

LEASE AGREEMENT
BETWEEN
THE CITY OF SAN DIEGO
AND
CONQUEST CHARTER, INC.

TABLE OF CONTENTS

1.	<u>Location</u>	1
2.	<u>Space Leased</u>	1
3.	<u>Use of Premises</u>	1
5.	<u>Term of Lease</u>	1
6.	<u>Termination</u>	1
7.	<u>Rent</u>	1
8.	<u>Delinquent Rent</u>	1
9.	<u>Time and Place of Payment</u>	2
10.	<u>Security Deposit</u>	2
11.	<u>Services</u>	2
12.	<u>Indemnity</u>	2
13.	<u>Insurance</u>	3
14.	<u>Prohibited Uses</u>	4
15.	<u>Defaults and Remedies</u>	5
16.	<u>Keys</u>	7
17.	<u>Signs</u>	7
18.	<u>Attorney's Fees</u>	7
19.	<u>Amendment of Lease</u>	7
20.	<u>Possession by LESSEE</u>	7
21.	<u>Acceptance of Premises</u>	8
22.	<u>Entry and Inspection</u>	8
23.	<u>Improvements/Alterations</u>	8
24.	<u>Compliance with Law</u>	9
25.	<u>Hazardous/Toxic Waste</u>	9
26.	<u>Asbestos Disclosure</u>	10
27.	<u>Asbestos</u>	10
28.	<u>Notices</u>	10
29.	<u>Common Areas</u>	11
30.	<u>Assignment and Subletting</u>	12
31.	<u>Successors and Assigns</u>	12
32.	<u>Nondiscrimination</u>	12
33.	<u>CITY Approval</u>	12
34.	<u>San Diego's Strong Mayor Form of Governance</u>	12
35.	<u>Equal Opportunity</u>	13
36.	<u>Taxes</u>	13
37.	<u>CITY Employee Participation Policy</u>	13
38.	<u>Drug-free Workplace</u>	13
39.	<u>Disabled Access Compliance</u>	14
40.	<u>Supersedure</u>	15
41.	<u>LESSEE Use and Construction to Conform with Federal Aviation Regulations</u>	15
42.	<u>LESSEE'S Noninterference with Aircraft</u>	15

43.	<u>Lease Subordinate to CITY-United States Agreements</u>	15
44.	<u>Right of Flight Easement</u>	15
45.	<u>War or National Emergency</u>	15
46.	<u>Airport Development</u>	15
47.	<u>Nonexclusive Right</u>	15
48.	<u>Landing Area Maintenance</u>	15
49.	<u>FAA Nondiscrimination Covenant</u>	16
50.	<u>CITY to Mitigate Impacts of Subordination</u>	16
51.	<u>CITY to Mitigate Impacts of Subordination by Termination or Extension</u>	17
52.	<u>Employee Conduct</u>	17
	EXHIBIT A	19
	EXHIBIT B	20

**MONTGOMERY FIELD TERMINAL BUILDING
OFFICE SPACE LEASE**

THIS LEASE AGREEMENT ("Lease") dated, for reference purposes only, January 1, 2006, is executed between the CITY OF SAN DIEGO, a California municipal corporation, ("CITY") and Conquest Charter, Inc., ("LESSEE") which is granted for the consideration hereinafter recited:

CITY leases to LESSEE and LESSEE leases from CITY certain space for the purposes of conducting LESSEE's business.

1. Location. Montgomery Field Airport Terminal Building, hereinafter called "Building" located at 3750 John J. Montgomery Drive, San Diego, California.
2. Space Leased. A portion of the 1st floor, also known as Suite "A" hereinafter called "Premises" consisting of approximately 150 rentable square feet as shown on the attached floor plan which is made a part of this Lease as Exhibit "A".
3. Use of Premises. Office uses limited to aircraft charter services that engages in the carriage by aircraft in air commerce of persons or property and for no other purpose. Any other related uses must be approved in writing in advance by the Mayor.
4. Parking. LESSEE may use the CITY'S East Public Parking Lot, as available, for its employees and clients. Overnight vehicle parking or storage is not permissible on the airport property without prior written authorization and by paying the appropriate fees.
5. Term of Lease. The term of this Lease shall be month to month. The Commencement Date of this Lease shall be the date the City Attorney signs this Lease and continue on a monthly basis until terminated by either party serving the other party with a minimum thirty (30) day prior written notice. In no event may the Lease term exceed three (3) years without prior approval of the City Council.
6. Termination. This Lease may be terminated by CITY or LESSEE with thirty (30) days prior written notice to either party.
7. Rent. Monthly rent for the first Lease year shall be Three Hundred Fifteen Dollars (\$315.00). Monthly rent shall be increased by Five Percent (5%) at the beginning of each subsequent Lease year, according to the following rent schedule:

Year 1 - \$315.00
Year 2 - \$330.75
Year 3 - \$347.29
8. Delinquent Rent. If LESSEE fails to pay the rent when due, LESSEE will pay, in addition to the unpaid rents, ten percent (10%) of the delinquent rent. If the rent is still unpaid at the end of fifteen (15) days, LESSEE shall pay an additional five percent (5%)

[being a total of fifteen percent (15%)], which is hereby mutually agreed by the parties to be appropriate to compensate CITY for loss resulting from rental delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account.

9. Time and Place of Payment. Rent is due monthly in advance and must be received by CITY on or before the first day of each calendar month. All monthly rents will be prorated during the first and final months of any rental period in order to achieve payment on the first day of each calendar month. **Checks should be made payable to the City Treasurer and mailed to the Office of the City Treasurer, City of San Diego, P.O. Box 122289, San Diego, California 92112-4165,** or delivered to the Office of the City Treasurer, Civic Center Plaza Building, 1200 Third Avenue, First Floor, San Diego, California 92101.
10. Security Deposit. LESSEE shall deliver to CITY with the executed copies of this Lease a good faith deposit in the amount of Three Hundred Fifty Dollars (\$350.00). If at the end of the term of this Lease, LESSEE has performed all of the provisions of this Lease, the deposit or any remaining balance shall be returned to LESSEE without interest. The security deposit may be **increased** by CITY proportionate to any increase in rent. If the CITY chooses not to require an increase in the security deposit, this shall not constitute a waiver of its right to obtain the increase in the security deposit at any future date.
11. Services. Services and uses included in the monthly rent shall be:
 - a. exclusive right to occupy space leased;
 - b. non-exclusive right to utilize common areas including reception area, conference rooms (subject to prior reservation and any applicable fees), hallways, walkways, and restrooms;
 - c. utilities during normal business hours as defined by CITY.
12. Indemnity. LESSEE agrees to defend, indemnify, protect, and hold the CITY, its agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to LESSEE's employees, invitees, guests, agents, or officers, which arise out of or are in any manner directly or indirectly connected with the development or operation of the Leasehold or the work and operations to be performed under this Lease, and all expenses of investigating and defending against same; provided, however, that LESSEE's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the CITY, its agents, officers, or employees.

