

Legislative File

File ID No.: 13-1600
Introduction Date: 06/26/2013
Enactment No.: 13-1149
Enactment Date: 6-26-13

**OAKLAND UNIFIED SCHOOL DISTRICT
Office of the Superintendent**

June 26, 2013

TO: Board of Education

FROM: Tony Smith, Ph. D, Superintendent
Timothy E. White, Associate Superintendent of Facilities Planning & Management, Buildings & Grounds and Custodial Services

SUBJECT: Office Lease Agreement by and between the Oakland Unified School District and SPARKNIGHT, LLC, a Florida limited liability company, for Administration Office Space at 1000 Broadway, Oakland, CA.

ACTION REQUESTED:

Approval by the Board of Education of the Office Lease Agreement ("Lease") between the Oakland Unified School District ("District") and Sparknight, LLC, a Florida limited liability company ("Landlord"), for the Premises located in that certain building known as the Trans Pacific Centre located at 1000 Broadway, Oakland, California for the purposes of reuniting District administration employees displaced as a result of the significant water damage sustained at the District's 1025 2nd Avenue Administration Building, for a total of 52,323 rentable square feet of Office space consisting of the following:

- Suite 295 (which includes Suite 294), comprising 11,513 rentable square feet of space on the second (2nd) floor of the Building ("Suite 295 Premises");
- Suite 300, comprising 18,379 rentable square feet of space on the third (3rd) floor of the Building ("Suite 300 Premises");
- Suite 450, comprising 9,494 rentable square feet of space on the fourth (4th) floor of the Building ("Suite 450 Premises"); and
- Suite 680, comprising 12,937 rentable square feet of space on the sixth (6th) floor of the Building ("Suite 680 Premises").

BACKGROUND:

Sometime during the night of January 7, 2013 a substantial water leak occurred on the top floor of the Oakland Unified School District's Administration Building ("Administrative Building"), located at 1025 2nd Avenue, causing excessive flooding on all four floors and significant damage to the entire structure. As a result of this water damage, the Administrative Building has been vacated and staff temporarily relocated to numerous District sites including Cole Middle School, Lakeview Elementary School and 2111 International Avenue, while the District assesses its long term options for staff housing.

The District's insurance broker, Keenan & Associates, has advised the District that the insurance Memorandum of Coverage (MOC) provides for payment of all reasonable extra expense and additional costs incurred . . . in order to continue, as nearly as possible, the normal conduct of [the District's] operations had [the flood] not occurred, until [the District's] operations are at the level prior to the loss. The MOC will cover the cost of Lease payments for a period of time yet to be determined. Based upon the best information available from District architects, estimators, brokers, risk managers and legal counsel, the MOC will likely cover the cost of the Lease payments for thirty-six months.

The District engaged a commercial real Estate Broker to identify options for reunifying Administration Building staff in one central location, (comprised of 168 people in 16 departments) with a need for 60 private offices and 108 workstation cubicles.

The two primary drivers of the search were the District's target occupancy date (mid July) and short-term lease duration (3 years). Both criteria disqualified properties requiring large Tenant Improvements due to the approximately 3-6 months required to construct space and the compressed time to for Landlords to amortize Tenant Improvement expenses over the lease term. The property search focused on 5 properties, namely:

1. 180 Grand
2. 1000 Broadway
3. 1999 Harrison
4. 1221 Broadway (Clorox Building)
5. 300 Lakeside (Kaiser Center)

1000 Broadway was ultimately selected as a result of its price, current build-out, availability, parking, building access, and proximity to public transit. At the final negotiated rate of \$2.10 psf. per month, 1000 Broadway was the lowest priced downtown option available. Additionally, because the existing suites considered do not require a customized build-out, the District will be able to occupy the building without additional expense and within a month after controlling the space (allowing time for installation of furniture, equipment, and cabling). The building has 360 underground parking stalls on-site and the City Center Garage is within walking distance. Under the Lease, the District will have 80 parking stalls.

Assuming the Office Lease is executed by the parties on or before June 30, 2013, the target dates for the Lease Commencement Date are projected to be as follows:

- Suite 295 Premises: July 15, 2013
- Suite 300 Premises: July 15, 2013
- Suite 450 Premises: July 15, 2013
- Suite 680 Premises: September 1, 2013

The Lease terminates on the last day of the forty-eighth (48th) full calendar month following the Lease Commencement Date applicable to the Suite 680 Premises. However, the District shall have the right to terminate the Lease effective as of the end of the thirty-sixth (36th) full calendar month following the Lease Commencement Date. In addition, the District shall have two (2) options to extend the initial Lease Term, each for an additional period of twelve (12) months. Annual CPI increases shall not exceed 3%.

Finally, the Landlord has agreed to waive the security deposit, and offer free rent for 3 months during the 34th, 35th and 36th full calendar months following the Lease Commencement Date.

FISCAL IMPACT:

The annual Lease payments for the Base Year 2014 are:
 $\$2.10 \times 52,323 \text{ sq/ft} \times 12 \text{ months} = \$1,318,539.60$. The Memorandum of Coverage will pay the Lease payments for a period commensurate with the time it will take to repair or replace the 1025 2nd Ave. Administration Building, which is conservatively estimated to be between 30 and 48 months.

RECOMMENDATION:

Approval by the Board of Education of the 4 year with 3 year early termination Office Lease Agreement between the Oakland Unified School District and Sparknight, LLC for 52,323 rentable square feet of Class A office space, at \$2.10 per square foot, per month, at the Premises located in the Trans Pacific Centre, 1000 Broadway, Oakland, California for the purposes of reuniting District administration employees displaced as a result of the significant water damage sustained at the District's 1025 2nd Avenue Administration Building.

OFFICE LEASE

SPARKNIGHT, LLC,
a Florida limited liability company
as Landlord

and

OAKLAND UNIFIED SCHOOL DISTRICT,
a California public school district
as Tenant

SUMMARY OF BASIC LEASE INFORMATION

This Summary of Basic Lease Information (“Summary”) is hereby incorporated 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 capitalized terms used herein and not otherwise defined herein shall have the meaning as set forth in the Office Lease.

1. Date: June 20, 2013
2. Landlord: SPARKNIGHT, LLC,
a Florida limited liability company
3. Address of Landlord: SPARKNIGHT, LLC
c/o CAC REAL ESTATE MANAGEMENT
CO., INC.
1000 Broadway, Suite 268
Oakland, CA 94607
ATTN: Property Manager

Tel: 510.839.7651
Fax: 510.839.0861
4. Tenant: OAKLAND UNIFIED SCHOOL DISTRICT
A California public school district
5. Address of Tenant: OAKLAND UNIFIED SCHOOL DISTRICT
1000 Broadway, Suite 680
Oakland, CA 94607
Attention: Office of the Superintendent

Tel: (510) 434-7790

(Prior to Lease Commencement Date:)
2111 International Blvd.
Oakland, CA 94606

6. Premises: A total of 52,323 rentable square feet consisting of the following, as more particularly set forth in Exhibit A, attached hereto and made a part hereof:
- Suite 295 (which includes Suite 294), comprising 11,513 rentable square feet of space on the second (2nd) floor of the Building (“Suite 295 Premises”);
 - Suite 300, comprising 18,379 rentable square feet of space on the third (3rd) floor of the Building (Suite 300 Premises”);
 - Suite 450, comprising 9,494 rentable square feet of space on the fourth (4th) floor of the Building (“Suite 450 Premises”); and
 - Suite 680, comprising 12,937 rentable square feet of space on the sixth (6th) floor of the Building (“Suite 680 Premises”).
7. Building: The Premises are located in that certain building known as the Trans Pacific Centre located at 1000 Broadway, Oakland, California.
8. Lease Term: Approximately forty-eight (48) full calendar months following the Lease Commencement Date applicable to the Suite 680 Premises.

9. Lease Commencement Date: The earlier of: (i) Tenant's occupancy of the Premises, or the particular Suite comprising a portion thereof, or (ii) the substantial completion of the tenant improvement Work for the Premises as described in that certain Work Agreement attached hereto as Exhibit E and made a part hereof (subject to Section 2.1), which the parties hereby acknowledge and agree may be different for each of the Suite 295 Premises, the Suite 300 Premises, the Suite 450 Premises and the Suite 680 Premises.

Assuming the Office Lease is executed by the parties on or before June 30, 2013, the target dates for the Lease Commencement Date are projected to be as follows:

Suite 295 Premises: July 15, 2013
Suite 300 Premises: July 15, 2013
Suite 450 Premises: July 15, 2013
Suite 680 Premises: September 1, 2013

10. Lease Expiration Date: The last day of the forty-eighth (48th) full calendar month following the Lease Commencement Date applicable to the Suite 680 Premises.

11. Termination Option: Tenant shall have the right to terminate the Lease effective as of the end of the thirty-sixth (36th) full calendar month following the Lease Commencement Date applicable to the Suite 680 Premises upon the terms and conditions set forth in Section 2.4.

12. Renewal Options: Tenant shall have two (2) options to extend the initial Lease Term, each for an additional period of twelve (12) months, pursuant to and in accordance with the terms and conditions of Section 2.3.

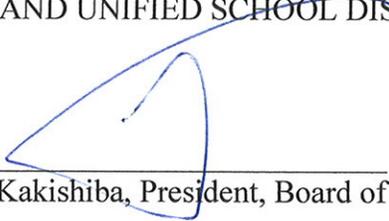
13. Base Rent: \$2.10 per rentable square foot of the Premises per month, from the Lease Commencement Date through the end of the twelfth (12th) full calendar month following the Lease Commencement Date applicable to the Suite 680 Premises. The parties hereby acknowledge and agree that Base Rent payable for each of the Suite 295, Suite 300, Suite 450 and Suite 680 Premises may commence on different dates as the Lease commences with respect to each of such Premises. Thereafter, commencing as of the beginning of thirteenth (13th) full calendar month following the Lease Commencement Date for the Suite 680 Premises and each year thereafter, Base Rent shall increase based on increases in the CPI over the prior year, as more particularly set forth in Section 3.1(b); provided, however, said annual CPI increases shall not exceed 3% over the prior period.
13. Rent Abatement: Provided Tenant is not in default, Base Rent shall not be payable during the 34th, 35th and 36th full calendar months following the Lease Commencement Date for the Suite 680 Premises.
14. Base Tax Year: Calendar Year 2014.
15. Base Expense Year: Calendar Year 2014.
16. Tenant's Prorata Share: 15.83% .
17. Security Deposit: None.
18. Parking: One (1) parking space for unreserved parking in the Building garage for every 1,000 rentable square feet of the Premises, for a total of fifty-two (52) parking passes for unreserved parking spaces, upon the terms and conditions of Exhibit D, attached hereto and made a part hereof.

