complex by Landlord. To the extent any such Operating Expense relating to Hazardous Materials is subsequently recovered or reimbursed through insurance, or recovery from responsible third parties, or other action, Tenant shall be entitled to a proportionate share of such Operating Expense to which such recovery or reimbursement relates.

25.24 Transportation Management. Tenant shall fully comply with all present or future programs intended to manage parking, transportation or traffic in and around the Building Complex, and in connection therewith, Tenant shall take responsible action for the transportation planning and management of all of Tenant's employees located at the Premises by working directly with Landlord, any governmental transportation management organization or any other transportation-related committees or entities. Such programs may include, without limitation: (i) restrictions on the number of peak-hour vehicle trips generated by Tenant; (ii) increased vehicle occupancy; (iii) implementation of an in-house ridesharing program for the Building Complex; (iv) working with any Building Complex or area-wide ridesharing program manager; and (v) utilizing flexible work shifts for employees.

25.25 No Discrimination. Tenant covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through Tenant, and this Lease is made and accepted upon and subject to the following conditions: that there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, sex, religion, marital status, ancestry or national origin in the leasing, subleasing, transferring, use, or enjoyment of the Premises, nor shall Tenant itself, or any person claiming under or through Tenant, establish or permit such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of tenants, lessees, sublessees, subtenants or vendees in the Premises.

25.26 Successors. Except as otherwise expressly provided in this Lease, the obligations of this Lease shall bind and benefit the successors and assigns of the parties hereto; provided, however, that no assignment, sublease or other transfer in violation of the provisions of Article 14 shall operate to vest any rights in any putative assignee, subtenant or transferee of Tenant.

25.27 Development of the Building Complex.

25.27.1 Subdivision. Tenant acknowledges that the Building Complex is comprised of separate legal lots. Landlord reserves the right to further subdivide or sell all or a portion of the buildings and Common Areas in the Building Complex. Tenant agrees to sign and deliver, upon demand by Landlord, any additional documents needed to conform this Lease to the circumstances resulting from such a subdivision or sale and any all ancillary transactions in connection therewith, so long as such documents do not materially and adversely affect Tenant's rights or obligations under this Lease.

25.27.2 Other Improvements. If portions of the Building Complex or property adjacent to the Building Complex (collectively, the "Other Improvements") are owned by an entity other than Landlord, Landlord, at its option, may enter into an agreement with the owner or owners of any of the Other Improvements to provide (i) for reciprocal rights of access, use and/or enjoyment of the Building Complex and the Other Improvements, (ii) for the common management, operation, maintenance, improvement and/or repair of all or any portion of the Building Complex and all or any portion of the Other Improvements, (iii) for the allocation of a portion of the Project Expenses to the Other Improvements and the allocation of a portion of the operating expenses and taxes for the Other Improvements to the Building Complex, (iv) for the use or improvement of the Other Improvements and/or the Building Complex in connection with the improvement, construction, and/or excavation of the Other Improvements and/or the Building Complex, and (v) for any other matter which Landlord deems necessary.

25.27.3 Landlord Renovations. It is specifically understood and agreed that Landlord has made no representation or warranty to Tenant and has no obligation to alter, remodel, improve, renovate, repair or decorate the Premises, Building, Building Complex or any part thereof, or to add any additional phases or office buildings to the Building Complex, and that no representations respecting the condition of the Premises or the Building Complex have been made by Landlord to Tenant except as specifically set forth in this Lease or in the Tenant Work Letter. However, Tenant acknowledges that Landlord may during the Lease Term renovate, improve, alter, or modify (collectively, the "Renovations") the Building, Premises, and/or Real Property, including without limitation the Building Complex Parking Area, common areas, systems and equipment, roof, and structural portions of the same, which Renovations may include, without limitation, (i) modifying the driveways and other common areas and tenant spaces to comply with applicable laws and regulations, including regulations relating to the physically disabled,

seismic conditions, and building safety and security, (ii) installing new floor covering, lighting, and wall coverings in the common areas, and in connection with any Renovations, Landlord may, among other things, erect scaffolding or other necessary structures in the Building or Building Complex, limit or eliminate access to portions of the Real Property, including portions of the common areas, or perform work in the Building or Building Complex, which work may create noise, dust or leave debris in the Building Complex, (iii) renovation and/or expansion of the main entry to the Building Complex and the main Building lobby area, (iv) renovation of the elevator, lobbies, elevator doors and frames and restrooms, and (v) installations, repairs or maintenance of telephone risers. Tenant hereby agrees that such Renovations and Landlord's actions in connection with such Renovations shall in no way constitute a constructive eviction of Tenant nor entitle Tenant to any abatement of Rent as long as such Renovations do not materially restrict Tenant's use of the Premises or increase the cost of Tenant's use of the Premises.

25.28 Landlord's Title. Landlord's title is and always shall be paramount to the title of Tenant. Nothing herein contained shall empower Tenant to do any act which can, shall or may encumber the title of Landlord.

25.29 No Waiver. No waiver of any provision of this Lease shall be implied by any failure of a party to enforce any remedy on account of the violation of such provision, even if such violation shall continue or be repeated subsequently, any waiver by a party of any provision of this Lease may only be in writing, and no express waiver shall affect any provision other than the one specified in such waiver and that one only for the time and in the manner specifically stated. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Lease Term or of Tenant's right of possession under this Lease or after the giving of any Notice of termination of this Lease shall reinstate, continue or extend the Lease Term or affect any Notice of termination of this Lease given Tenant prior to the receipt of such monies, it being agreed that after the service of Notice of termination of this Lease or the commencement of a suit or after final judgment for possession of the Premises, Landlord may receive and collect any Rent due, and the payment of said Rent shall not waive or affect said Notice, suit or judgment.

25.30 Attorneys' Fees. In the event of any litigation between the parties arising from this Lease, the prevailing party shall be entitled to recover from the other party such costs and reasonable attorneys' fees as may have been incurred, including any and all costs incurred in enforcing, perfecting and executing such judgment.