13. Insurance.

- a. LESSEE shall take out and maintain at all times during the term of this Lease the following insurance at its sole expense:
 - i. public liability and property damage insurance in the amount of not less than One Million Dollars (\$1,000,000) Combined Single Limit Liability with an occurrence claims form. This policy shall cover all injury or damage, including death, suffered by any party or parties from acts or failures to act by CITY or LESSEE or by authorized representatives of CITY or LESSEE on or in connection with the use or operation of the Premises; and
 - ii. fire, extended coverage, and vandalism insurance policy on all insurable property on the Premises in an amount to cover one hundred percent (100%) of the replacement cost. Any proceeds from a loss shall be payable jointly to CITY and LESSEE. The proceeds shall be placed in a trust fund to be reinvested in rebuilding or repairing the damaged property. If there is a mortgage or trust deed on the Leasehold, the proceeds may be paid to the approved mortgagee or beneficiary so long as adequate provision reasonably satisfactory to CITY has been made in each case for the use of all proceeds for repair and restoration of damaged or destroyed improvements on the Premises.
- b. LESSEE's responsibility to maintain said insurance also includes the following:
 - i. Additional Insured. All insurance policies shall name The City of San Diego, its elected officials, officers, representatives, agents, and employees as additional insured, protect CITY against any legal costs in defending claims, and will not terminate without sixty (60) days prior written notice to CITY. All insurance companies must be satisfactory to CITY and licensed to do business in California. All policies will be in effect on or before the first day of the Lease, except "course of construction fire insurance" shall be in force on commencement of all authorized construction on the premises, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. Copies of all current insurance policies must be submitted to CITY at commencement of this Lease and will remain on file with CITY during the entire term of the Lease. At least thirty (30) days prior to the expiration of each policy, LESSEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the terms of this Lease.

- ii. Modification. CITY, at its discretion, may require the revision of amounts and coverages at any time during the term of this Lease by giving LESSEE sixty (60) days prior written notice. CITY's requirements shall be designed to assure protection from and against the kind and extent of risk existing on the Premises. LESSEE also agrees to obtain any additional insurance required by CITY for new improvements, in order to meet the requirements of this Lease.
- iii. Accident Reports. LESSEE shall report to CITY any accident causing more than Two Thousand Five Hundred Dollars (\$2,500) worth of property damage or any serious injury to persons on the Premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses, and other pertinent information.
- iv. Failure to Comply. If LESSEE fails or refuses to take out and maintain the required insurance or fails to provide the proof of coverage, CITY has the right to obtain the insurance. LESSEE shall reimburse CITY for the premiums paid with interest at the maximum allowable legal rate then in effect in California. CITY shall give notice of the payment of premiums within thirty (30) days of payment stating the amount paid, names of the insurer(s), and rate of interest. Said reimbursement and interest shall be paid by LESSEE on the first (1st) day of the month following the notice of payment by CITY.

Notwithstanding the preceding provisions of this Subsection (iv), if LESSEE fails or refuses to take out or maintain insurance as required in this Lease or fails to provide the proof of insurance, CITY has the right to declare this Lease in default without further notice to LESSEE, and CITY shall be entitled to exercise all legal remedies in the event of such default.

- 14. Prohibited Uses. LESSEE may not do the following, unless approved in writing in advance by CITY: (a) utilize the Premises for anything but the use stated in Paragraph 3; (b) make any alterations or changes to the Premises; (c) effect any repairs to the Premises amounting to more than Five Hundred Dollars (\$500.00) per instance; (d) suffer or permit any liens or encumbrances to be placed on the Building; (e) operate or utilize any machine or device which results in excess use of utilities; (f) utilize the Premises in any manner which may create a health, safety, or fire hazard; (g) fail to pay all taxes assessed against LESSEE, its personal property, the conduct of its business, etc.; and (h) fail to obey the Building's Rules and Regulations, which may be changed from time to time (a copy of which is made a part of this Lease as Exhibit "B");

15. Defaults and Remedies.

- a. Defaults. Each of the following shall constitute an event of default under this Lease:
 - i. LESSEE's failure to make any payment required under this Lease when due;
 - ii. LESSEE defaults in the performance of any covenant or condition required by this Lease, other than those requiring payment to CITY, to be performed by LESSEE and fails to cure said default within thirty (30) days following written notice thereof from CITY; or if any such default, other than those requiring payment to CITY, is not curable within thirty (30) days, and fails to commence to cure the default(s) within said thirty (30) day period and diligently pursue such cure to completion;
 - iii. LESSEE voluntarily files or involuntarily has filed against it any petition under any bankruptcy or insolvency act or law;
 - iv. LESSEE is adjudicated a bankrupt; or
 - v. LESSEE makes a general assignment for the benefit of creditors.
- b. Remedies.
 - i. Upon default by LESSEE, CITY may, at its option, give LESSEE, or any person claiming rights through LESSEE, a written Three Day Notice to Pay or Quit, or CITY may terminate the Lease and all rights of LESSEE and of all persons claiming rights through LESSEE to the Premises or to possession thereof, and CITY may enter and take possession of the Premises (provided, however, in the event that any default described in Section 15.a Defaults, hereof, is not curable within thirty (30) days after notice to LESSEE, CITY will not terminate this Lease pursuant to the default if LESSEE immediately commences to cure the default and diligently pursues such cure to completion), and may recover from LESSEE the sum of:
 - (1) the worth at the time of award of any unpaid rent that had been due at the time of termination;
 - (2) the worth at the time of award of the amount by which (a) the unpaid rent that would have been earned after termination until the time of award exceeds (b) the amount of rental loss, if any, as

LESSEE affirmatively proves could have been reasonably avoided;

- (3) the worth at the time of award of the amount by which (a) the unpaid rent for the balance of the term after the time of award exceeds (b) the amount of rental loss, if any as LESSEE affirmatively proves could be reasonably avoided;
- (4) any other amount necessary to compensate CITY for all the detriment proximately caused by LESSEE's failure to perform LESSEE's obligations or that, in the ordinary course of things, would be likely to result; and
- (5) all other amounts in addition to or in lieu of those previously stated as may be permitted from time to time by California law.