18. Tenant's Broker:

HEAFEY COMMERCIAL 38 Webster
Street, 2nd Floor
Oakland, CA 94607

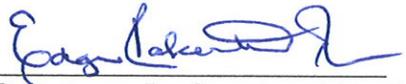
TENANT:

OAKLAND UNIFIED SCHOOL DISTRICT



David Kakishiba, President, Board of Education

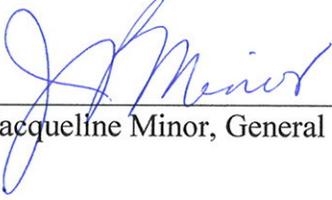
Date: 6/27/13



Edgar Rakestraw, Jr., Secretary, Board of Education

Date: 6/27/13

APPROVED AS TO FORM:

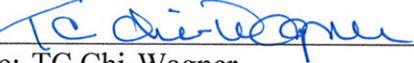


Jacqueline Minor, General Counsel

Date: 6/21/2013

LANDLORD:

SPARKNIGHT, LLC
a Florida limited liability company
By: World Gateway Investments, Inc.
Its: Managing Member

By: 
Name: TC Chi-Wagner
Title: V.P. Accounting & Finance

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By:

OFFICE LEASE

This Office Lease, which includes the preceding Summary and the exhibits attached hereto and incorporated herein by this reference (collectively, the "**Lease**"), dated as of the date set forth in the Summary, is made by and between SPARKNIGHT LLC, a Florida limited liability company ("**Landlord**"), and OAKLAND UNIFIED SCHOOL DISTRICT, a California public school district ("**Tenant**").

For and in consideration of the rental and of the covenants and conditions hereinafter set forth to be kept and performed by Tenant, Landlord hereby leases to Tenant and Tenant leases from Landlord the Premises herein subject to all of the terms, covenants, agreements and conditions hereinafter set forth.

1. Leased Premises.

1.1 Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord those certain Premises at the Building identified in the Summary. The parties agree that the square footage of the Premises set forth in the Summary shall be deemed to be accurate (even if the actual square footage of the Premises may be greater or less than the figure specified), and, as such, if the actual square footage of the Premises varies from the figure specified in the Summary, Base Rent, Tenant's Prorate Share and any other amounts or payments in this Lease that are a function of the square footage of the Premises shall nonetheless remain unchanged. The Building and the real property upon which the Building is constructed, together with the utilities, facilities, drives, walkways and other amenities appurtenant to or servicing the Building, are herein sometimes collectively called the "**Real Property.**" The parties understand and agree that the concept, design and configuration of the Building are subject to change, provided that no such change shall materially interfere with access to or use of the Premises.

1.2 Common Area. The term "**Common Area(s)**" shall mean all improved or unimproved areas within the Building (including the exterior facade) which are now or hereafter made available for the general use, convenience and benefit of Landlord, Tenant, other tenants of the Building and/or their employees and invitees. Tenant and its employees and invitees shall have the non-exclusive right to use the Common Areas in common with other persons during the Term, subject to Landlord's reasonable rules and regulations and the provisions of this Lease.

1.3 Condition of Premises. Tenant acknowledges and agrees that it is leasing the Premises in its present and "as is" condition, and that Landlord is not responsible for making any repairs or improvements thereto except as expressly set forth in the Work Agreement attached hereto as Exhibit E and made a part hereof ("**Work Agreement**"). Tenant understands that improvements to be made by Landlord under the Work Agreement may take place while Tenant is occupying the Premises in an effort to accommodate Tenant's occupancy requirements. Such work shall not be deemed an interference with Tenant's rights under the Office Lease and shall not under any circumstances be deemed a constructive eviction of Tenant from the Premises or any applicable portion thereof; provided, however, Landlord agrees to use commercially reasonable efforts to minimize interference with Tenant's operations during such construction and Tenant shall use commercially reasonable efforts to cooperate with Landlord to facilitate Landlord's completion of such work. Tenant further acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with regard to the Premises, the

Building, the Real Property or Tenant's business, and Tenant specifically agrees to hold Landlord harmless and waives any claims against Landlord (by way of reduction of rent or otherwise) with respect to the suitability of such Premises for Tenant's business.

1.4 Accessibility Notice. The Premises have not undergone inspection by a Certified Access Specialist. Because compliance with the Americans with Disabilities Act ("ADA") is dependent on Tenant's specific use of the Premises, including, without limitation, the installation of its furniture systems, Landlord makes no representation as to whether or not the Premises complies with the ADA or any similar legislation except the extent otherwise expressly set forth in the Work Agreement; provided, however, Landlord agrees to be responsible for ADA compliance applicable to the Premises (exclusive of Tenant's furniture and other installations) as of the Commencement Date.

2. TERM.

2.1 Initial Term. The terms and provisions of this Lease shall be effective as of the date of this Lease except for the provisions of this Lease relating to the payment of Rent. The initial Term of this Lease shall be as set forth in the Summary, and shall commence on the Lease Commencement Date as set forth in the Summary and expire on the Lease Expiration Date as also set forth in the Summary; provided, however, to the extent any Tenant Delay (defined in the Work Agreement) postpones the Lease Commencement Date, the Lease Commencement Date shall instead be the date that the Work would have been substantially completed but for Tenant Delays. If Landlord, for any reason whatsoever, cannot deliver possession of the Premises to Tenant as anticipated herein, this Lease shall not be void or voidable and Landlord shall not be liable to Tenant for any loss or damage resulting therefrom, but in such event, subject to any contrary provisions herein, in the Work Agreement or in any exhibits hereto, the commencement and expiration of this Lease shall be deferred for the period of such delay. Landlord and Tenant shall execute a Commencement Memorandum in the form attached as Exhibit C to this Lease within twenty (20) days after Landlord's delivery thereof to Tenant, and the parties acknowledge and agree that separate Commencement Memoranda may be necessary to evidence the Lease Commencement Dates applicable to each the Suite 295, Suite 300, Suite 450 and Suite 680 Premises. In the event Tenant fails timely to duly execute and deliver to Landlord the Commencement Memorandum following written notice thereof from Landlord, Tenant shall be deemed to have approved and confirmed the dates set forth therein, provided that such deemed approval shall not relieve Tenant of its obligation to execute and return the Commencement Memorandum (and such failure shall constitute a default by Tenant hereunder if not cured by Tenant as set forth herein).

2.2 Early Access. Landlord acknowledges and agrees that, subject to the terms and conditions of the Work Agreement and the terms of this Lease, Tenant shall be permitted to have access to the Premises a minimum of fifteen (15) days prior to the Lease Commencement Date for purposes of installing voice and data wiring or cabling and for space planning and furniture systems planning; provided, however, such access shall not give Tenant the right to occupy the Premises until the Lease Commencement Date. During the period of such early access, Tenant shall comply with and be subject to all terms and provisions of this Lease except those provisions requiring the payment of Base Rent and Tenant's Prorata Share of Taxes and Operating Expenses.

2.3 Option to Renew. Tenant shall have the option to extend the initial Term hereof for the period set forth in the Summary (if set forth therein) upon the same terms and conditions of this Lease except for Base Rent and as otherwise set forth herein; provided, however, Tenant may only exercise the Renewal Option if Tenant shall not have been in default under this Lease at any time during the Term, nor shall Tenant be in default under this Lease at the time notice of exercise is given or on the last day of the Term immediately before the applicable extension period, except that, if Tenant is in default at either or both of such dates, Tenant has actual notice of such default, the default is capable of being cured by Tenant and Tenant is diligently and continuously pursuing such cure to completion, then during the diligent prosecution of such cure such default shall not prevent Tenant's exercise of the Renewal Option. To properly exercise the Renewal Option Tenant shall give Landlord written notice irrevocably and unconditionally exercising such option no earlier than twelve (12) months and no later than six (6) months before the months prior to the Lease Expiration Date set forth in the Summary and/or the Commencement Memorandum, TIME BEING OF THE ESSENCE. If Tenant properly exercises the Renewal Option, the parties shall execute an amendment to this Lease reflecting the Term as extended and the Base Rent applicable thereto determined in accordance with Section 3.7 below; provided, however, failure of the parties to execute such an amendment shall not invalidate the rights of the parties with respect to the extension of the Term. If Tenant fails to exercise the option in strict accordance with the provisions of this Section, the Renewal Option shall expire and the Term of this Lease will terminate on the original Lease Expiration Date. The Renewal Option is personal to Tenant and may not be exercised or assigned, voluntarily or involuntarily, by any person or entity other than the Tenant named herein. Tenant shall have no additional options to extend or renew, except as expressly set forth herein.

2.4 Option to Terminate.

(a) Subject to the terms hereof, Tenant shall have a one-time option to terminate and cancel this Lease ("**Termination Option**"), effective as of the expiration of the thirty-sixth (36th) full calendar month following the Lease Commencement Date applicable to the Suite 680 Premises ("**Termination Date**"). As a condition to the effectiveness of Tenant's exercise of the Termination Option, Tenant shall: (a) exercise the Termination Option only as to all of the Premises, (b) deliver at least six (6) months' written notice thereof to Landlord prior to the Termination Date, and (c) in addition to Tenant's obligations to satisfy all other material monetary and non-monetary obligations under this Lease through the Termination Date and any obligations hereunder which survive the Termination Date, on or before thirty (30) days prior to the Termination Date, pay Landlord the following ("**Termination Consideration**"): an amount based on the product derived by multiplying twelve (12) by the monthly installment calculated by amortizing Lease Costs (defined herein) over forty-eight (48) months with interest at the rate of six percent (6.0%) per annum. As used herein, "**Lease Costs**" shall mean and refer to the sum of: (i) the total cost of the tenant improvements to the Premises (defined as the "Work" under the Work Agreement) paid by Landlord, which costs include construction and materials costs, project management fees, architectural and engineering fees, permits and other expenses incurred in connection therewith, and (ii) any real estate brokerage commissions paid by Landlord as a result of the execution of this Lease. Upon Tenant's written request therefor following the completion of the Work under the Work Agreement, Landlord shall provide Tenant with a statement of Lease Costs.