25.31 Substitution of Other Premises. Landlord shall have the right to move Tenant to other space in the Building Complex comparable in size to the Premises one time during the initial Lease Term, and all terms hereof shall apply to the new space with equal force. In such event, Landlord shall give Tenant at least one hundred eighty (180) days' prior Notice of Landlord's election to so relocate Tenant, and shall move Tenant's effects to the new space at Landlord's sole cost and expense at such time and in such manner as to inconvenience Tenant as little as reasonably practicable. The new space shall be delivered to Tenant with improvements (including telecommunication cabling) substantially similar to those improvements existing in the Premises at the time of Landlord's notification to Tenant of the relocation, which improvements shall be paid for by Landlord at Landlord's cost. Simultaneously with such relocation of the Premises, the parties shall sign an amendment to this Lease stating the relocation of the Premises.

25.32 OFAC Compliance.

25.32.1 Tenant represents and warrants that (a) Tenant and each person or entity owning an interest in Tenant is (i) not currently identified on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") and/or on any other similar list maintained by OFAC pursuant to any authorizing statute, executive order or regulation (collectively, the "List"), and (ii) not a person or entity with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of United States law, regulation, or Executive Order of the President of the United States, (b) none of the funds or other assets of Tenant constitute property of, or are beneficially owned, directly or indirectly, by any Embargoed Person (as hereinafter defined), (c) no Embargoed Person has any interest of any nature

whatsoever in Tenant (whether directly or indirectly), (d) none of the funds of Tenant have been derived from any unlawful activity with the result that the investment in Tenant is prohibited by law or that the Lease is in violation of law, and (e) Tenant has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times. The term "**Embargoed Person**" means any person, entity or government subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder with the result that the investment in Tenant is prohibited by law or Tenant is in violation of law.

25.32.2 Tenant covenants and agrees (a) to comply with all requirements of law relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect, (b) to immediately notify Landlord in writing if any of the representations, warranties or covenants set forth in this paragraph or the preceding paragraph are no longer true or have been breached or if Tenant has a reasonable basis to believe that they may no longer be true or have been breached, (c) not to use funds from any "Prohibited Person" (as such term is defined in the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism) to make any payment due to Landlord under the Lease and (d) at the request of Landlord, to provide such information as may be requested by Landlord to determine Tenant's compliance with the terms hereof.

25.32.3 Tenant hereby acknowledges and agrees that Tenant's inclusion on the List at any time during the Lease Term shall be an event of default under this Lease. Notwithstanding anything in this Lease to the contrary, Tenant shall not knowingly permit the Premises or any portion thereof to be used or occupied by any person or entity on the List or by any Embargoed Person (on a permanent, temporary or transient basis), and any such use or occupancy of the Premises by any such person or entity shall be an event of default under this Lease.

25.33 Financial Statements. Tenant shall, within ten (10) days after request from Landlord, deliver to Landlord financial statements (including balance sheets and income/expense statements) for Tenant's then most recent full and partial fiscal year preceding such request for which such financial statements have already been prepared, certified by an independent certified public accountant or Tenant's chief financial officer.

25.34 Counterparts; Signatures. This Lease may be signed in counterparts with the same effect as if both parties hereto had signed the same document. Both counterparts shall be construed together and shall constitute a single lease. The parties hereto consent and agree that this Lease may be signed and/or transmitted by facsimile, e-mail of a .pdf document or using electronic signature technology (e.g., via DocuSign or similar electronic signature technology), and that such signed electronic record shall be valid and as effective to bind the party so signing as a paper copy bearing such party's (or its authorized representative's) handwritten signature. The parties further consent and agree that (i) to the extent a party (or its authorized representative) signs this Lease using electronic signature technology, by clicking "SIGN", such party is signing this Lease electronically, and (ii) the electronic signatures appearing on this Lease shall be treated, for purposes of validity, enforceability and admissibility, the same as handwritten signatures.

Signature Page to Office Lease

(Sky Park Office Park: Suite 100)

IN WITNESS WHEREOF, Landlord and Tenant have caused their respective duly authorized representatives to sign this Lease as of the day and date first above written.

"Landlord"

AG-PCPI Sky Park Owner, L.P.,
a Delaware limited partnership

By: Parallel Capital Partners, Inc.
a California corporation
its authorized Agent

By: Jim Ingebritsen
Name: Jim Ingebritsen
Title: President

"Tenant"

THE CITY OF SAN DIEGO,
a California municipal corporation

By: 
Penny Maus, Director
Department of Real Estate and Airport
Management

Approved as to form on: October 31, 2023.

MARA W. ELLIOTT
City Attorney

By: 
Delmar Williams
Deputy City Attorney

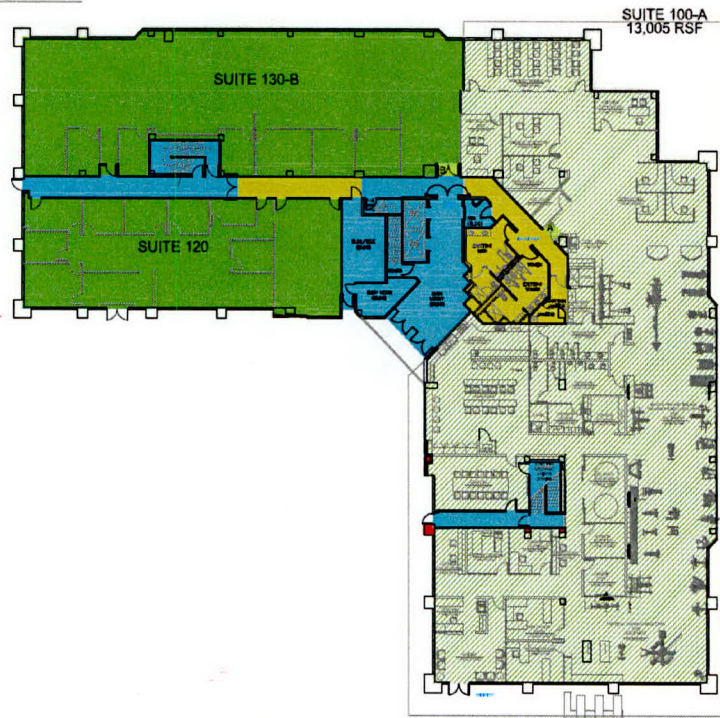
R-315164

EXHIBIT A

SKY PARK OFFICE PARK

FLOOR PLAN OF PREMISES

9325 Sky Park Court
San Diego, CA



1st Floor

- | | | |
|-------------------------------|--------------------------------|----------------------------|
| Tenant/ Tenant Ancillary Area | Floor Service Area | Major Vertical Penetration |
| Tenant Storage Area | Building Service/ Amenity Area | Parking |
| Extended Circulation | Inter Building Service Area | |