As used in clauses "i" and "i(1)" of this Section, the "worth at the time of award" is computed by allowing interest at the rate of ten percent (10%) per annum. As used in clause "i(2)" of this Section, the "worth at the time of award" is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus two percent (2%). As used in this Section the term "rent" shall include Base Rent, Percentage Rent and any other payments required by LESSEE.

- c. Abandonment by LESSEE. Even though LESSEE has breached the Lease and abandoned the property, this Lease shall continue in effect for so long as CITY does not terminate this Lease, and CITY may enforce all its rights and remedies hereunder, including but not limited to the right to recover the rent as it becomes due, plus damages.
- d. Waiver. Any CITY waiver of a default is not a waiver of any other default. Any waiver of a default must be in writing and be executed by the Mayor, or his designee, in order to constitute a valid and binding waiver. CITY delay or failure to exercise a remedy or right is not a waiver of that or any other remedy or right under this Lease. The use of one remedy or right for any default does not waive the use of another remedy or right for the same default or for another or later default. CITY's acceptance of any rents is not a waiver of any default preceding the rent payment. CITY and LESSEE specifically agree that the property constituting the Premises is CITY-owned and held in trust for the benefit of the citizens of the City of San Diego and that any failure by the Mayor or City staff to discover a default or take prompt action to require the cure of any defaults shall not result in an equitable estoppel, but CITY shall at all times, have the legal right to require the cure of any default when and as such defaults are discovered or when and as the City Council directs the Mayor to take action or require the cure

of any default after such default is brought to the attention of the City Council by the Mayor or by any concerned citizen.

16. Keys. CITY shall supply keys to LESSEE for the Premises. LESSEE may not duplicate keys. LESSEE must apply to the CITY for additional keys or replacement keys (at a charge of \$10.00 per key), but if LESSEE loses a key, he takes the risk of the finder. If LESSEE desires, the lock can be changed, by CITY only, at the expense of the LESSEE. If the lost key affects access to other tenants, CITY may change the lock and charge the LESSEE for all costs associated with changing of locks. If all keys are not returned to CITY at the office of the Building Manager upon Lease expiration, then the amount to replace the keys will be deducted from the Security Deposit.
17. Signs. LESSEE agrees not to erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising without the prior written consent of CITY. If any such unauthorized item is found on the premises, LESSEE agrees to remove the item at its expense within twenty-four (24) hours notice thereof by CITY, or CITY may thereupon remove the item at LESSEE's cost.
18. Attorney's Fees. In the event of any action or proceedings brought by either party against the other under this Lease, the prevailing party shall be entitled to recover the fees for its attorneys in such action or proceeding, in such amount as the court may adjudge reasonable as attorney's fees. In the event the CITY intervenes in or becomes a party or is made a party to any action or proceeding arising in connection with this Lease in order to protect its rights, then LESSEE will pay the CITY the fees of CITY's attorneys therein as fixed by the court.
19. Amendment of Lease. This lease contains the entire understanding of the parties. LESSEE, by signing this agreement, agrees that there is no other written or oral understanding between the parties with respect to the Premises. Each party has relied on its own examination of the premises, advice from its own attorneys, and the warranties, representations, and covenants of the lease itself. Each of the parties in this lease agrees that no other party, agent, or attorney of any other party has made any promise, representation, or warranty whatsoever which is not contained in this lease. No modification, amendment, or alteration of this lease will be valid unless it is in writing and signed by all parties. Any modification, amendment or alteration of this lease requested by LESSEE and agreed to by CITY is subject to an administrative fee to be paid by LESSEE to CITY to cover the costs of processing the amendment. The administrative fees are established by the Mayor and are revised from time to time.
20. Possession by LESSEE. CITY has made no promise to alter or improve the Premises or made any representation concerning the condition thereof. By taking possession of the Premises, LESSEE acknowledges the Premises are in good order and condition and agrees to take possession "as is". LESSEE will maintain the Premises in good condition and repair, and will not cause or permit the Premises to be damaged or defaced. LESSEE

will make no alterations or additions to the Premises without CITY's prior written consent. LESSEE will return the Premises and any furniture contracted for hereunder at the expiration of the term (or, when appropriate, at the end of each usage) in as good condition and repair as when LESSEE received the Premises or such furniture, as the case may be, normal wear and tear excepted.