(b) Tenant may not exercise the Termination Option during the pendency of any default under the Lease. If Tenant properly and in a timely manner exercises the Termination Option and properly and in a timely manner delivers the Termination Consideration to Landlord and satisfies all other monetary and non-monetary obligations under this Lease through the Termination Date, including, without limitation, the provisions related to surrender of the Premises, all of which shall be accomplished on or before the Termination Date, then this Lease shall terminate as of midnight on the Termination Date. Any attempted exercise of the Termination Option which does not satisfy the foregoing terms and conditions shall be null and void, and this Lease shall continue in full force and effect in accordance with its terms. If Tenant shall have assigned this Lease or subleased any portion of the Premises, then immediately upon such sublease or assignment, the Termination Option herein granted shall simultaneously terminate and become null and void. Such right is personal to Tenant and under no circumstances whatsoever shall the assignee under a complete or partial assignment of this Lease, or a subtenant under a sublease of the Premises have any right to exercise the termination rights granted herein.

3. RENT.

3.1 Base Rent.

(a) Initial Base Rent. During the initial Term, Tenant shall pay to Landlord the monthly Base Rent for the Premises as set forth in the Summary and herein. Base Rent shall be payable in advance commencing as of the Lease Commencement Date and thereafter on or before the first day of each and every successive calendar month during the Term hereof, except that the Base Rent for the first full calendar month it is due hereunder shall be on or before July 15, 2013. Base Rent for the period commencing as of the Lease Commencement Date through the expiration of twelve (12) full calendar months following the Lease Commencement Date applicable to the Suite 680 Premises; thereafter, Base Rent shall increase as set forth in Section 3.1(b) below. In the event this Lease commences on a day other than the first day of a calendar month or ends on a day other than the last day of a calendar month, Base Rent shall be prorated on a 30-day basis for the partial months involved.

(b) Annual Increases. Base Rent shall increase commencing at the beginning of the second Lease Year (defined below) and again at the beginning of each new Lease Year, or portion thereof, thereafter (in each case, the "Adjustment Date") as follows:

(i) The "CPI" shall be the Consumer Price Index for all Urban Consumers (1982-84 = 100), San Francisco / Oakland / San Jose published by the Bureau of Labor Statistics, United States Department of Labor. The "Adjustment Index" shall be the CPI published most recently before the applicable Adjustment Date. The "Comparison Index" for the first adjustment to Base Rent shall be the CPI published most recently before the Lease Commencement Date applicable to the Suite 680 Premises; the Comparison Index for each subsequent adjustment to Base Rent shall be the Adjustment Index which was used for the immediately preceding adjustment. A "Lease Year" shall mean a 12-month period, without regard to calendar years; the first Lease Year shall begin as of the Lease Commencement Date applicable to the Suite 680 Premises and expire at the end of twelve (12) full calendar months thereafter.

(ii) On each Adjustment Date, Base Rent shall be adjusted by multiplying the Base Rent in effect and payable immediately prior such Adjustment Date by a fraction, the numerator of which is the applicable Adjustment Index and the denominator of which is the applicable Comparison Index, and the resulting adjusted Base Rent shall be the new Base Rent for all purposes under the Lease. Notwithstanding anything to the contrary contained in this Lease, (A) the Base Rent on any Adjustment Date shall be no less than the Base Rent payable by Tenant during the previous Lease Year, and (B) in no event shall Base Rent payable during any Lease Year increase by more than three percent (3%) over the prior Lease Year.

(iii) If the Bureau of Labor Statistics changes the base period for computing the CPI or otherwise revises the manner in which the CPI is determined, an adjustment shall be made in the revised index which would produce results equivalent, as nearly as possible, to those which would be obtained hereunder if the CPI were not so revised. If the CPI becomes unavailable because publication is discontinued or otherwise, there shall be substituted therefor a comparable index, reasonably acceptable to both parties, based upon changes in the cost of living or the purchasing power of the consumer dollar in the area in which the Premises are located, published by an agency of the federal government or in the absence thereof, by a nationally recognized financial reporting service.

(c) Rent Abatement. Provided Tenant is not in default under this Lease, Tenant shall be entitled to the rent abatement during the periods expressly set forth in the Summary.

3.2 Additional Rent.

(a) Taxes. Commencing January 1st of the calendar year following the Base Tax Year identified in the Summary, and thereafter throughout the Term (including any extensions thereof), Tenant shall pay Landlord as additional rent Tenant's Prorata Share of Taxes in excess of the amount of Taxes paid by Landlord during the Base Tax Year. The term "Taxes" and shall have the meaning specified below in Section 3.2(h).

(b) Operating Expenses. Commencing January 1st of the calendar year following the Base Expenses Year identified in the Summary, and thereafter throughout the Term (including any extensions thereof), Tenant shall pay Landlord as additional rent an amount equal to Tenant's Prorata Share of Operating Expenses in excess of the amount of Operating Expenses paid by Landlord during the Base Expense Year. The term "Operating Expenses" shall have the meaning specified below in Section 3.2(i).

(c) Manner of Payment. Taxes and Operating Expenses shall be paid in the following manner:

(i) Landlord may reasonably estimate in advance the amounts Tenant shall owe for Taxes and Operating Expenses for any full or partial calendar year of the Term. In such event, Tenant shall pay such estimated amounts, on a monthly basis, on or before the first day of each calendar month, together with Tenant's payment of Base Rent. Such estimate may be reasonably adjusted from time to time by Landlord.

- (ii) Within four (4) months after the end of each calendar year, or as soon thereafter as practicable, Landlord shall provide a statement (each a "**Statement**") to Tenant showing: (a) the amount of actual Taxes and Operating Expenses for such calendar year, with a listing of amounts for major categories of Operating Expenses, and such amounts for the Base Years, (b) any amount paid by Tenant towards Taxes and Operating Expenses during such calendar year on an estimated basis, and (c) any revised estimate of Tenant's obligations for Taxes and Operating Expenses for the current calendar year.
- (iii) If the Statement shows that Tenant's estimated payments were less than Tenant's actual obligations for Taxes and Operating Expenses for such year, Tenant shall pay the difference within forty-five (45) days after Landlord sends the Statement. If Landlord increases Tenant's estimated payments for the current calendar year, Tenant shall pay the difference between the new and former estimates, for the period from January 1 of the current calendar year through the month in which a statement is sent and Tenant shall make all such payments within forty-five (45) days after Landlord sends the applicable statement. If the Statement shows that Tenant's estimated payments exceeded Tenant's actual obligations for Taxes and Operating Expenses, Tenant shall receive a credit for the difference against payments of Base Rent and/or Tenant's Prorate Share of Taxes and Operating Expenses next due. If the Term shall have expired and no further Base Rent shall be due, Tenant shall receive a refund of such difference, within thirty (30) days after Landlord sends the Statement.
- (iv) So long as Tenant's obligations hereunder are not materially adversely affected thereby, Landlord reserves the right to reasonably change, from time to time, the manner or timing of the foregoing payments. In lieu of providing one Statement covering Taxes and Operating Expenses, Landlord may provide separate statements, at the same or different times. No delay by Landlord in providing the Statement (or separate statements) shall be deemed a default by Landlord or a waiver of Landlord's right to require payment of Tenant's obligations for actual or estimated Taxes or Operating Expenses so long as Landlord provides such Statement (or separate statements) no later than December 31 of the year following the calendar year for which the Statement is attributable; provided, however, Landlord agrees to use commercially reasonable efforts to provide each Statement (or separate statements) on or before June 30 of each calendar year. In no event shall a decrease in Taxes or Operating Expenses below the Base Year amounts, ever decrease the monthly Base Rent, or give rise to a credit or refund in favor of Tenant.

(d) Proration. If Tenant's obligation to pay Tenant's Prorate Share of Taxes and Operating Expenses commences other than on January 1, or ends other than on December 31, Tenant's obligations to pay estimated and actual amounts towards Taxes and Operating Expenses for such first or final calendar years shall be prorated to reflect the portion of such years included in the Term.

(e) Adjustments. For purposes of making its calculation of Operating Expenses and Taxes payable by Tenant hereunder, Landlord will make adjustments to reflect a 95% occupancy rate, fully assessed, in the Building. Landlord may exclude from the Base Expense Year, any non-recurring items, including capital expenditures otherwise permitted as Operating Expenses. If Landlord eliminates from any subsequent year's Operating Expenses or Taxes a recurring category of expenses previously included in the Base Expense Year, Landlord may subtract such category from the Base Expense Year commencing with such subsequent year.

(f) Landlord's Records. Landlord shall maintain records respecting Taxes and Operating Expenses and determine the same in accordance with sound accounting and management practices, consistently applied. Although this Lease contemplates the computation of Taxes and Operating Expenses on a cash basis, Landlord shall make reasonable and appropriate accrual adjustments to ensure that each calendar year, including the Base Years, includes substantially the same recurring items. Landlord reserves the right to change to a full accrual system of accounting so long as the same is consistently applied and Tenant's obligations are not materially adversely affected.

(g) Tenant's Review. Tenant shall have sixty (60) days following receipt of Landlord's Statement within which to raise any objection to the calculations contained therein, which such objection must be in writing and must set out with particularity the nature of such objection ("**Review Notice**"). If Tenant provides a Review Notice as required herein, Landlord shall permit Tenant to review such records; provided, that if Tenant retains an agent or preventative to review Landlord's books and records for any calendar year, such agent must be a CPA firm licensed to do business in California and may not be compensated on a contingency basis. Within a reasonable time after receipt of a timely Review Notice, Landlord shall make such books and records available to Tenant for its review at the Building office; provided, that Landlord shall have the right to remove from such records any and all information not directly relevant to Taxes and Operating Expenses payable hereunder. Upon such review of Landlord's books and records, Tenant shall have the right, within thirty (30) days after such books and records are made available, to give Landlord written notice stating in reasonable detail any objection to Landlord's Statement for the applicable calendar year. If Tenant fails to give Landlord written notice of objection within such thirty (30) day period or fails to provide Landlord with a timely Review Notice, Tenant shall be deemed to have approved Landlord's Statement of Taxes and/or Operating Expenses for the applicable year in all respects and shall thereafter be barred from and deemed to have waived raising any claims with respect thereto. Upon Landlord's receipt of a timely objection notice from Tenant, Landlord and Tenant shall work together in good faith to resolve the discrepancy between Landlord's statement and Tenant's review. If Landlord and Tenant determine that Operating Expenses for the applicable calendar year are less than reported, Landlord shall provide Tenant with a credit against future additional rent in the amount of any overpayment by Tenant or refund the overpayment if such determination is made following the expiration of this Lease. Likewise, if Landlord and Tenant determine that Operating Expenses for the applicable calendar year are greater than reported, Tenant shall forthwith pay to Landlord the amount of underpayment by Tenant. Any information obtained by Tenant pursuant to the provisions of this Section shall be treated as confidential. Tenant shall be solely responsible for any and all costs, expenses and fees incurred

by Tenant or its agent in connection with such review; provided, however, if it is determined that Landlord has overstated Operating Expenses by more than ten percent (10.0%), Landlord agrees to pay the direct, actual and reasonable costs associated with such review. Notwithstanding anything to the contrary herein, Tenant shall not be permitted to examine Landlord's books and records or to dispute any Statement of Taxes and/or Operating Expenses unless Tenant is not then in default under this Lease and Tenant has paid to Landlord the amount due as shown on such Statement.