THE INFORMATION CONTAINED IN THE CAD DATABASE (ARCHIVES), OR AS SHOWN ON THIS DOCUMENT, WAS COMPILED FROM INFORMATION PROVIDED BY CM GROUP. NEITHER SDI PRESENCE NOR CM GROUP WARRANTS THE ACCURACY OF THE EXISTING CONDITIONS PORTRAYED IN THE DATABASE, OR ON THIS DOCUMENT. IT IS RECOMMENDED THAT PRIOR TO INITIATING ANY REVISIONS TO THIS DOCUMENT OR TO THE ACCOMPANYING CAD DATABASE, ALL PARTIES UTILIZING THIS INFORMATION RETAIN AN ARCHITECT AND/OR ENGINEER TO VERIFY THE EXISTING CONDITIONS.



EXHIBIT A-1
SKY PARK OFFICE PARK
TEMPORARY PREMISES

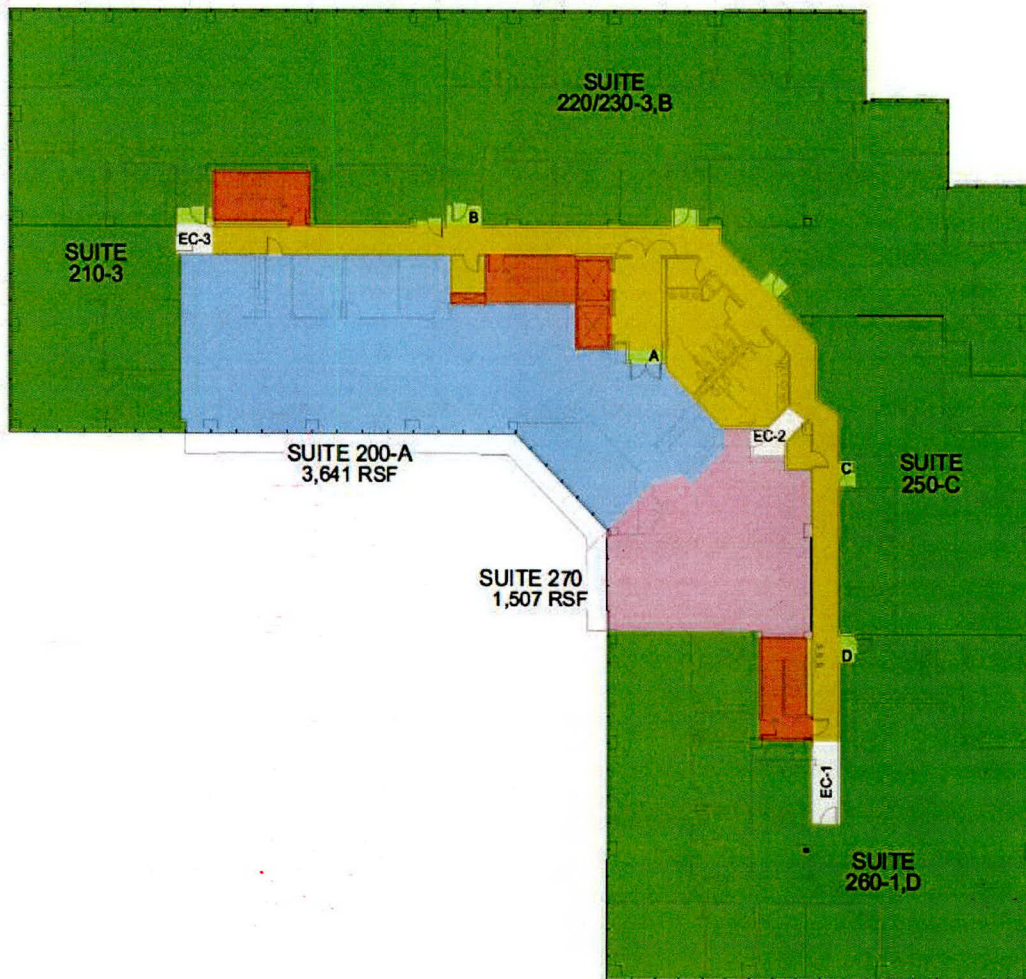


EXHIBIT B

SKY PARK OFFICE PARK

RULES AND REGULATIONS

Tenant shall faithfully observe and comply with the following Rules and Regulations. Landlord shall not be responsible to Tenant for the nonperformance of any of said Rules and Regulations by or otherwise with respect to the acts or omissions of any other tenants or occupants of the Building Complex.

1. Tenant shall not alter any lock or install any new or additional locks or bolts on any doors or windows of the Premises without obtaining Landlord's prior written consent. Tenant shall bear the cost of any lock changes or repairs required by Tenant. Two keys will be furnished by Landlord for the Premises, and any additional keys required by Tenant must be obtained from Landlord at a reasonable cost to be established by Landlord.

2. All doors opening to public corridors shall be kept closed at all times except for normal ingress and egress to the Premises unless electrical hold backs have been installed.