21. Acceptance of Premises. LESSEE hereby acknowledges: (a) that it has been advised by CITY to satisfy itself with respect to the condition of the Premises (including but not limited to electrical and fire sprinkler systems, security, asbestos, air quality, and other environmental aspects, seismic and earthquake requirements, and compliance with the Americans with Disabilities Act and applicable zoning, municipal, county, state and federal laws, ordinances and regulations and any covenants or restrictions of record (collectively "Applicable Laws") and the present and future suitability of the Premises for LESSEE's intended use; (b) that LESSEE has made such investigation as it deems necessary with reference to such matters, is satisfied with reference thereto, and assumes all responsibility therefor as the same relate to LESSEE's occupancy of the Premises and/or the terms of the Lease; and (c) that neither CITY, nor any of CITY's agents, has made any oral or written representation or warranties with respect to said matters other than as set forth in this Lease.
22. Entry and Inspection. CITY reserves and shall always have the right, but not the obligation, to enter said premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the premises, or to inspect the operations conducted thereon. In the event that such entry or inspection by CITY discloses that said premises are not in a decent, safe, healthy, and sanitary condition, CITY shall have the right, after ten (10) days' written notice to LESSEE, to have any necessary maintenance work done at the expense of LESSEE, and LESSEE hereby agrees to pay promptly any and all costs incurred by CITY in having such necessary maintenance work done, in order to keep said premises in a decent, safe, healthy, and sanitary condition. Further, if at any time CITY determines that said premises are not in a decent, safe, healthy, and sanitary condition, CITY may at its sole option, without additional notice, require LESSEE to file with CITY a faithful performance bond to assure prompt correction of any condition which is not decent, safe, healthy, and sanitary. Said bond shall be in an amount adequate in the opinion of CITY to correct the said unsatisfactory condition. LESSEE shall pay the cost of said bond. The rights reserved in this section shall not create any obligations on CITY or increase obligations elsewhere in this lease imposed on CITY.
23. Improvements/Alterations. No improvements, structures, or installations shall be constructed on the premises, and the premises may not be altered by LESSEE without prior written approval by the Mayor. Further, LESSEE agrees that major structural or architectural design alterations to approved improvements, structures, or installations may not be made on the premises without prior written approval by the Mayor and that such approval shall not be unreasonably withheld. This provision shall not relieve

LESSEE of any obligation under this lease to maintain the premises in a decent, safe, healthy, and sanitary condition, including structural repair and restoration of damaged or worn improvements. CITY shall not be obligated by this lease to make or assume any expense for any improvements or alterations.

24. Compliance with Law. LESSEE shall at all times in the construction, maintenance, occupancy, and operation of the premises comply with all applicable laws, statutes, ordinances, and regulations of CITY, county, state, and federal governments at LESSEE's sole cost and expense. In addition, LESSEE shall comply with any and all notices issued by the Mayor or his authorized representative under the authority of any such law, statute, ordinance, or regulation.
25. Hazardous/Toxic Waste.

- a. LESSEE shall not allow the installation or release of hazardous substances in, on, under, or from the Premises. For the purposes of this provision, a release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document 769704 and by this reference is incorporated in this Lease.
- b. If any release of a hazardous substance occurs, LESSEE shall be responsible for all costs of remediation and removal of such substances in accordance with all applicable rules and regulations of governmental authorities.
- c. LESSEE shall defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from LESSEE'S operations on the Premises, including but not limited to costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.
- d. If LESSEE knows or has reasonable cause to believe that any hazardous substance has been released on or beneath the Premises, LESSEE shall give written notice to the Mayor within ten (10) days of receipt of such knowledge or cause for belief. Provided, however, if LESSEE knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and safety, LESSEE shall notify the Mayor immediately upon receipt of this knowledge or belief and shall take all actions necessary to alleviate the danger. LESSEE shall notify the Mayor immediately of any notice of violation received

or initiation of environmental actions or private suits relative to the Premises. In addition, LESSEE and LESSEE'S sublessees shall not utilize or sell any hazardous substance on the Premises without the prior written consent of CITY.

26. Asbestos Disclosure. CITY discloses to LESSEE that portions of the structural components of the Premises may contain asbestos. LESSEE acknowledges having received notice from CITY of the presence of such asbestos in accordance with Health and Safety Code Section 25915. LESSEE shall disclose to the appropriate parties the existence of asbestos on the Premises, as required by Health and Safety Code Section 25915. LESSEE agrees to indemnify and hold CITY harmless from any loss or claim which may result from the existence of asbestos on the Premises.

27. Asbestos.

- a. Improvement and Repair - CITY and LESSEE agree that the party who undertakes any improvements and repairs, as provided for in this Lease, shall also be responsible for any asbestos removal, management or containment and all asbestos costs associated with such improvements.
- b. General Guidelines - Such asbestos removal or management shall be conducted in accordance with all applicable laws and as approved by CITY.

CITY reserves the right to inspect any work undertaken by LESSEE pursuant to this Lease and to station supervisory personnel at the work site, at CITY's sole discretion, to ensure that LESSEE's obligations are carried out. Both parties shall coordinate any repair and improvements with each other and, except in the event of an emergency, the party undertaking a repair shall provide prior written notice to the other within fifteen (15) days of undertaking said repair.

- c. Asbestos Disturbance - The LESSEE or CITY shall be responsible for all costs relating to any disturbance of asbestos-containing materials caused by their respective action.

28. Notices.

- a. Any notice required or permitted to be given hereunder shall be in writing and may be served personally or by United States mail, postage prepaid, addressed to LESSEE at the Premises or at such other address designated in writing by LESSEE; and to CITY as follows:

Montgomery Field Airport
3750 John J. Montgomery Drive
M.S. 14
San Diego, CA 92123

and to LESSEE as follows:

Conquest Charter, Inc.
3750 John J. Montgomery Drive, Suite A
San Diego, CA 92123

- b. Any party entitled or required to receive notice under this lease may by like notice designate a different address to which notices shall be sent.

29. Common Areas

- a. Definition - The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Building, and all interior utility raceways within the Premises that are provided and designated by the CITY from time to time for the general non-exclusive use by CITY, LESSEE and other lessees of the Building.
- b. LESSEE's Rights - CITY hereby grants to LESSEE during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by CITY under the terms hereof or under the terms of any rules and regulations or right to store any property, temporarily or permanently, in the Common Areas.
- c. Rules and Regulations (see Exhibit "B") - CITY or such other person(s) as CITY may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable Rules and Regulations with respect thereto. LESSEE agrees to abide by and conform to all such Rules and Regulations, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. CITY shall not be responsible to LESSEE for the non-compliance with said Rules and Regulations by other lessees of the Building.
- d. Changes - CITY shall have the right, in CITY's sole discretion, from time to time:
 - i. to make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking area, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;
 - ii. to close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;
 - iii. to add additional improvements to the Common Areas;