(h) Taxes. "**Taxes**" shall mean all federal, state, county or local governmental or municipal taxes, fees, charge 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, water and sewer rents, taxes based upon the receipt of rent including gross receipts or sales taxes applicable to the receipt of rent or service or value added taxes (except to the extent paid by Tenant hereunder), personal property taxes imposed upon the fixtures, machinery, systems, equipment, apparatus, furniture and other personal property used in connection with the Building which Landlord shall pay during any calendar year, any portion of which occurs during the Term (without regard to any different fiscal year used by such government or municipal authority) because of or in connection with the ownership, leasing and operation of the Building. 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 and that assessments, taxes, fees, levies and charges may be imposed by governmental agencies for such services as fire protection, street, landscaping, sidewalk and road maintenance, refuse removal and for other governmental services formerly provided without charge to property owners or occupants; 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 Taxes for purposes of this Lease. There shall be excluded from Taxes all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, transfer taxes, federal and state net income taxes, and other taxes to the extent applicable to Landlord's net income (as opposed to rents, receipts or income attributable to operations at the Building) and any items included as Operating Expenses. Any expenses reasonably incurred by Landlord in attempting to protest, reduce or minimize Taxes shall be included in Taxes in the calendar year such expenses are paid except to the extent incurred to reduce Taxes under Proposition 8 as described below in this Section. Tenant shall pay increased Taxes whether Taxes are increased as a result of increases in the assessments or valuation of the Building (whether based on a sale, change in ownership or refinancing of the Building or otherwise), increases in the tax rates, reduction or elimination of any rollbacks or other deductions available under current law, scheduled reductions of any tax abatement, as a result of the elimination, invalidity or withdrawal of any tax abatement, or for any other cause whatsoever. Notwithstanding anything to the contrary set forth in this Lease, the amount of Taxes for the Base Tax Year and any subsequent year shall be calculated without taking into account any decreases in real estate taxes obtained in connection with Proposition 8, and, therefore, the Taxes in the Base Tax Year and/or any subsequent year may be greater than those actually incurred by Landlord, but shall, nonetheless, be the Taxes due under this Lease; provided, that Tax refunds under Proposition 8 shall not be deducted from Taxes, but rather shall

be the sole property of Landlord, nor shall increases under Proposition 8 over the Base Tax Year be used for purposes of calculating Tenant's Prorata Share. Landlord and Tenant acknowledge that nothing herein is intended to in any way affect (i) the inclusion in Taxes of the statutory two percent (2.0%) annual maximum allowable increase in Taxes (as such statutory increase may be modified by subsequent legislation), or (ii) the inclusion or exclusion of Taxes pursuant to the terms of Proposition 13.

(i) Operating Expenses. "**Operating Expenses**" shall mean: (i) all direct and indirect costs of management, ownership, restoration, operation and maintenance of the Building and including, without limitation: wages, salaries, employee benefits, and payroll burden of personnel engaged in management, operation and maintenance of the Building; property management fees, reasonable attorneys' fees, accounting fees (except to the extent such attorneys' fees and accounting fees are incurred with respect to a single tenant or group of tenants, including without limitation fees incurred in connection with the negotiation or enforcement of a particular tenant's lease); building office rent or rental value; power, heat, light, steam, air conditioning, gas, water, garbage, sewage and waste disposal and other utility and service fees, costs and charges (including tap, connection and switching fees); equipment, tools, materials and supplies; equipment rental; maintenance, repairs and replacement expenses, services and supplies; insurance and deductibles; license, permit and inspection fees; janitorial services and supplies; costs of maintenance contracts and general services; landscaping services and supplies; security costs; Building signage installation, replacement and repair; costs of compliance with environmental laws (including costs of monitoring and tests); and (ii) the cost of any capital improvements made to the Building by Landlord after the Base Expense Year that (A) reduce Operating Expenses or that reduce or conserve the amount of utilities consumed (e.g., electricity, gas or other fuels), such cost of such capital improvements to be included to the extent of the amount of the actual cost savings realized, or (B) are required under any governmental law or regulation that was not applicable to the Building at the time this Lease was entered into, such cost or allocable portion thereof to be amortized over such reasonable period as Landlord shall determine together with interest on the unamortized balance at the rate of ten percent (10%) per year or such higher rate as may have been paid by Landlord on funds borrowed for the purpose of constructing such capital improvements. "Operating Expenses" shall not include depreciation on the Building (other than depreciation on personal property); costs of tenant improvements, other expenses incurred in leasing space in the Building; legal expenses incurred in preparing or enforcing any lease in the Building; penalty costs caused by Landlord's failure to meet its obligations; capital items, other than those referred to in this Section, including a remodel of the Atrium Common Area; payment on mortgage debt on the Building or ground lease payments; costs for services to tenants of the Building that are not generally available to Tenant; costs of any items to the extent Landlord receives reimbursement from insurance proceeds, applicable warranties or from a third party (such proceeds to be deducted from Operating Expenses in the year in which received); and costs incurred by Landlord for organizational expenses, salaries and accounting fees to the extent related to Landlord's general corporate overhead and general administrative expenses (as distinguished from costs of operating the Building).

3.3 Rent. All charges and other amounts of any kind payable by Tenant to Landlord pursuant to this Lease shall be deemed additional rent. Landlord shall have the same remedies

for default in the payment of additional rent as for default in the payment of Base Rent. Base Rent and additional rent are collectively referred to herein as "**Rent.**" Rent shall be paid in lawful money of the United States without any prior demand or notice therefor and without any deduction, abatement, set-off or counterclaim at the address for payments from time to time specified by Landlord in writing.

3.4 Payment of Sums Due. Except as otherwise provided in this Lease, including the payment of Base Rent and Tenant's Prorata Share as set forth herein, Tenant shall pay to Landlord, within fifteen (15) days after delivery by Landlord to Tenant of bills or statements therefor, all Rent or any other sum or amount owed under this Lease or in enforcing or attempting to enforce any rights of Landlord under this Lease or otherwise, including without limitation reasonable attorneys' fees. Without limiting the generality of the foregoing, Tenant acknowledges and agrees that, following a notice to Tenant of any default, any payment in partial or full payment of any outstanding amount due under this Lease shall only be made personally to the address specified in such notice of default, or in such other manner as such notice may direct. Landlord's acceptance of Rent after it shall have become due and payable shall not excuse a delay upon any subsequent occasion or constitute a waiver of any of Landlord's rights hereunder. If any sum payable by Tenant under this Lease is paid by check which is returned due to insufficient funds, stop payment order, or otherwise, then: (a) such event shall be treated as a failure to pay such sum when due; and (b) in addition to all other rights and remedies of Landlord hereunder, Landlord shall be entitled (i) to impose a returned check charge of Fifty Dollars (\$50.00) to cover Landlord's administrative expenses and overhead for processing, and (ii) to require that all future payments be remitted by wire transfer, money order, or cashier's or certified check.

3.5 Interest on Past Due Obligations. Unless otherwise specifically provided herein, any amount due from Tenant to Landlord under this Lease which is not paid when due shall bear interest from the due date until paid at the rate of ten percent (10%) per annum or the maximum allowed by law, whichever is less. The payment of such interest alone shall not excuse or cure any default under this Lease.

3.6 Late Rent. Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult and impracticable to fix. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed on Landlord by the terms of any encumbrance, note secured by any encumbrance or other financing covering the Building and/or the Premises. Accordingly, if any installment of Rent or any other sum due from Tenant shall not be received by Landlord within ten (10) days of the due date thereof, Tenant shall pay to Landlord an additional sum of five percent (5%) of the overdue amount as a late charge. The parties agree that this late charge represents a fair and reasonable estimate of the costs that Landlord will incur by reason of late payment by Tenant. In addition, such payment and such late fee shall bear interest as set forth in Section 5.5 above from the date such Rent payment or late fee, respectively, became due to the date of payment thereof by Tenant. Such late charge and interest shall constitute additional rent due hereunder without any notice or demand. Acceptance of such late charge and/or interest by Landlord shall in no

event constitute a waiver of Tenant's default with respect to such overdue amount, or prevent Landlord from exercising any of the other rights and remedies available to Landlord.