3. Landlord reserves the right to close and keep locked all entrance and exit doors of the Building and to exclude from the Building between the hours of 6:00 p.m. and 7:00 a.m. and at all hours on Saturday, Sunday and Holidays (as defined in the Lease) all persons who do not present a pass or card key to the Building approved by Landlord. Tenant, its employees and agents must be sure that the doors to the Building are securely closed and locked when leaving the Premises if it is after the normal hours of business for the Building. Any tenant, its employees, agents or any other persons entering or leaving the Building at any time when it is so locked, or any time when it is considered to be after normal business hours for the Building or Building Complex may be required to sign the Building register when so doing. Access to the Building may be refused unless the person seeking access has proper identification or has a previously arranged pass for access. Landlord and his agents shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Building or Building Complex of any person. In case of invasion, mob, riot, public excitement, or other commotion, Landlord reserves the right to prevent access to the Building and/or Building Complex during the continuance of same by any means it deems appropriate for the safety and protection of life and property.

4. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy property brought into the Building. Safes and other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such safe or property in any case. All damage done to any part of the Building and/or Building Complex, its contents, occupants or visitors by moving or maintaining any such safe or other property shall be the sole responsibility of Tenant and any expense of said damage or injury shall be borne by Tenant.

5. No furniture, freight, packages, supplies, equipment or merchandise will be brought into or removed from the Building or carried up or down in the elevators, except upon prior Notice to Landlord, and in such manner, in such specific elevator, and between such hours as shall be designated by Landlord. Tenant shall provide Landlord with not less than 24 hours prior Notice of the need to utilize an elevator for any such purpose, so as to provide Landlord with a reasonable period to schedule such use and to install such padding or take such other actions or prescribe such procedures as are appropriate to protect against damage to the elevators or other parts of the Building.

6. Landlord shall have the right to control and operate the public portions of the Building and Building Complex, the public facilities, the heating and air conditioning, and any other facilities furnished for the common use of tenants, in such manner as is customary for comparable building projects in the vicinity of the Building Complex.

7. The requirements of Tenant will be attended to only upon application at the management office of the Building Complex or at such office location designated by Landlord. Employees of Landlord shall not perform any work or do anything outside their regular duties unless under special instructions from Landlord.

8. Tenant shall not disturb, solicit, or canvass any occupant of the Building Complex and shall cooperate with Landlord or Landlord's agents to prevent same.

9. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the tenant who, or whose employees or agents, shall have caused it.

10. Tenant shall not overload the floor of the Premises, nor mark, drive nails or screws, or drill into the partitions, woodwork or plaster or in any way deface the Premises or any part thereof without Landlord's consent first had and obtained.

11. Except for vending machines intended for the sole use of Tenant's employees and invitees, no vending machine or machines of any description other than fractional horsepower office machines shall be installed, maintained or operated upon the Premises without the written consent of Landlord.

12. Tenant shall not use any method of heating or air conditioning other than that which may be supplied by Landlord, without the prior written consent of Landlord.

13. Tenant shall not use or keep in or on the Premises or the Building Complex any kerosene, gasoline or other inflammable or combustible fluid or material. Tenant shall not use, keep or permit to be used or kept, any foul or noxious gas or substance in or on the Premises, or permit or allow the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building Complex by reason of noise, odors, or vibrations, or interfere in any way with other Tenants or those having business therein.

14. Tenant shall not bring into or keep within the Building Complex or the Premises any animals, birds, bicycles or other vehicles.

15. Cooking shall only be done or permitted by tenant in the designated kitchen area of the Premises. The Premises shall not be used for the storage of merchandise, for lodging or for any improper, objectionable or immoral purposes. Notwithstanding the foregoing, Underwriters' laboratory-approved equipment and microwave ovens may be used in the Premises for heating food and brewing coffee, tea, hot chocolate and similar beverages, provided that such use is in accordance with all applicable federal, state and city laws, codes, ordinances, rules and regulations, and does not cause odors which are objectionable to Landlord and other Tenants.

16. Landlord will approve where and how telephone and telegraph wires are to be introduced to the Premises. No boring or cutting for wires shall be allowed without the consent of Landlord. The location of telephone, call boxes and other office equipment affixed to the Premises shall be subject to the approval of Landlord.

17. Landlord reserves the right to exclude or expel from the Building and/or Building Complex any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of these Rules and Regulations.

18. Tenant, its employees and agents shall not loiter in the entrances or corridors, nor in any way obstruct the sidewalks, lobby, halls, stairways or elevators, and shall use the same only as a means of ingress and egress for the Premises.

19. Tenant shall not waste electricity, water or air conditioning and agrees to cooperate fully with Landlord to ensure the most effective operation of the Building's heating and air conditioning system, and shall refrain from attempting to adjust any controls.

20. Tenant shall store all its trash and garbage within the interior of the Premises. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in the city in which the Building is located without violation of any law or ordinance governing such disposal. All trash, garbage and refuse disposal shall be made only through entry-ways and elevators provided for such purposes at such times as Landlord shall designate.

21. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency.

22. Tenant shall assume any and all responsibility for protecting the Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Premises closed, when the Premises are not occupied.

23. No awnings or other projection shall be attached to the outside walls of the Building without the prior written consent of Landlord. No curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises without the prior written consent of Landlord. The sashes, sash doors, skylights, windows, and doors that reflect or admit light and air into the halls, passageways or other public places in the Building shall not be covered or obstructed by Tenant, nor shall any bottles, parcels or other articles be placed on the windowsills. All electrical ceiling fixtures hung in offices or spaces along the perimeter of the Building must be fluorescent and/or of a quality, type, design and bulb color approved by Landlord.

24. The washing and/or detailing of or, the installation of windshields, radios, telephones in or general work on, automobiles shall not be allowed on the Real Property.

25. The term "**personal goods or services vendors**" as used in these Rules and Regulations means persons who periodically enter the Building of which the Premises are a part for the purpose of selling goods or services to a tenant, other than goods or services which are used by the Tenant only for the purpose of conducting its business in the Premises. "Personal goods or services" include, but are not limited to, drinking water and other beverages, food, barbering services and shoe shining services. Landlord reserves the right to prohibit personal goods and services vendors from access to the Building except upon Landlord's prior written consent and upon such reasonable terms and conditions, including, but not limited to, the payment of a reasonable fee and provision for insurance coverage, as are related to the safety, care and cleanliness of the Building, the preservation of good order thereon, and the relief of any financial or other burden on Landlord or other tenants occasioned by the presence of such vendors or the sale by them of personal goods or services to Tenant or its employees. Under no circumstance shall the personal goods or services vendors display their products in a public or common area, including corridors and elevator lobbies. If necessary for the accomplishment of these purposes, Landlord may exclude a particular vendor entirely or limit the number of vendors who may be present at any one time in the Building.