- iv. to use the Common Areas while engaged in making additional improvements, repairs, or alterations to the Building or any portion thereof; and
 - v. to do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Building as CITY may, in its exercise of sound business judgement, deem to be appropriate.
30. Assignment and Subletting. LESSEE shall not assign this Lease or any interest therein and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person, except employees, agents, and guests of LESSEE, to use or occupy the Premises or any part thereof, without the prior written consent of the Mayor, or his designee, in each instance. A consent to assignment, subletting, occupation, or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another person. Any such assignment or subletting without such consent shall be void and shall, at the option of CITY, terminate this Lease. This Lease shall not, nor shall any interest therein, be assignable as to the interest of LESSEE by operation of law, without the written consent of the Mayor, or his designee.
- "Assignment" for the purposes of this clause shall include any transfer of any ownership interest in this Lease by LESSEE or by any partners, principals, or stockholders, as the case may be, from the original LESSEE, its general partners, or principals.
31. Successors and Assigns. The covenants and conditions herein contained shall, subject to the provisions restricting LESSEE's assignments and subletting, apply to and bind the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.
32. Nondiscrimination. LESSEE agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in LESSEE's use of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.
33. CITY Approval. The approval or consent of CITY, wherever required in this Lease, shall mean the written approval or consent of the Mayor, or his designee, unless otherwise specified.
34. San Diego's Strong Mayor Form of Governance. All references to "City Manager" in this Agreement and all subsequent amendments thereto shall be deemed to refer to "Mayor." This section becomes effective on January 1, 2006, and shall remain in effect for the duration the City operates under the mayor-council (commonly referred to as

'strong mayor') form of governance pursuant to article XV of the City of San Diego City Charter.

35. Equal Opportunity. LESSEE will comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted. LESSEE will not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition, or place of birth.
36. Taxes. LESSEE agrees to pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE or the Premises, including the land, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by LESSEE or levied by reason of the business or other LESSEE activities related to the Premises, including any licenses or permits. LESSEE recognizes and agrees that this Lease may create a possessory interest subject to property taxation, and that LESSEE may be subject to the payment of taxes levied on such interest, and that LESSEE shall pay all such possessory interest taxes. LESSEE further agrees that payment for such taxes, fees and assessments will not reduce any rent due CITY.
37. CITY Employee Participation Policy. It is the policy of CITY that all CITY contracts, agreements, or Leases with consultants, vendors, or lessees shall include a condition that the contract, agreement, or lease may, at the sole option of the CITY, be unilaterally and immediately terminated by CITY if the contractor or LESSEE employs an individual who, within the twelve (12) months immediately preceding such employment, did in his/her capacity as a CITY officer or employee participate in negotiations with or otherwise have an influence on the recommendation made to the City Council in connection with the selection of the contractor or LESSEE. It is not the intent of this policy that these provisions apply to members of the City Council.
38. Drug-free Workplace. LESSEE shall be required to abide by the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:
- a. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Leasehold and specifying the actions that will be taken against employees for violations of the prohibition.
 - b. Establishing a drug-free awareness program to inform employees about all of the following:
 - i. the dangers of drug abuse in the workplace.

- ii. the LESSEE's policy of maintaining a drug-free workplace.
 - iii. any available drug counseling, rehabilitation, and employees assistance programs; and
 - iv. the penalties that may be imposed upon employees' for drug abuse violations.
- c. LESSEE shall include in each sublease agreement language which indicates the sublessee's agreement to abide by the provisions of a drug-free workplace. LESSEE and sublessees shall be individually responsible for their own drug-free workplace programs.
39. Disabled Access Compliance. LESSEE agrees to comply with Title 24 of the California Code of Regulations (Building Code) as defined in California Health and Safety Code (Title 24), the Americans with Disabilities Act of 1990 (ADA); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. LESSEE's compliance shall include but not necessarily be limited to the following:
- a. LESSEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.
 - b. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of LESSEE.
 - c. LESSEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site.
 - d. Where required by law, LESSEE shall comply with CITY's disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost to LESSEE.
 - e. LESSEE shall include language in each sublease agreement which indicates the sublessee's agreement to abide by the foregoing provisions. LESSEE and sublessee shall be individually responsible for their own ADA employment programs.

LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements shall constitute a default under this Lease.

40. Supersedure. It is mutually agreed that this Lease, upon execution, supersedes and annuls that certain Lease between CITY and LESSEE executed on March 22, 2001, which is hereafter void and of no effect except as to any rentals and fees that may have accrued or any rights and remedies accrued or granted to CITY under such agreement.
41. LESSEE Use and Construction to Conform with Federal Aviation Regulations. LESSEE agrees to conform to all applicable Federal Aviation Regulations in any operation or construction on the Premises. LESSEE agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations (which may be amended or replaced by other regulations from time to time) before constructing any improvements or modifying or altering any structure on the Premises.
42. LESSEE'S Noninterference with Aircraft. LESSEE and LESSEE'S successors, assigns and sublessees agree not to use the Premises in any manner or act in any manner that might interfere with any aircraft landing or taking off from Montgomery Field Airport or otherwise create a hazard. If this covenant is breached in any way, CITY reserves the right to enter the Premises and abate or eliminate the interference at the expense of LESSEE.
43. Lease Subordinate to CITY-United States Agreements. This lease shall be subordinate to the terms of any existing or future agreements between CITY and the United States, or to any United States legal requirement relative to the development, operation or maintenance of the airport.
44. Right of Flight Easement. CITY and its successors and assigns reserve a right of flight for the passage of aircraft in the air space above the Premises, for the benefit and use of the public. This right includes the right to make noise inherent in the operation of existing or future aircraft that operate in any way on or near Montgomery Field Airport.
45. War or National Emergency. In the event of war or national emergency, this lease and all of its provisions shall be subject to any United States Government right, existing now or in the future, affecting the control, operation, regulation, take over, or exclusive or nonexclusive use of Montgomery Field Airport.
46. Airport Development. CITY reserves the right to further develop, change or improve the airport and its routes and landing areas as CITY sees fit, without LESSEE interference or hindrance and regardless of LESSEE'S views and desires.
47. Nonexclusive Right. LESSEE understands and agrees that nothing in this lease shall be construed to grant or authorize an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 (Title 49, Section 1349 of the United States Code).
48. Landing Area Maintenance. CITY reserves the right, but not the obligation, to maintain and repair the airport landing area and all other public facilities. CITY also has the right

to direct and control all LESSEE activities affecting the maintenance and repair of these facilities.