3.7 Option Base Rent. If Tenant exercises its Renewal Option, the monthly Base Rent payable during any extension term shall be determined by the parties hereto based on of the fair rental value of the Premises at the time that the Renewal Option is exercised for non-sublease, non-renewal, non-encumbered, non-equity, non-expansion space comparable in size, location and quality to the Premises, all as reasonably determined by Landlord. If Tenant objects to Landlord's determination of Base Rent for the extended Term, Landlord and Tenant shall meet and confer and attempt in good faith to agree on the fair market rent. If the parties are not able to agree on or before the date ("**Outside Agreement Date**") that is two (2) months following Tenant's exercise of the Renewal Option then each party's determination shall be submitted to arbitration as set forth below. Landlord and Tenant shall each appoint one arbitrator who shall by profession be a real estate broker who shall have been active over the ten (10) year period ending on the date of such appointment in the leasing of commercial office properties in the vicinity of the Building. Landlord's and Tenant's arbitrators shall be appointed within ten (10) business days after the Outside Agreement Date. The two arbitrators so appointed shall, within ten (10) business days of the date after the appointment of the last appointed arbitrator, agree upon and appoint a third arbitrator who shall be by profession be a real estate broker with no less than same qualifications as the other two arbitrators. If the two arbitrators fail to agree upon and appoint a third arbitrator, then the appointment of the arbitrator shall be made by the Presiding Judge of the Alameda County Superior Court, or, if he or she refuses to act, by any judge having jurisdiction over the parties. The three arbitrators shall, within thirty (30) days after the appointment of the third arbitrator, reach a decision as to whether the parties shall use Landlord's or Tenant's submitted fair market rental value for calculation of Base Rent for the extended Term. The determination of the arbitrators shall be limited solely to the issue of whether Landlord's or Tenant's submitted fair market rental value for Premises is closer to the actual fair market rental value as determined by the arbitrators. The decision of the majority of the three arbitrators shall be binding upon Landlord and Tenant. If either Landlord or Tenant fails to appoint an arbitrator within the time period specified herein, the arbitrator appointed by one of them shall reach a decision, notify Landlord and Tenant thereof, and such arbitrator's decision shall be binding upon Landlord and Tenant. Each party shall pay the fees and expenses of the arbitrator appointed by it and one-half of the fees and expenses of the third arbitrator. If the Base Rent has not been determined as of the commencement of the extended Term, Tenant shall continue to pay the Base Rent payable during the initial Term. Upon final determination, any overpayment or underpayment of Base Rent shall be reconciled, within forty-five (45) days of invoice therefor. Notwithstanding anything to the contrary herein, Tenant shall, during the extended Term, Tenant shall also pay Tenant's Prorata Share of Taxes and Operating Expenses as provided in Section 3.3 above and Tenant shall pay Landlord's then prevailing rates for any parking spaces rented by Tenant as set forth herein.

4. USE OF THE PREMISES.

4.1 Use. Tenant shall use the Premises only for general business office uses, which the parties acknowledge may include teacher trainings for up to thirty (30) persons at a time and occasional and special Board of Education meetings (which is intended to exclude regular Board of Educational meetings which will not be held at the Building) and for no other purposes; said

use shall be consistent with the use of a first class office building. Tenant shall not: (i) bring any equipment, furniture or fixtures upon the Premises or the Building that would create excessive loads or require structural support for the Building, or any portion thereof, (ii) use the Premises, permit to be done in or about the Premises or bring to or keep therein anything which is prohibited by or will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may be hereafter enacted or promulgated, or which is prohibited by the standard form fire or other insurance policy, (iii) do anything or permit anything to be done on the Premises which will in any way cause a material increase in insurance premiums or otherwise affect any fire or other insurance on the Building or any of its contents, (iv) cause, maintain or permit any conduct which obstructs or interferes with the rights of other tenants of the Building, or injure or annoy them, (v) use or allow the Premises to be used for any unlawful or objectionable purpose, (vi) cause, maintain or permit a nuisance or waste in, on or about the Premises, (vii) allow more persons to occupy the Premises at any one time than may be permitted by applicable laws, or (viii) use the Premises to conduct public school instruction or use the Premises for the delivery of services or for purposes of conducting hearings or other activities involving public activity in the Building except as otherwise expressly permitted herein. Tenant acknowledges and agrees that Tenant's covenants under this Section constitute material consideration for Landlord's agreement to enter into this Lease. During the Term of this Lease, Tenant shall have access to the Premises twenty-four (24) hours per day, seven (7) days per week; provided, however such access shall be subject to Landlord's reasonable security requirements, rules and regulations.

4.2 Hazardous Materials.

(a) Except for the ordinary and general office supplies typically used in the ordinary course of business within office buildings, such as copier and printer toner, liquid paper, glue, ink and common household cleaning materials (some or all of which may constitute Hazardous Materials pursuant to the terms of this Lease), Tenant shall not cause or permit any Hazardous Materials to be brought upon, stored, used, handled, generated, released into the environment or disposed of on, in, under or about the Premises or the Building by Tenant, its agents, employees, subtenants, assignees, contractors, invitees or anyone claiming by or through Tenant (collectively, "**Tenant's Agents**"), without the prior written consent of Landlord, which consent Landlord may withhold in its sole and absolute discretion. Upon the expiration or sooner termination of this Lease, Tenant covenants to remove from the Premises and the Building, at its sole cost and expense, any and all Hazardous Materials which are brought upon the Premises or the Building by Tenant or Tenant's Agents. To the fullest extent permitted by law, Tenant hereby agrees to indemnify, protect, defend and hold Landlord free and harmless from and against any and all claims, judgments, damages, penalties, fines, costs (including clean-up, removal, remediation and restoration costs, attorneys' fees), liabilities and losses (including diminution in the value of the Premises or the Building) which arise during or after the Term of this Lease from the presence of Hazardous Materials (including any Hazardous Materials permitted by the terms of this Lease) on, in or about the Premises or the Building which is caused or permitted by Tenant or Tenant's Agents. In accordance with California Health and Safety Code requirements, or such other requirements as may hereafter be enacted, Tenant shall promptly notify Landlord of any release of Hazardous Materials in the Premises or the Building of which Tenant becomes aware, whether caused by Tenant, Tenant's Agents or any other person or entities. In the event of any release of any Hazardous Materials caused or permitted by Tenant

or Tenant's Agents, Landlord shall have the right to cause Tenant to immediately take all steps Landlord deems necessary or appropriate to remedy such release and prevent any similar future release to the satisfaction of Landlord. In addition to and notwithstanding any other rights and remedies of Landlord under this Lease, and without any grace periods (in the event of an emergency or extreme circumstances), Landlord shall have the right (but not the obligation) in its sole discretion to: (i) require Tenant to cease and desist all activities in the Premises directly or indirectly resulting in a violation of this Section immediately upon notice of such violation from Landlord, and (ii) immediately enter the Premises, to supervise and approve any actions taken by Tenant to address the release of Hazardous Materials, and, if Tenant fails to immediately address same in accordance with this Lease, to perform, with respect to conditions existing on account of Tenant's use or occupancy of the Premises or any action or inaction of Tenant or Tenant Agent, at Tenant's sole cost and expense, any lawful action necessary to address same.

(b) As used herein, the term "**Hazardous Materials**" shall mean and include any materials, substances or wastes as designated under any federal, state or local statutes, regulations, codes, ordinances, orders or rulings or which are regulated by any local governmental authority, any agency of the State of California or any agency of the United States Government concerning hazardous, toxic or radioactive materials, including, without limitation, asbestos, petroleum, petroleum hydrocarbons and petroleum based products, urea formaldehyde foam insulation, polychlorinated biphenyls (PCBs), and freon and other chlorofluorocarbons. The provisions of this Section shall survive any termination of this Lease.

5. TAXES AND IMPOSITIONS.

5.1 Tenant shall pay before delinquency all taxes and assessments (real and personal) levied against (a) any personal property or trade fixtures (including furniture, fixtures and equipment) placed or maintained by Tenant in or about the Premises (including without limitation any increase in the assessed value of the Premises based upon the value of any such personal property or trade fixtures), and (b) any of Tenant's alterations or improvements in the Premises (whether installed or paid for by Landlord or Tenant), including without limitation any Work constructed in the Premises, whether by Landlord or Tenant, and above-standard alterations or improvements. If any such taxes or assessments are levied against Landlord or Landlord's property, Landlord may, after written notice to Tenant, pay such taxes and assessments, and Tenant shall reimburse Landlord therefor within thirty (30) days after demand by Landlord. Tenant, at its cost and expense, shall have the right, with Landlord's cooperation (but at no cost or expense to Landlord), to protest and, if applicable, recover any amount of taxes and assessments paid pursuant to this Section (which taxes and assessments shall be paid before delinquency even if under protest by Tenant).

5.2 Tenant shall reimburse Landlord for taxes and assessments upon or measured by the Rent or other charges payable hereunder, including, without limitation, any excise tax levied by the City of Oakland, the County of Alameda, the State of California, the Federal Government or by any other governmental body with respect to the receipt of such rental; provided, however, nothing herein shall require Tenant to pay any portion of Landlord's federal or state income taxes.

6. SECURITY DEPOSIT. Intentionally Omitted.

7. **SERVICES.**

7.1 **Services Provided By Landlord.** Subject to the provisions of this Lease and commencing as of the Lease Commencement Date, Landlord shall furnish the Premises with the following services: (a) adequate electrical wiring and facilities and power for normal general office use as reasonably determined by Landlord; (b) heating and air conditioning 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., except for Building holidays, subject to reasonable changes implemented by Landlord and to all governmental or utility rules, regulations and guidelines applicable thereto; (c) janitorial services customary for comparable buildings, Monday through Friday, except Building holidays; (d) nonexclusive passenger elevator service, (e) city water from the regular Building outlets for drinking, lavatory and toilet purposes; and (f) replacement of lamps and ballasts for Building standard lighting fixtures within the Premises; provided, that Tenant shall bear the cost of replacement of lamps and ballasts for non-Building standard lighting fixtures within the Premises. The cost of such services shall be Operating Expenses as defined herein.

7.2 **Services Provided By Tenant.** Except for the services provided by Landlord as expressly set forth in Section 7.1 above, Tenant shall pay all charges for telephone, data and all other materials, utilities and services supplied to the Premises, and will indemnify and hold Landlord harmless from any liability therefrom.

7.3 **Supplemental and After-Hours Services.** Tenant shall be responsible for paying for any costs and fees, as reasonably determined by Landlord from time to time, for supplemental heat, ventilation and air-conditioning serving the Premises (including any dedicated unit or other supplemental equipment in Tenant's server room and the costs of maintaining and repairing same) and for other supplemental services requested by Tenant. All requests for air-conditioning, ventilation or heating during hours when such services are not furnished by Landlord as set forth in Section 7.1 herein must be submitted in writing to the Building management office upon such advance notice as Landlord may from time to time reasonably prescribe, but in no event no less than forty-eight (48) hours prior to Tenant's intended use. Tenant shall pay to Landlord as additional Rent a reasonable charge as determined by Landlord from time to time (which shall include a reasonable administrative fee) for all heating and cooling energy to the Premises in excess of that required for normal office use or during hours requested by Tenant when heat or air-conditioning is not otherwise furnished by Landlord.