26. Tenant must comply with requests by the Landlord concerning the informing of their employees of items of importance to the Landlord.

27. Tenant shall comply with any non-smoking ordinance adopted by any applicable governmental authority.

28. Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular tenant or tenants, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of any other tenant or tenants, nor prevent Landlord from thereafter enforcing any

such Rules or Regulations against any or all tenants of the Building Complex. Landlord reserves the right at any time to change or rescind any one or more of these Rules and 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 Premises and Building Complex, and for the preservation of good order therein, as well as for the convenience of other occupants and tenants therein. Landlord shall not be responsible to Tenant or to any other person for the nonobservance of the Rules and Regulations by another tenant or other person.

EXHIBIT C

SKY PARK OFFICE PARK

AMENDMENT TO LEASE

This AMENDMENT TO LEASE ("**Amendment**") is made and entered into effective as of _____, 20____, by and between AG-PCPI Sky Park Owner, L.P., a Delaware limited partnership ("**Landlord**"), and _____, a _____ ("**Tenant**").

RECITALS:

A. Landlord and Tenant entered into that certain Office Lease dated as of _____ (the "**Lease**") pursuant to which Landlord leased to Tenant and Tenant leased from Landlord certain "Premises", as described in the Lease, known as Suite ____ of the Building located at 9325 Sky Park Court, San Diego, California 92123.

B. Except as otherwise set forth herein, all capitalized terms used in this Amendment shall have the same meaning gives such terms in the Lease.

C. Landlord and Tenant desire to amend the Lease solely to confirm the commencement and expiration dates of the Lease Term, as hereinafter provided.

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Confirmation of Dates. The parties hereby confirm that (a) the Premises are Ready for Occupancy and Landlord has performed all work required to be performed by Landlord pursuant to the Tenant Work Letter attached to the Lease, (b) the Lease Term for the Lease commenced as of _____ (the "**Lease Commencement Date**") for a term of _____ (____) years ending on _____ (the "**Lease Expiration Date**") (unless sooner terminated or extended as provided in the Lease) and (c) in accordance with the Lease, Rent commenced to accrue on _____.

2. No Further Modification. Except as set forth in this Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, this Amendment has been executed as of the day and year first above written.

"Landlord"

AG-PCPI Sky Park Owner, L.P.,

By: Parallel Capital Partners, Inc.

a California corporation

Its: Authorized Agent

By: _____

Name: _____

Title: _____

"Tenant"

THE CITY OF SAN DIEGO,
a California municipal corporation

By: _____
Penny Maus, Director
Department of Real Estate and Airport
Management

Approved as to form on: _____

MARA W. ELLIOTT
City Attorney

By: _____
Delmar Williams
Deputy City Attorney

R-315164

EXHIBIT D
SKY PARK OFFICE PARK
TENANT WORK LETTER

Tenant acknowledges and agrees that the structural elements of the Premises have previously been constructed and are satisfactory and shall be accepted by Tenant in the Premises' "AS IS" condition as of the Lease Commencement Date. Landlord shall construct certain modifications to the interior of the Premises pursuant to the Approved Working Drawings in accordance with the following provisions of this Tenant Work Letter.

SECTION 1
CONSTRUCTION DRAWINGS FOR THE PREMISES

Prior to the Effective Date of this Lease, Landlord and Tenant have approved (i) a detailed space plan for the construction of certain improvements in the Premises, which preliminary space plan has been prepared by SRI, Dated September 1, 2022, Job. No. 4219.1 (the "**Final Space Plan**") and attached to this Lease as Exhibit D-1 and (ii) that certain Contractor Evaluation Form dated September 16, 2022, prepared by White Construction and attached hereto as Exhibit D-2 (the "**Cost Proposal**"). Based upon and in conformity with the Final Space Plan and the Cost Proposal, Landlord shall cause its architect and engineers to prepare and deliver to Tenant, for Tenant's approval, detailed specifications and engineered working drawings for the Tenant Improvements shown on the Final Space Plan and the Cost Proposal (the "**Working Drawings**"). The Working Drawings shall incorporate modifications to the Final Space Plan and the Cost Proposal as necessary to comply with the floor load and other structural and system requirements of the Building. To the extent that the finishes and specifications are not completely set forth in the Final Space Plan and the Cost Proposal for any portion of the Tenant Improvements depicted thereon, the actual specifications and finish work shall be in accordance with the specifications for the Building's standard improvement package items, as determined by Landlord. Within ten (10) business days after Tenant's receipt of the Working Drawings, Tenant shall approve or disapprove the same, which approval shall not be unreasonably withheld; provided, however, that Tenant may only disapprove the Working Drawings to the extent such Working Drawings are inconsistent with the Final Space Plan and the Cost Proposal and only if Tenant delivers to Landlord, within such ten (10) business day period, specific changes proposed by Tenant which are consistent with the Final Space Plan and the Cost Proposal and do not constitute changes which would result in any of the circumstances described in items (i) through (iv) below. If any such revisions are timely and properly proposed by Tenant, Landlord shall cause its architect and engineers to revise the Working Drawings to incorporate such revisions and submit the same for Tenant's approval in accordance with the foregoing provisions, and the parties shall follow the foregoing procedures for approving the Working Drawings until the same are finally approved by Landlord and Tenant. Upon Landlord's and Tenant's approval of the Working Drawings, the same shall be known as the "**Approved Working Drawings**". Once the Approved Working Drawings have been approved by Landlord and Tenant, Tenant shall make no changes, change orders or modifications thereto without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion if such change or modification would: (i) directly or indirectly delay the Substantial Completion of the Tenant Improvements; (ii) increase the cost of designing or constructing the Tenant Improvements above the cost of the Tenant Improvements depicted in the Final Space Plan and described in the Cost Proposal; (iii) be of a quality lower than the quality of the standard improvement package items for the Building; and/or (iv) require any changes to the base, shell and core work or structural improvements or systems of the Building. The Final Space Plan, Working Drawings and Approved Working Drawings shall be collectively referred to in this Tenant Work Letter as, the "**Construction Drawings**". The tenant improvements shown on the Approved Working Drawings are referred to in this Tenant Work Letter as the "**Tenant Improvements**".