49. FAA Nondiscrimination Covenant.

- a. LESSEE and LESSEE'S representatives, successors, sublessees and assigns agree, as part of the consideration that:
 - i. No person shall be denied benefits, participation or subjected to discrimination in the use of facilities on the Premises based on race, color, sex or national origin.
 - ii. No person shall be denied benefits, excluded from participation in or subject to discrimination in the construction of any improvements nor the furnishing of any services on the Premises, based on race, color, sex or national origin.
 - iii. LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," as now exists or may be amended in the future.
- b. If any of the provisions are breached, CITY may terminate the lease and reenter and repossess the Premises as if this lease had never been made. This provision is not effective until the procedures of 49 CFR Part 21 are allowed and completed, including expiration of appeal rights.
- c. LESSEE agrees to furnish accommodations and services on a fair and equal basis to all users and will charge fair, reasonable and equal prices for each item or service. LESSEE is allowed to make reasonable and nondiscriminatory discounts, rebates or similar price reductions to volume purchasers. If LESSEE does not comply with this provision, CITY has the right to terminate this lease agreement, without liability, or either CITY or the United States may judicially enforce this entire covenant.
- d. LESSEE agrees to include the entire covenant in any sublease or lease agreement by which LESSEE grants any right or privilege to any firm, corporation or person providing services or accommodations to the public on the Premises.

50. CITY to Mitigate Impacts of Subordination. If subordination agreements between CITY and United States of America result in LESSEE'S inability to operate as a business on the

Premises, or if the business operations permitted under this agreement are materially affected during a period of subordination, CITY agrees to make a reasonable rental reduction or adjustment, as determined by CITY. LESSEE agrees that any damages claimed during this subordination period will be limited to this rental relief.

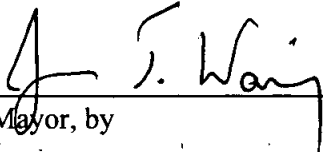
51. CITY to Mitigate Impacts of Subordination by Termination or Extension. If subordination agreements between CITY and the United States of America result in LESSEE'S inability to operate as a business on the Premises, or if the business operations permitted under this agreement are materially affected during a period of subordination, CITY, upon written request from LESSEE, will terminate this lease or extend the term of this lease for the period of time that LESSEE'S operation is affected, and no rent shall accrue during any period of inoperation.
52. Employee Conduct. LESSEE shall be responsible for the conduct of any employee on the entire property, if that employee is on airport property during any period of employment.

53. Signature Page.

IN WITNESS WHEREOF, this Lease is executed by CITY, acting by and through its Mayor,
and by LESSEE, acting by and through its lawfully authorized officers.

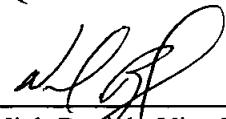
THE CITY OF SAN DIEGO, a California
municipal corporation

Date 2/23/06

By 
Mayor, by
James T. Waring, Deputy Chief
Land Use and Economic Development

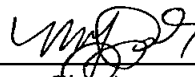
CONQUEST CHARTER, INC.

Date 2/10/06

By 
Nick Bozick, Vice President

APPROVED AS TO FORM AND LEGALITY this 7TH day of MARCH, 2006.