7.4 **Excess Capacity.** Tenant, without the prior written consent of Landlord, shall not use any apparatus or device in the Premises which alone or collectively uses electricity in excess of the capacity of the electrical circuits to the Premises or connect with electric current, except through existing electrical outlets in the Premises. If Tenant shall require electric current in excess of the capacity of the electrical circuits to the Premises, Tenant shall first obtain Landlord's written consent. Tenant shall not use heat generating machines, equipment or lighting which affects the temperature otherwise maintained by the ventilating and air-conditioning

system without obtaining Landlord's prior written consent. If such consent is given, Landlord shall have the right to install supplementary air conditioning units or other facilities in the Premises, including supplementary or additional metering devices, and the cost thereof, including the cost of installation, operation and maintenance, increased wear and tear on existing equipment and other similar charges, shall be paid by Tenant to Landlord upon billing by Landlord. Tenant agrees to pay Landlord as additional Rent for excess electric current consumed and for the cost (as may be reasonably determined by Landlord and which shall include a reasonable administrative fee) of any after hours or non-standard electricity, water or other service consumed by Tenant in the Premises.

7.5 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, lamp replacement and additional repairs and maintenance, provided that Tenant shall pay to Landlord upon billing, the sum of all costs to Landlord of such additional services plus an administration fee. Without limiting Tenant's maintenance obligations hereunder and provided Tenant complies with all applicable laws, Tenant may use its own employees for additional janitorial services, as needed, over and above those janitorial services provided by Landlord under Section 7.1(c). Charges for any utilities or services for which Tenant is required to pay from time to time hereunder, shall be deemed additional Rent hereunder and shall be billed on a monthly basis.

7.6 Landlord Regulations. Tenant agrees to cooperate with Landlord and to abide by all regulations and requirements which Landlord may prescribe for the proper functioning and protection of heating, ventilating, air-conditioning and other systems within the Building. Tenant shall cooperate fully with Landlord to conserve energy use in the Building and Tenant shall use its best efforts to reasonably minimize its use of gas, electricity, water and other utilities and public services throughout the Term hereof.

7.7 Interruption of Use. 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 those not being furnished directly or indirectly by Landlord hereunder), 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 to the Building or Real Property, 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 governmental restrictions, governmental regulations, governmental controls, by enemy or hostile governmental action, civil commotion, fire or any other 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 disturbance of Tenant's use and possession of the Premises or 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 as set forth in this Section 7. Landlord does not warrant that the telecommunications system serving the Premises or the

Building will not be interrupted, and Landlord shall have no liability whatsoever for any such interruptions.

8. ALTERATIONS, ADDITIONS OR IMPROVEMENTS.

8.1 Tenant shall make no additions, changes, alterations or improvements ("**Work**") to the Premises, the Building or the Building systems and equipment without the prior written consent of Landlord. Landlord may impose reasonable requirements as a condition of such consent including, without limitation, the submission of plans and specifications for Landlord's prior written approval, obtaining necessary permits, providing "as built" drawings, posting bonds, obtaining insurance, Landlord's prior approval of contractors, subcontractors and suppliers, prior agreement in writing by Tenant and its contractors of Landlord's rules, regulations and requirements for construction at the Building (including, without limitation, Landlord's insurance requirements for Work performed at the Building and the qualifications of contractors performing same), prior receipt of copies of all contracts and subcontracts, contractor and subcontractor lien waivers, affidavits listing all contractors, subcontractors and supplies, use of union labor (if Landlord uses union labor), affidavits from engineers acceptable to Landlord stating that the Work will not adversely affect the Building systems and equipment or the structure or operation of the Building, and requirements as to the manner and times in which such Work shall be done. Notwithstanding anything to the contrary contained in this Lease, Tenant shall not make any changes to any portion of any life safety, heating, ventilation, air-conditioning, plumbing, electrical or telecommunications systems serving the Premises or the Building without Landlord's prior written consent, which may be withheld in Landlord's sole discretion. If any such changes are related to or required as a result of any of Tenant's acts or omissions, regardless of whether such changes are made or approved by Landlord, Tenant shall be solely responsible for the cost of making such changes.

8.2 Tenant, at its expense, shall obtain any and all permits and consents of applicable governmental authorities in respect of the Work and shall comply with the requirements of all governmental authorities in connection therewith, including, without limitation, all building codes. All Work shall be performed in a good and workmanlike manner and all materials used shall be of a quality comparable to or better than those in the Premises and Building and shall be in accordance with plans and specifications approved by Landlord, and Landlord may require that all such Work be performed under Landlord's supervision or Landlord may supervise same at Tenant's request, Landlord may charge a reasonable administration fee in connection therewith. The construction of the initial improvements If Landlord consents or supervises, the same shall not be deemed a warranty as to the adequacy of the design, workmanship or quality of materials, and Landlord hereby expressly disclaims any responsibility or liability for the same. Landlord shall under no circumstances have any obligation to repair, maintain or replace any portion of the Work. Landlord and Tenant acknowledge and agree that Landlord may withhold its consent to the Work if such Work necessitates compliance with any laws, rules, regulations, ordinances or requirements for which Landlord might be responsible. If Landlord approves the Work, Tenant shall be liable to Landlord and shall reimburse Landlord for the costs of any improvements to the Building (whether or not within the Premises) which may be required by governmental authority as a consequence of Tenant's Work.

8.3 All Work (including any Work completed under any Work Agreement executed concurrently herewith) shall become Landlord's property immediately and, at the end of the Term hereof, shall remain on the Premises without compensation to Tenant; provided, however, Landlord may elect by notice to Tenant to have Tenant remove the same, in which event Tenant shall, prior to the expiration or termination of this Lease and at Tenant's sole cost and expense, remove such Work, repair any damage to the Premises, and restore the Premises to their condition prior to the installation of the Work. Notwithstanding anything to the contrary herein, the parties acknowledge and agree that Tenant shall remove any Lines installed by or on behalf of Tenant as required under Section 20. Prior to the expiration or termination of this Lease, Tenant shall remove its trade fixtures and unattached and movable personal property and Tenant promptly shall repair, at its sole cost and expense, any damage to the Premises or Building caused by such removal.

8.4 No Work shall be made without Landlord being given notice and a reasonable opportunity (but in any event no less than ten (10) business days) to post and keep posted on the Premises any notices that may be authorized by law or which Landlord may deem to be proper for the protection of Landlord, the Premises and the Building from any liens.

9. LIENS.

Tenant shall keep the Premises and the Building free from any liens arising out of Work performed, materials furnished, or other obligations incurred by or on behalf of Tenant and shall indemnify, hold harmless and defend Landlord from any liens and encumbrances arising out of any work performed or materials furnished by, at the direction of or on behalf of Tenant. In the event that Tenant shall not, within five (5) days following the imposition of any such lien, cause such lien to be released of record by payment or posting of the proper bond or otherwise, Landlord shall have, in addition to all other remedies provided herein and by law, the right, but no obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith including attorney's fees and costs shall be payable to Landlord by Tenant on demand with interest at the rate of 10% per annum or the maximum allowed by law, whichever is less. Landlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law, or which Landlord shall deem proper, for the protection of Landlord, the Premises and the Building, and any party having an interest therein, from mechanics' and materials men's liens.

10. MAINTENANCE AND REPAIRS.

10.1 Landlord's Obligations. Subject to Sections 16 and 17 and to the provisions of Section 10.2, Landlord shall maintain the structure of the Building and the Building Common Areas in reasonably good order and repair, subject to; provided, however, that Landlord shall not be required to make repairs necessitated by reason of the acts, omissions or negligence of Tenant or Tenant's Agents, by reason of the failure of Tenant to perform or observe any conditions or agreements of this Lease or by reason of alterations, additions or improvements made by Tenant or anyone claiming under Tenant, all of which repaired by Landlord at Tenant's expense. Any maintenance and repairs to the life safety, heating, ventilation, air-conditioning, vertical transportation systems, plumbing or electrical systems serving the Premises or the Building ("**Building Systems**") shall be made by Landlord, subject to the terms hereof, provided that

Landlord shall be entitled to recover such repair costs as Operating Expenses for the Building. Tenant shall give Landlord prompt written notice of any known or suspected problems with any element of the Building that Landlord is required to maintain and repair. Tenant shall not under any circumstances attempt any such maintenance or repair. Without limiting the generality of the foregoing, Tenant shall not, without Landlord's prior written approval and subject to the other requirements set forth in this Lease, interface with the telecommunications system serving the Premises or the Building.

10.2 Tenant's Obligations.

(a) Except for Landlord's obligations to complete the Work as set forth in the Work Agreement, by entry of the Premises Tenant accepts the Premises as being in the condition Landlord is obligated to deliver the Premises. Landlord has no obligation and has made no promise to alter, remodel, improve, repair, decorate or paint the Premises or any part thereof, and Landlord has made no representations or warranties to Tenant respecting the condition of the Premises, the Building or the Real Property. Tenant, at its sole cost and expense, shall at all times during the Term maintain the Premises (including without limitation the interior walls, interior ceiling and doors) in good, clean and sanitary condition and make all repairs and replacements, excluding normal wear and tear, as and when Landlord deems reasonably necessary to preserve the Premises in good working order and condition. Landlord acknowledges that except for any new carpet installed as part of the Work under the Work Agreement, the Landlord is not installing new carpet in the Premises and Tenant will not be required to repair or replace any existing carpet during the initial Lease term based on its normal use and normal wear and tear. Tenant shall be required to make only such structural repairs or structural replacements to the Premises and/or the Building as are necessitated by the acts, omissions or negligence of Tenant or Tenant's agents, by reason of the failure of Tenant to perform or observe any conditions or agreements of this Lease or by reason of alterations, additions or improvements made by Tenant or anyone claiming by or through Tenant. Notwithstanding the foregoing, if Tenant is obligated under this Lease to repair any portion of the Building Systems serving the Premises or Building, Landlord shall have the option to repair and maintain, at Tenant's cost and expense, such Building Systems on Tenant's behalf, in which event Tenant shall pay Landlord's reasonable cost of all such work (including without limitation the cost of labor, overhead, materials, equipment and Landlord's reasonable supervision fee). Tenant hereby waives and releases its rights under Sections 1941, 1941.1 and 1942 of the California Civil Code to the extent such statutes may apply to this Lease or under any similar law now or hereafter in effect.