SECTION 2

OVER-ALLOWANCE AMOUNT

Landlord and Tenant hereby agree that Landlord shall, at Landlord's expense, cause a contractor designated by Landlord (the "Contractor") to (i) obtain all applicable building permits for construction of the Tenant Improvements, and (ii) construct the Tenant Improvements as depicted on the Approved Working Drawings, in compliance with such building permits, all applicable laws in effect at the time of construction, and in a good workmanlike manner. Tenant shall not request any changes or substitutions to any of the Construction Drawings that will result in the cost of constructing the Tenant Improvements exceeding the cost set forth in the Cost Proposal (i.e., \$1,298,578.89). Tenant acknowledges and agrees that the Tenant Improvements do not include any 24/7 supplemental HVAC, specialized flooring, furniture, computer systems, telephone systems, equipment or other personal property that may be depicted on the Construction Drawings.

SECTION 3

READY FOR OCCUPANCY; SUBSTANTIAL COMPLETION OF THE TENANT IMPROVEMENTS

3.1 **Ready for Occupancy; Substantial Completion.** For purposes of this Lease, the Premises shall be "Ready for Occupancy" upon Substantial Completion of the Premises. For purposes of this Lease, "Substantial Completion" of the Premises shall occur upon the completion of construction of the Tenant Improvements in the Premises pursuant to the Approved Working Drawings, with the exception of any punch list items and any tenant fixtures, work-stations, built-in furniture, or equipment to be installed by Tenant or under the supervision of Contractor.

3.2 **Delay of the Substantial Completion of the Premises.** If there shall be a delay or delays in the Substantial Completion of the Premises as a result of any of the following (collectively, "Tenant Delays"):

3.2.1 Tenant's failure to timely approve the Working Drawings or any other matter requiring Tenant's approval;

3.2.2 A breach by Tenant of the terms of this Tenant Work Letter or the Lease;

3.2.3 Tenant's request for changes in any of the Construction Drawings; or

3.2.4 Tenant's requirement for materials, components, finishes or improvements which are not available in a commercially reasonable time, or which are different from, or not included in, Landlord's standard improvement package items for the Building.

Notwithstanding anything to the contrary set forth in the Lease and regardless of the actual date of Substantial Completion, the Lease Commencement Date (as set forth in Section 6.3 of the Summary) shall be the date the Lease Commencement Date would have occurred if no Tenant Delays, occurred.

SECTION 4

MISCELLANEOUS

Provided that Tenant and its agents do not interfere with Contractor's work in the Building and the Premises, Contractor shall allow Tenant access to the Premises prior to the Substantial Completion of the Tenant Improvements for the purpose of Tenant installing overstandard equipment or fixtures (including Tenant's data and telephone equipment) in the Premises. Prior to Tenant's entry into the Premises as

permitted by the terms of this Section 4, Tenant shall submit a schedule to Landlord and Contractor, for their approval, which schedule shall detail the timing and purpose of Tenant's entry.