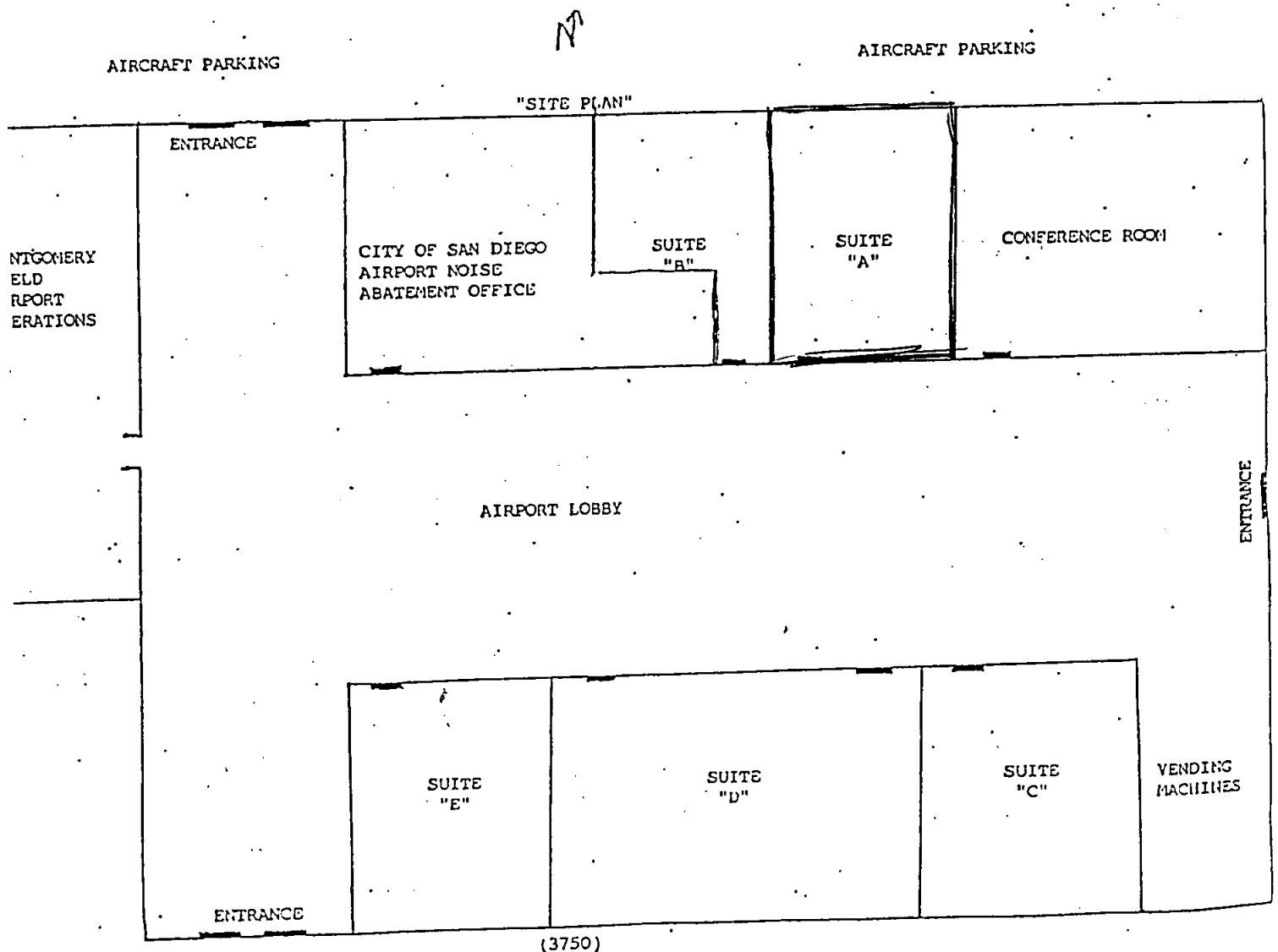
MICHAEL J. AGUIRRE, City Attorney

By 
Deputy City Attorney MORTON PARK

CPA/cj
2/6/06
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Exhibit "A" - Description of Premises.

No scale



(3750)

JOHN J. MONTGOMERY DRIVE

EXHIBIT "A"

EXHIBIT B

RULES AND REGULATIONS

The sidewalks, entrances, halls, corridors and stairways of the Building and Premises shall not be obstructed or used as a waiting or lounging place by any lessee, their agents, servants, employees, invitees, licensees and visitors. All entrance doors leading from any Premises to the hallways are to be kept closed at all times.

1. CITY reserves the right to refuse admittance to the Building between the hours of 10:00 p.m. and 6:00 a.m., Monday through Sunday. In case of invasion, riot, public excitement or other commotion, CITY also reserves the right to prevent access to the Building during the continuance of same. CITY shall in no case be liable for damages for the admission or exclusion of any person to or from the Building. CITY reserves the right to exclude or expel from the Building any person who, in CITY's judgement, is intoxicated or under the influence of liquor or drugs or who is in violation of any of the Rules and Regulations of the Building.
2. CITY will furnish each LESSEE with keys to each door lock on the Premises, and CITY may make a reasonable charge for any additional keys requested by any LESSEE. No LESSEE shall have any keys made for the Premises; nor shall any LESSEE alter any lock, or install new or additional locks or bolts, on any door without the prior express written approval of CITY. In the event of such alteration or installation approved by CITY, the LESSEE making such alteration shall supply CITY with a key for any such lock or bolt. Each LESSEE, upon the expiration or termination of its tenancy, shall deliver to CITY all keys and access cards in any such LESSEE's possession for all locks and bolts in the Building and in the event of loss of any keys or cards so furnished, shall pay CITY therefor. If all keys are not returned to CITY at the office of the Building Manager upon Lease expiration, then the amount to replace the keys will be deducted from the Security Deposit.
3. In order that the Building may be kept in a state of cleanliness, each LESSEE shall during the term of each respective Lease, permit CITY's employees (or CITY's agent's employees) to take care of and clean the Premises and LESSEE shall not employ any person(s) other than CITY's employees (or CITY's agent's employees) for such purpose. LESSEE shall not cause any unnecessary labor by reason of such LESSEE's carelessness or indifference in the preservation of good order and cleanliness of the Premises. In the event LESSEE must dispose of crates, boxes, etc. which will not fit into office waste paper baskets, it will be the responsibility of LESSEE to dispose of same. In no event shall LESSEE set such items in the public hallways or other areas of the building or garage facility, excepting LESSEE's own Premises, for disposal. LESSEE shall store all of its trash and garbage within its Premises or in any other facilities provided by CITY.

All garbage and refuse disposal shall be made in accordance with directions issued from time to time by CITY.

4. CITY reserves the right to prescribe the date, time, method and conditions that any personal property, equipment, trade fixtures, merchandise and other similar items shall be delivered to or removed from the Building. No iron safe or other heavy or bulky object shall be delivered to or removed from the Building, except by experienced safe men, movers or riggers approved in writing in advance by CITY. All damage done to the Building by the delivery or removal of such items, or by reason of their presence in the Building, shall be paid to CITY, immediately upon demand, by the LESSEE by, through, or under whom such damage was done. There shall not be used in any space, or in the public halls of the Building, either by LESSEE or by jobbers or others, in the delivery or receipt of merchandise, any hand trucks, except those equipped with rubber tires. LESSEE's initial move-in and subsequent deliveries of bulky items, such as furniture, safes and similar items shall, unless otherwise agreed in writing by CITY, be made during the hours of 5:30 p.m. to 7:00 a.m. or on Saturday or Sunday. Deliveries during normal office hours shall be limited to normal office supplies and other small items. No delivery shall be made which impede or interfere with other LESSEES or the operations of the Building.
5. The walls, partitions, skylights, windows, doors and transoms that reflect or admit light into passageways or into any other part of the Building shall not be covered or obstructed by LESSEE.
6. The toilet rooms, toilets, urinals, wash bowls and water apparatus shall not be used for any purpose other than for those for which they were constructed or installed, and no sweepings, rubbish, chemicals, or other unsuitable substances shall be thrown or placed therein. The expense of any breakage, stoppage or damage resulting from violation(s) of this rule shall be borne by the LESSEE by whom, or by whose agents, employees, invitees, licensees or visitors, such breakage, stoppage or damage shall have been caused.
7. No sign, name, placard, advertisement or notice visible from the exterior of any Premises, shall be inscribed, painted or affixed by any LESSEE on any part of the Building without the prior written approval of CITY.
8. No signaling, telegraphic or telephonic instruments or devices, burglar alarm systems or similar service, or other wire, instruments or devices, shall be installed in connection with the Premises without the prior written approval of CITY. Such installations, and the boring or cutting for wires, shall be made at the sole cost and expense of the LESSEE and under the control and direction of CITY. CITY retains, in all cases, the right to require (i) the installation and use of such electrical protecting devices that prevent the transmission of excessive currents of electricity into or through the Building; (ii) the changing of wires and of their installation and arrangement underground or otherwise as CITY may direct; and (iii) compliance on the part of all using or seeking access to such

wires with such rules as CITY may establish relating thereto. All such wires used by LESSEE must be clearly tagged at the distribution boards and junction boxes and elsewhere in the Building, with (i) the number of the Premises to which said wires lead; (ii) the purpose for which said wires are used; and (iii) the name of the company operating same.