(b) Subject to the provisions of Section 8.3 concerning the removal of alterations, additions and improvements, upon the expiration or earlier termination of this Lease Tenant shall surrender the Premises and all alterations, additions and improvements thereto in the same condition as received or when first installed, except for ordinary wear and tear. Tenant agrees to repair any damage to the Premises caused by or in connection with the removal of any articles of personal property, business or trade fixtures, machinery, equipment, cabinetwork, furniture, movable partition or permanent improvements or additions, including, without limitation, pulling cabling and/or wiring installed by or for the benefit of Tenant, repairing the floor and patching and painting the walls where required by Landlord to Landlord's reasonable satisfaction, all at Tenant's sole cost and expense. Tenant shall indemnify the Landlord against any loss or liability

resulting from delay by Tenant in so surrendering the Premises, including without limitation any reasonable claims made by any succeeding Tenant founded on such delay.

(c) In the event Tenant fails to maintain the Premises in good order, condition and repair, Landlord shall give Tenant written notice to do such acts as are reasonably required to so maintain the Premises. In the event Tenant fails to promptly commence such work and diligently prosecute it to completion, then Landlord shall have the right to do such acts and expend such funds at the expense of Tenant as are reasonably required to perform such work. Any amount so expended by Landlord shall be paid by Tenant immediately upon demand with interest (accruing from the date such work is performed) at the rate of ten percent (10%) per annum or the maximum allowed by law, whichever is less. Landlord shall have no liability to Tenant for any damage, inconvenience or interference with the use of the Premises by Tenant as a result of performing any such work.

11. LIABILITY OF LANDLORD.

11.1 Except as otherwise expressly set forth herein, neither Landlord nor any Landlord Parties (defined below) shall be liable to Tenant or any other person or entity for any damage, injury, loss or claim based on or arising out of any cause whatsoever (except as otherwise provided in this Section), including the following: repair to any portion of the Premises or the Building; interruption in the use of the Premises or the Building or any equipment therein; any accident or damage resulting from any use or operation (by Landlord, Tenant or any other person or entity) of elevators or heating, cooling, electrical, sewage or plumbing equipment or apparatus; termination of this Lease by reason of damage to the Premises or the Building; any fire, robbery, theft, vandalism, mysterious disappearance or any other casualty; actions of any other tenant of the Building or of any other person or entity; failure or inability to furnish any service specified in this Lease; and leakage in any part of the Premises, the Building or the Real Property from water, rain, ice or snow that may leak into, or flow from, any part of the Premises, the Building or the Real Property, or from drains, pipes or plumbing fixtures in the Premises, the Building or the Real Property. If any condition exists which may be the basis of a claim of constructive eviction, then Tenant shall give Landlord written notice thereof and a reasonable opportunity to correct such condition, and in the interim Tenant shall not claim that it has been constructively evicted or is entitled to a rent abatement except as otherwise expressly set forth herein. Any property placed by Tenant or of Tenant's Agents in or about the Premises, the Building or the Real Property shall be at the sole risk of Tenant, and Landlord shall not in any manner be held responsible therefor. Tenant acknowledges and agrees that Landlord's security program is solely for Landlord's convenience and Landlord assumes no duty to provide security to the Premises or to Tenant, its employees, agents, servants, contractors, or invitees, and Tenant assumes sole responsibility therefor. Any person receiving an article delivered for Tenant shall be acting as Tenant's agent for such purpose and not as Landlord's agent. Notwithstanding the foregoing provisions of this Section, Landlord shall not be released from liability to Tenant for any physical injury to any natural person caused by the gross negligence or willful misconduct of Landlord or Landlord's agents, employees or contractors to the extent such injury is not covered by insurance either carried by Tenant (or such person) or required by this Lease to be carried by Tenant; provided, however, that neither Landlord nor any of Landlord's employees, agents or contractors (nor any past, present or future board member, partner, trustee, director, member, officer, employee, agent, representative or advisor of any of them) (each a "**Landlord Party**")

shall under any circumstances be liable for any exemplary, punitive, consequential or indirect damages (or for any interruption of or loss to business) in connection with or relating to this Lease.

11.2 No landlord hereunder shall be liable for any obligation or liability based on or arising out of any event or condition occurring during the period that such landlord was not the owner of the Building or a landlord's interest. Within five (5) days after request, Tenant shall attorn to any transferee landlord and execute, acknowledge and deliver any document submitted to Tenant confirming such attornment provided such transferee assumes the obligations of Landlord hereunder which accrue from and after the date of the transfer.

11.3 Tenant shall not have the right to set off or deduct any amount allegedly owed to Tenant pursuant to any claim against Landlord from any rent or other sum payable to Landlord. Tenant's sole remedy for recovering upon such claim shall be to institute an independent action against Landlord, which action shall not be consolidated with any action of Landlord; provided, however, that the foregoing shall not prohibit Tenant from asserting a compulsory counterclaim in any proceeding instituted by Landlord against the Tenant that is required to be brought by applicable statute and will be deemed forever waived if not then asserted by Tenant.

11.4 Notwithstanding anything appearing to the contrary in this Lease or any other document or instrument executed in connection with this Lease, the liability of Landlord for Landlord's obligations arising in connection with or under this Lease shall be limited to Landlord's interest in the Building and the Real Property and Tenant shall not look to any other property or assets of Landlord or the property or assets of any Landlord Party in seeking either to enforce Landlord's obligations arising in connection with or under this Lease or to satisfy a judgment for Landlord's failure to perform such obligations. Without limiting the generality of the foregoing and notwithstanding anything to the contrary in this Lease or any other document or instrument executed in connection with this Lease, neither Landlord nor any Landlord Party shall be personally liable for the performance of the obligations of, or in respect of any claims against, Landlord arising in connection with or under this Lease, and no personal judgment shall be sought or obtained against any Landlord Party in connection with this Lease.

12. COMPLIANCE WITH LAWS.

Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, including without limitation all laws, codes, orders and regulations relating to the rights of individuals with disabilities (including, without limitation, the Americans with Disabilities Act), with the requirements of any board of fire underwriters or other similar body now or hereafter constituted, with any direction or occupancy certificate issued pursuant to any law by any public officer or officers, government measures regulating or enforcing public access, occupational health or safety standard, as well as the provisions of all recorded documents affecting the Premises (collectively, "**Laws**"), insofar as any such Laws relate to or affect the condition, use or occupancy of the Premises and Tenant's obligations hereunder; except for: (i) structural changes or changes to the Building Systems to the extent such changes are not necessitated by Tenant's acts or by improvements made by or for Tenant, and (ii) costs to comply with any Laws applicable to the Common Areas of the Building or the Building as a whole, to

the extent such changes are not necessitated by Tenant's acts or by improvements made by or for Tenant, which are Landlord's responsibility. In the event that Landlord shall be required to comply with any Laws as a result of any structural changes, changes to the Building Systems or the Premises or any alterations or improvements to the Building as a whole or the Common Areas of the Building done solely for the benefit of Tenant, any and all costs of such changes, alterations and improvements together with any and all costs associated with Landlord's compliance with Laws in connection therewith shall be for the account of Tenant and Tenant shall within fifteen (15) days of receipt pay all invoices therefor as additional Rent. Tenant shall cooperate with Landlord in complying with any Laws applicable to the Building.

13. INSURANCE.

13.1 At all times during the Term of this Lease and subject to the terms of Section 13.5 below, Tenant shall, at its sole expense, procure and maintain the following types of insurance:

(a) Commercial General Liability Insurance protecting Landlord and Tenant against claims for bodily injury, personal injury and property damage based upon, involving or arising out of the ownership, use occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than Three Million Dollars (\$3,000,000) per occurrence and Five Million Dollars (\$5,000,000.00) in the aggregate per location with an "Additional Insured-Managers or Lessors of Premises" Endorsement and contain the "Amendment of the Pollution Exclusion" for damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Tenant's indemnity obligations under this Lease.

(b) "Special Form" fire and extended coverage insurance, including vandalism, malicious mischief, and water damage coverage (including sprinkler leakage and earthquake sprinkler leakage coverage), adequate in amount to cover damage to the Premises, including, without limitation, all leasehold improvements and Work, trade fixtures, furnishings, equipment, goods and inventory and other items of Tenant's property on the Premises, for the full replacement value thereof without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance. Any proceeds of such policy shall be used by Tenant for the replacement of such personal property and the restoration of Tenant's fixtures and improvements.

(c) Statutory workers' compensation insurance as required by law, but in no event less than a One Million Dollar (\$1,000,000) employer's liability limit covering all of Tenant's employees.

(d) Automobile liability insurance with a minimum combined single limit of liability of at least one million dollars (\$1,000,000), including coverage for owned, non-owned and hired vehicles.

(e) Loss-of-income, business interruption and extra-expense insurance in such amounts as will reimburse Tenant for direct and indirect loss of earnings attributable to all perils

commonly insured against by prudent tenants or attributable to prevention of loss of access to the Premises or to the Building as a result of such perils.

13.2 The insurance required under this Section 13 and all renewals thereof shall be issued by such good and responsible insurance companies qualified to do and doing business in the State of California as may be approved by Landlord, which approval shall not be unreasonably withheld. Each policy shall affirmatively state that the policy shall not be canceled or altered in such manner as to adversely affect the coverage afforded thereby without thirty (30) days' prior written notice to Landlord. With respect to property coverage, Landlord shall be named in the "Loss Payee" provision of the policy. With respect to liability coverage (including general liability and automobile liability coverage), Landlord, Landlord's property manager and any other party it so specifies, shall be endorsed onto the policy as an Additional Insured. Each such policy shall contain a cross-liability clause, and a provision that such policy and the coverage evidenced thereby shall be primary and non-contributing with respect to any policies carried by Landlord and that any coverage carried by Landlord shall be excess insurance. Any deductible amounts under any insurance policies maintained by Tenant hereunder shall be subject to Landlord's prior written approval (which shall not be unreasonably withheld), and in any event Tenant shall be responsible for payment of such deductibles in the event of any casualty.

13.3 Tenant shall deliver certificates of such insurance to Landlord on or before the Lease Commencement Date, and thereafter at least thirty (30) days before the expiration dates of expiring policies. In addition, Tenant shall deliver to Landlord, prior to the commencement of any Tenant Work, evidence that all contractors or subcontractors hired by Tenant have obtained and have in effect all insurance with limits as established by Landlord from time to time. In the event that Tenant fails to procure such insurance or to deliver such certificates to Landlord within ten (10) days after written notice thereof, Landlord may, at its option and in addition to Landlord's other rights and remedies in the event of a default by Tenant hereunder, procure same for the account of Tenant, and the cost thereof shall be paid to Landlord as additional Rent.