EXHIBIT D-1

SPACE PLAN

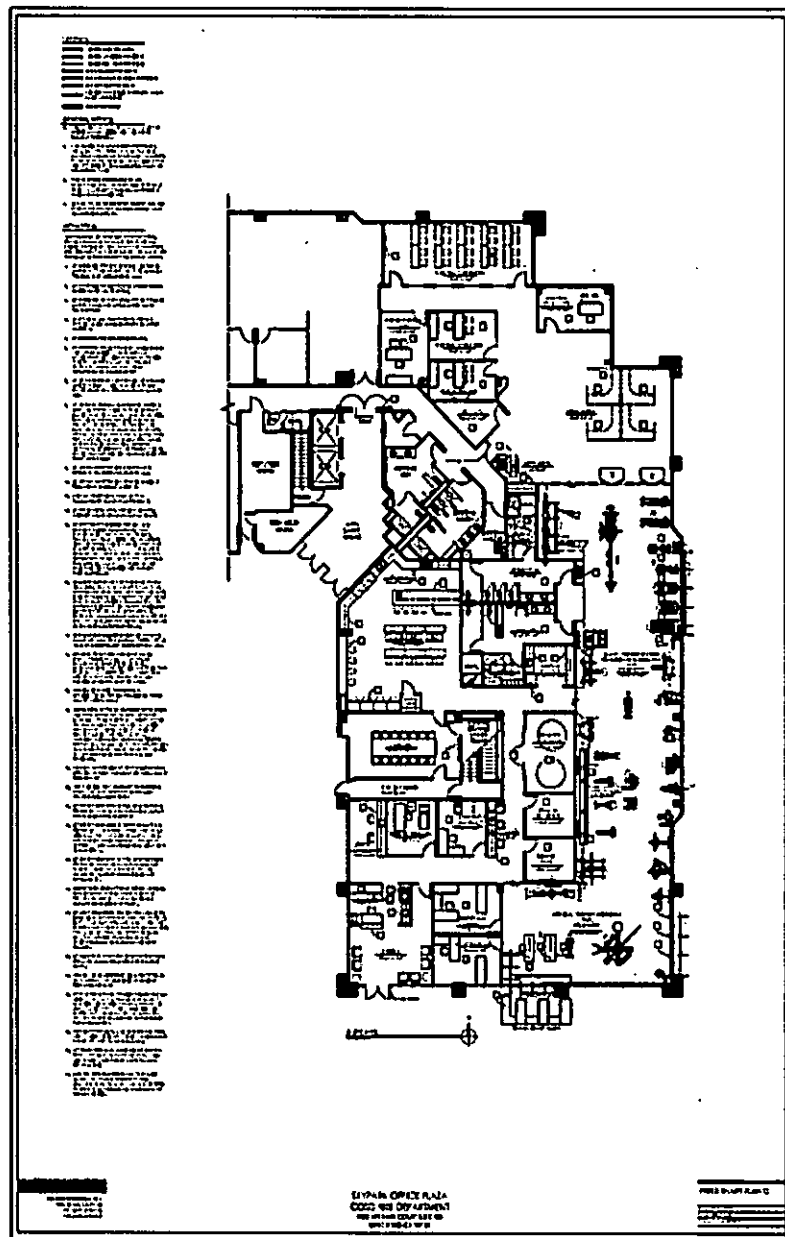


EXHIBIT D-2
COST PROPOSAL

Contractor Evaluation Form

September 16, 2022

COMPANY: White Construction		CONTACT:	
JOB NAME: 9325 Suite 100 City of SDFD		RSF: 12,843	
COST CODES	DESCRIPTION	White Construction	Comments
Construction Hard Costs			PSF
00260	Insurance	\$10,128.00	\$0.79
00701	General Conditions	\$58,025.00	\$4.52
00750	Misc Materials	\$9,930.00	\$0.77
01523	Dumpsters / Trash Removal	\$5,350.00	\$0.42
01741	Final Clean	\$3,852.00	\$0.30
01742	Progress Cleaning (Labor)	\$2,226.00	\$0.17
02220	Demolition	\$54,917.00	\$4.28
03000	Concrete	\$17,248.00	\$1.34
06100	Rough carpentry	\$5,564.00	\$0.43
06220	Millwork	\$67,532.00	\$5.26
07200	Insulation	\$5,090.00	\$0.40
07300	Appliances	\$19,934.00	\$1.55
08000	Doors, Frames and Hardware	\$30,491.00	\$2.37
08800	Glazing	\$11,451.00	\$0.89
09200	Drywall (Plaster & Gypsum Bd)	\$91,162.00	\$7.10
09300	Solid Surface		\$0.00
09510	Acoustical Ceilings	\$63,306.00	\$4.93
09600	Flooring	\$97,311.00	Exercise rubber flooring excluded for product and installation \$7.58
09600	Hard Flooring		\$0.00
09900	Paint	\$12,250.00	\$0.95
10000	Specialties	\$18,301.00	\$1.42
12025	Tile Backsplash		\$0.00
12400	Moisture Barrier	\$89,385.00	Does not include rubber flooring area \$5.40
12490	FLS	\$14,386.00	\$1.12
13900	Fire Extinguishers	\$3,338.00	\$0.26
15300	Fire Protection Piping	\$26,051.00	\$2.03
15400	Plumbing	\$88,579.00	\$6.90
15700	Mechanical (HVAC)	\$149,132.00	24/7 system, \$12,500 allowance for controllers \$11.61
16000	Electrical	\$184,992.00	\$14.40
	SUB TOTAL	\$1,119,931.00	\$87.20
00720	Contractor Fees 5.00%	\$30,687.00	\$2.39
	HARD COSTS TOTAL	\$1,150,618.00	\$89.59
Construction Soft Costs			
00224	Design Fee/Space planning	\$19,803.88	Estimate \$1.54
00235	Environmental Testing	\$2,875.00	\$0.21
00236	MEP Engineers	\$2,500.00	\$0.19
00270	Permits & City Fees	\$20,135.82	Estimate \$1.57
17700	Reimbursable (Blueprints/Copies, etc)	\$500.00	Allowance \$0.04
	SOFT COSTS TOTAL	\$45,614.70	\$3.55
Alternates/ Misc. / Specialties:			
00000	Signs - Tenant, Directory, Evac, Egress	\$1,050.00	\$0.08
00000	Lockset Keying	\$350.00	\$0.03
00000	HVAC Interface with Climatec		\$0.00
00000	Construction Contingency	\$52,681.00	Covers unknowns, material cost volatility \$4.10
00000	Furniture Move allowance		\$0.00
00000	-	\$0.00	\$0.00
00000	-	\$0.00	\$0.00
00000	-	\$0.00	\$0.00
00000	-	\$0.00	\$0.00
	Misc. / Specialties Total	\$54,081.00	\$4.21
	PROJECT TOTAL	\$1,250,313.70	\$ 97.35 RSF \$ 97.35

Page 1 of 2

EXHIBIT D-2

-2-

SKY PARK OFFICE PARK
[ecoATM, LLC]

COMPANY: White Construction	CONTACT:
JOB NAME: 9325 Suite 100 City of SDFD	RSF: 12,843

9325 Suite 100 City of SDFD		Costs	Per SF
Base Construction		\$1,150,618.00	\$ 89.59
Soft Cost Allowance		\$45,614.70	\$ 3.55
Contingency		\$52,681.00	\$ 4.10
Signs/Keys/Misc		\$1,400.00	\$ 0.11
Total		\$1,250,313.70	\$ 97.35
Base, Soft Costs, Allowances		\$1,250,313.70	\$ 97.35
Internal Landlord CM Fee		\$59,881.63	\$ 4.66
Project Total		\$1,310,195.33	\$ 102.02

Notes and Exclusions

Budget pricing only, based on pricing notes only as a complete plan not available
 Budget includes a new moisture barrier
 Assumed that tenant will provide exercise area rubber flooring, cost not incorporated

Details of internal restroom based on list only with PLAM partitions
 Building standard doors and other finish assumptions
 Re-use existing ceiling tiles
 Access control and preparations for it are excluded
 Low Voltage Wiring Excluded
 Contingency covers cost unknowns, material cost volatility and athletic flooring waterproofing

EXHIBIT E

SKY PARK OFFICE PARK

FORM OF TENANT'S ESTOPPEL CERTIFICATE

The undersigned, as Tenant under that certain Office Lease (the "Lease") made and entered into as of _____, 20__ and between AG-PCPI Sky Park Owner, L.P., a Delaware limited partnership, as Landlord, and the undersigned as Tenant, for Premises on the first (1st) floor of the Building located at 9325 Sky Park Court, San Diego, California 92123 hereby certifies as follows:

1. Attached to this Estoppel Certificate as **Exhibit A** is a true and correct copy of the Lease and all amendments and modifications thereto. The documents contained in **Exhibit A** represent the entire agreement between the parties as to the Premises.