9. LESSEE, its agents, servants or employees, shall not (i) go on the roof of the Building; (ii) use any additional method of heating or air conditioning the Premises; (iii) sweep or throw any dirt or other substance from the Premises into any of the halls, corridors, elevators, or stairways of the Building; (iv) bring in or keep in or about the Premises any vehicles or animals of any kind; (v) install any radio or television antennae or any other device or item on the roof, exterior walls, windows or window sills of the Building; (vi) place objects against glass partitions, doors or windows which would be unsightly from the interior or exterior of the Building; (vii) use the Premises for any manufacturing, storage or sale of merchandise or property of any kind; (viii) cause or permit unusual or objectionable odor to be produced or permeate from the Premises, including, without limitation, duplicating or printing equipment fumes; or (ix) install or operate any vending machines in the Premises without the prior written consent of CITY. LESSEE, its agents, servants and employees, invitees, licensees, or visitors shall not permit the operation of any musical or sound producing instruments or device which may be heard outside the Premises, building, or which may emit electrical waves which will impair radio or television broadcast or reception from or into the building.
10. LESSEE shall not store or use in any Premises any (i) ether, naphtha, phosphorous, benzol, gasoline, benzine, petroleum, crude or refined earth or coal oils, flashlight power, kerosene or camphene; (ii) any other flammable, combustible, explosive or illuminating fluid, gas or material of any kind; or (iii) any other fluid, gas or material of any kind having an offensive odor, without the prior written consent of CITY.
11. No canvassing, soliciting, distribution of hand bills or other written material, or peddling shall be permitted in the Building, and LESSEE shall cooperate with CITY in presentation and elimination of same.
12. LESSEE shall give CITY prompt notice of all accidents to or defects in air conditioning equipment, plumbing, electrical facilities or any part or appurtenances of the Premises.
13. If any Premises become infested with vermin, the LESSEE, at its sole cost and expense, shall cause its Premises to be exterminated from time to time to the satisfaction of the CITY and shall employ such exterminators as shall be approved by CITY.
14. No curtains, blinds, shades, screens, awnings or other coverings or projections of any nature shall be attached to or hung in, or used in connection with any door, window or wall of a Premises of the Building without the prior written consent of CITY.

15. LESSEE shall not place a load upon any floor of the Premises which exceeds the load per square foot which such floor was designated to carry and which is allowed by law. CITY shall have right to prescribe weight, size and position of all equipment, materials, furniture or other property brought into the building. Heavy objects shall, if considered necessary by CITY, stand on such platform as determined by CITY to be necessary to properly distribute the weight, which platform shall be provided at LESSEE's expense. Business machines and mechanical equipment belonging to LESSEE, which cause noise or vibration that may be transmitted to the structure of the Building or to any space therein to such a degree as to be objectionable to CITY or to any LESSEE in the Building, shall be placed and maintained by LESSEE, at LESSEE's expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration. CITY will not be responsible for loss of, or damage to, any such equipment or other property for any cause, and all damage done to the Building by maintaining or moving such equipment or other property shall be repaired at the expense of LESSEE.
16. LESSEE shall not waste electricity, water or air conditioning and agrees to cooperate with CITY to assure the most effective operation of the building's heat and air conditioning and to comply with the governmental energy saving rules, laws or regulations of which LESSEE has actual notice, and shall refrain from attempting to adjust controls. LESSEE shall keep corridors closed, shall keep window coverings closed at the end of each business day.
17. CITY shall have the right to prohibit any advertising by LESSEE which, in CITY's opinion, tends to impair the reputation of CITY or of the Building, or its desirability as an office building for existing or prospective LESSEE who require the highest standards of integrity and respectability, and upon written notice from CITY, LESSEE shall immediately refrain from or discontinue such advertising.
18. Whenever the word "LESSEE" occurs, it is understood and agreed that it shall also mean LESSEE's associates, employees, agents and any other person entering the building or the Premises under the express or implied invitation of LESSEE. LESSEE shall cooperate with CITY to assure compliance by all such parties with the Rules and Regulations.
19. CITY reserves the right to make reasonable amendments, modifications and additions to the Rules and Regulations heretofore set forth, and to make additional reasonable rules and regulations, as in CITY's sole judgement may from time to time be needed for the safety, care, cleanliness and preservation or good order of the Building.
20. A request by LESSEE will be attended to only upon application at the office of the Building. Employees of CITY shall not perform any work or do anything outside of their regular duties unless under special instructions from CITY, and no employee will admit any person (LESSEE or otherwise) to any Premises without specific instructions from CITY.

21. CITY shall have the right, exercisable without notice and without liability to LESSEE, to change the name and the street address of the Building of which a Premises are a part. CITY will pay for all reasonable cost incurred by LESSEE as a result of changing the street address of the Building unless the change is requested by an authorized governmental agency.
22. LESSEE shall not obtain for use upon the Premises ice, towel or other similar services or accept barbering or bootblacking services on the Premises, except from persons authorized by CITY and at the hours and under regulations fixed by CITY.
23. CITY may waive any one or more of these Rules and Regulations for the benefit of any LESSEE, but no such waiver by CITY shall be construed as a waiver of such Rules and Regulations in favor of LESSEE or any other LESSEE nor prevent CITY from thereafter enforcing any such Rules and Regulations against any or all of the LESSEE of the Building.
24. LESSEE assumes any and all responsibility for protecting its Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Premises secured. LESSEE shall comply with all safety and fire protection evacuation procedures and regulations established by CITY or any governmental agency.
25. LESSEE is required to accommodate, meet, and confer with any of their disabled patrons and visitors in the common area conference rooms available to all LESSEES on the first floor of the Building, subject to prior reservations.