2. The Tenant has commenced occupancy of the Premises described in the Lease, currently occupies the Premises, and the Lease Term commenced on _____.

3. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in **Exhibit A**.

4. Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows:

5. Base Rent became payable on _____.

6. The Lease Term expires on _____.

7. Landlord is not in default under the Lease.

8. No rental has been paid in advance and no security has been deposited with Landlord except as provided in the Lease.

9. As of the date hereof, there are no existing defenses or offsets that the Tenant could allege in any action brought against the Tenant by Landlord for amounts accruing under the Lease.

10. All monthly installments of Base Rent, all Additional Rent and all monthly installments of estimated Additional Rent have been paid when due through _____. The current monthly installment of Base Rent is \$_____.

11. The Tenant acknowledges that this Estoppel Certificate may be delivered to Landlord's prospective mortgagee, or a prospective purchaser, and acknowledges that, said mortgagee, prospective mortgagee, or prospective purchaser will be relying upon the statements contained in this Estoppel Certificate in making the loan or acquiring the property of which the Premises are a part, and in accepting an assignment of the Lease as collateral security.

12. If Tenant is a corporation or partnership, each individual signing this Estoppel Certificate on behalf of Tenant hereby represents and warrants that it is authorized to do so.

Executed at _____ on the ____ day of _____, 20__.

(R-2024-119)

RESOLUTION NUMBER R- **315164**DATE OF FINAL PASSAGE **OCT 23 2023**

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THAT CERTAIN OFFICE LEASE
BETWEEN AG-PCPI SKY PARK OWNER, L.P., A
DELAWARE LIMITED PARTNERSHIP, AND THE CITY OF
SAN DIEGO.

WHEREAS, the City of San Diego (City) identified the approximately 13,005 square feet of office space located at 9325 Sky Park Court, Suite 100, San Diego, CA 92123 (Premises), as a new location for the City's Injury Rehabilitation and Prevention Program and Health and Safety Wellness facility for its Fire-Rescue workers; and

WHEREAS, the City and AG-PCPI SKY PARK OWNER, L.P., a Delaware limited partnership (Landlord), negotiated a proposed Office Lease for the City to lease the Premises (Lease) for a term of seven years (Initial Term), with a City option to extend the Lease term for an additional three years; and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete, true, and accurate;
NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego (Council), as follows:

1. The Council approves the Lease, including all attachments and exhibits to the Lease.
2. The Mayor or designee is authorized, on behalf of the City, to sign and enter into the Lease, including all attachments and exhibits to the Lease requiring the City's signature, and take all other actions reasonably necessary to perform the City's obligations under the Lease. A copy

of the Lease, when fully signed, shall be placed on file with the City Clerk as Document

No. **RR315164**

3. The Chief Financial Officer is authorized to expend an amount not to exceed \$4,269,019.73 in base rent, and an amount not to exceed \$1,201,663.00 in operating expenses over the Initial Term of the Lease, from General Fund #100000, Cost Center #9912001112; provided, however, that funding for base rent and operating expenses under the Lease in future fiscal years after fiscal year 2024 is contingent upon the Council's annual appropriation of funds for these expenses for each applicable fiscal year and the Chief Financial Officer furnishing one or more certificates certifying that funds necessary for these expenditures, are, or will be, on deposit with the City Treasurer.

APPROVED: MARA W. ELLIOTT, City Attorney

By

Kerrin Reisch / for

Delmar G. Williams

Deputy City Attorney

DGW:aja

September 27, 2023

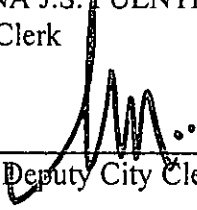
Or. Dept: DREAM

Doc. No. 3425570_2

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 17 2023.

DIANA J.S. FUENTES
City Clerk

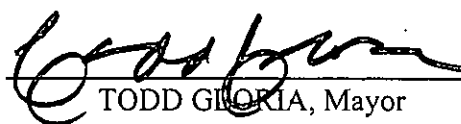
By


Deputy City Clerk

Approved:

10/23/23

(date)


TODD GLORIA, Mayor

Vetoed:

(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on OCT 17 2023, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	☒	☐	☐	☐
Jennifer Campbell	☒	☐	☐	☐
Stephen Whitburn	☒	☐	☐	☐
Monica Montgomery Steppe	☒	☐	☐	☐
Marni von Wilpert	☒	☐	☐	☐
Kent Lee	☒	☐	☐	☐
Raul A. Campillo	☐	☐	☒	☐
Vivian Moreno	☐	☐	☒	☐
Sean Elo-Rivera	☒	☐	☐	☐

Date of final passage OCT 23 2023

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

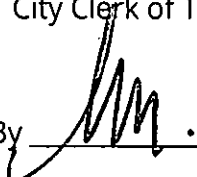
TODD GLORIA

Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES

City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- **315164**

Passed by the Council of The City of San Diego on October 17, 2023, by the following vote:

YEAS: LACAVA, CAMPBELL, WHITBURN, MONTGOMERY STEPPE, VON
WILPERT, LEE, & ELO-RIVERA.

NAYS: NONE.

NOT PRESENT: CAMPILLO & MORENO.

RECUSED: NONE.

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California

DIANA J. S. FUENTES

City Clerk of The City of San Diego, California

(Seal)

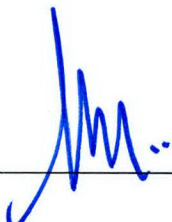
By: Matthew R. Hilario, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of
RESOLUTION NO. R-315164 approved on October 17, 2023. The date of final
passage is October 23, 2023.

DIANA J. S. FUENTES

City Clerk of the City of San Diego, California

(Seal)

By:  _____, Deputy