13.4 The limits of said insurance required by this Lease or as carried by Tenant shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. All insurance carried by Tenant shall be primary to and not contributory with any similar insurance carried by Landlord, whose insurance shall be considered excess insurance only. If at any time and from time to time, an insurance coverage limit specified herein is no longer adequate in the reasonable opinion of Landlord's insurance broker, Tenant shall increase the coverage to the amount specified by Landlord within thirty (30) days after notice thereof from Landlord, provided that Tenant shall not be required to increase its coverage more often than once in any 24-month period.

13.5 Landlord acknowledges that Tenant is permissibly self-insured under applicable provisions of the California Government Code. In connection therewith, Tenant shall provide on an annual basis to Landlord adequate proof of self-insurance and excess liability coverage evidencing proof of coverage as required under this Lease. Tenant shall provide to Landlord a Certificate of Insurance naming Landlord as an "Additional Insured" with respect to the obligations under this Agreement, the use of Premises and any other obligations of Tenant as

required herein Lease, and, to the extent Tenant's self-insurance does not cover in full Tenant's obligations hereunder, Tenant shall comply with the requirements set forth in this Section 13. Because Tenant is a public agency, it shall have the right to provide proof of insurance from its "pooled" insurance provider. Tenant shall provide proof of self-insurance and any other applicable insurance to Landlord concurrent with the execution of this Lease. If Tenant thereafter terminates its self-insurance program, Tenant will give Landlord at least thirty (30) days' prior written notice thereof its election and will simultaneously furnish evidence of the insurance required hereunder. Notwithstanding anything to the contrary herein, Tenant's right to self-insure shall not in any way diminish or reduce Tenant's coverage obligations as set forth herein or the rights, remedies and other benefits afforded Landlord as a consequence thereof or under this Lease.

14. SUBROGATION.

Landlord and Tenant hereby waive any rights each may have against the other for loss or damage to its property or property in which it may have an interest where such loss is caused by a peril of the type generally covered by fire insurance with extended coverage or arising from any cause which the claiming party was obligated to insure against under this Lease, and each party on behalf of its insurer waives any rights of subrogation that the insurer might otherwise have against the other party. The parties agree to cause their respective insurance companies insuring the Premises or insuring the property on or in the Premises to execute any rights of subrogation and Landlord and Tenant shall each indemnify the other against any loss or expense (including reasonable attorneys' fees) resulting from the failure to obtain such waiver.

15. INDEMNIFICATION.

15.1 Except for Landlord's gross negligence or willful misconduct or the gross negligence or willful misconduct of Landlord's agents, employees, contractors or servants, Tenant shall defend and indemnify Landlord and any Landlord Party against and save Landlord and all Landlord Parties harmless from any and all loss, cost, liability, damage and expense, including without limitation penalties, fines and reasonable attorney's fees and costs, incurred in connection with or arising from any cause whatsoever in, on or about the Premises, including without limiting the generality of the foregoing: (i) any default by Tenant in the observance or performance of any of the terms, covenants or conditions of this Lease on Tenant's part to be observed or performed, (ii) the use or occupancy or manner of use or occupancy of the Premises by Tenant or any person or entity claiming through or under Tenant, (iii) the condition of the Premises or any occurrence or happening on the Premises from any cause whatsoever, (iv) any acts, omissions or negligence of Tenant or any person or entity claiming through or under Tenant, or of the agents, contractors, employees, subtenants, licensees, invitees or visitors of Tenant or any such person or entity, in, on or about the Premises or the Building, either prior to the commencement of, during, or after the expiration of the term, including without limitation any acts, omissions or negligence in the making or performing of any alterations, additions or improvements, or (v) any entry by Tenant or any Tenant Agent upon the Real Property prior to the Lease Commencement Date. Tenant further agrees to defend, indemnify and save harmless Landlord, Landlord's agents and the lessors under any ground or underlying leases, from and against any and all loss, cost, liability, damage and expense, including without limitation reasonable attorneys' fees and costs, incurred in connection with or arising from any claims by any persons by reason of injury to persons or damage to property occasioned by any use,

occupancy, condition, occurrence, happening, act, omission or negligence referred to in the preceding sentence, except for Landlord's gross negligence or willful misconduct or the gross negligence or willful misconduct of Landlord's agents, employees, contractors or servants. In the event any action or proceeding is brought against Landlord for any claim against which Tenant is obligated to indemnify Landlord hereunder, Tenant upon notice from Landlord shall defend such action or proceeding at Tenant's sole expense by counsel approved by Landlord, which approval shall not be unreasonably withheld. The provisions of this Section 15.1 shall survive the expiration or earlier termination of this Lease.

15.2 Landlord shall not be responsible for or liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining Premises or any part of the premises adjacent to or connected with the premises or any part of the Building or for any loss or damage resulting to Tenant or its property from burst, stopped or leaking water, gas, sewer or steam pipes or falling plaster, or electrical wiring or for any damage or loss of property within the Premises from any causes whatsoever, including theft, excepting only losses or damages resulting from the gross negligence or willful misconduct of Landlord, and in no event shall Landlord be liable to Tenant for any consequential damages.

16. DAMAGE OR DESTRUCTION.

16.1 Should the Premises or the Building, or any portion thereof, be destroyed by fire, act of God or other casualty, and if the Premises cannot reasonably be repaired or rebuilt to the condition which existed immediately prior to such destruction or casualty within ninety (90) days following the date of the destruction or casualty, Landlord may terminate this Lease by written notice to the Tenant within sixty (60) days following the date of the destruction or casualty, whereupon all Rent, taxes and assessments, and any other sums required to be paid hereunder, paid in advance by Tenant covering periods subsequent to the happening of such destruction or casualty shall be promptly refunded.

16.2 Notwithstanding the terms of Section 16.1 of this Lease, Landlord may elect not to rebuild and/or restore the Premises or the Building 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 shall be damaged by 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 twenty (120) 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 shall require that the insurance proceeds or any portion thereof be used to retire the mortgage debt; or (iii) the damage is substantial and is not fully covered, except for deductible amounts, by Landlord's insurance policies. In addition, if the Premises or the Building is destroyed or damaged to any substantial extent during the last twelve (12) months of the Lease Term, then notwithstanding anything contained in this Section 16, Landlord or Tenant shall have the option to terminate this Lease by giving written notice to the other party 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.

16.3 If this Lease is not terminated pursuant to Section 16.1 or 16.2 above, Landlord, with all reasonable dispatch, subject to reasonable delays for insurance adjustment or other matters beyond Landlord's reasonable control, and subject to all other terms of this Section, shall restore the Building standard tenant improvements of the Premises to the condition which existed immediately prior to such destruction or casualty; provided, however, that if the work of rebuilding or repairing is not completed with due diligence following such destruction or casualty, Tenant shall have the right, by giving written notice to Landlord at any time thereafter until said work is in fact completed, to terminate this Lease. Tenant shall assign to Landlord (or to any party designated by Landlord) all insurance proceeds payable to Tenant under Tenant's insurance required under Section 13.1(b) of this Lease, and Landlord shall repair any injury or damage to the tenant improvements and alterations installed in the Premises, including any above-standard tenant improvements or other improvements installed by or for Tenant and insured by Tenant hereunder; provided that if the cost of such repair by Landlord exceeds the amount of insurance proceeds received by Landlord from Tenant's insurance carrier, as assigned by Tenant, the excess cost of any above Building standard improvement repairs shall be paid by Tenant to Landlord prior to Landlord's repair of the damage. Tenant shall pay the cost of repairing or replacing all Tenant's trade fixtures, furnishings, equipment, specialized improvements in the Premises and other personal property. Notwithstanding anything to the contrary herein, in no event shall Landlord be obligated to repair or restore any specialized or dedicated equipment serving Tenant, such as any cabling, wiring, supplemental utility system, or telecommunications systems of Lines installed by or for Tenant as set forth in Section 20.

16.4 During the period of rebuilding or repairing, Base Rent and Tenant's Prorata Share, or a just proportion thereof according to the extent and effect of destruction or casualty on Tenant's use of the Premises, shall abate.

16.5 A total destruction of the Building shall automatically terminate this Lease. Tenant and Landlord hereby waive California Civil Code sections 1932(2) and 1933(4) and any other similar existing or future law, ordinance or regulation with respect to damage or destruction of leased Premises or with respect to the termination of a lease agreement in the event of such damage or destruction under any circumstances other than as provided in this Section.

17. EMINENT DOMAIN.

If all or any part of the Premises shall be taken as a result of the exercise of the power of eminent domain, including any conveyance or assignment in lieu of any condemnation or taking, this Lease shall terminate as to the part so taken as of the date of taking, and, in the case of a partial taking, either Landlord or Tenant shall have the right to terminate this Lease as to the balance of the Premises by written notice to the other within thirty (30) days after such date; provided, however, that a condition to the exercise by Tenant of such right to terminate shall be that the portion of the Premises taken shall be of such extent and nature as substantially to handicap, impede or impair Tenant's use of the balance of the Premises. The parties waive the provisions of California Code of Civil Procedure section 1265.130 or any similar law allowing either party to petition the Superior Court to terminate this Lease in the event of a partial taking of the Premises. If all of the Premises are taken as a result of the exercise of the power of eminent domain, this Lease shall terminate upon the date of taking. In the event of any taking, Landlord shall be entitled to any and all compensation, damages, income, rent, awards, or any

interest therein whatsoever which may be paid or made in connection therewith, and Tenant shall have no claim against Landlord for the value of any unexpired Term of this Lease or otherwise; provided however, that nothing herein shall prevent Tenant from pursuing a separate award specifically for its relocation expenses and for the taking of any of its personal property or trade fixtures so long as such separate award of Tenant does not diminish any award otherwise due Landlord as a result of such taking or condemnation. In the event of a partial taking of the Premises which does not result in a termination of this Lease, the Rent thereafter to be paid and any other sums required to be paid hereunder shall be equitably reduced. In such event, Landlord shall perform such work as shall be reasonable and necessary to restore the remainder of the Premises to an architectural unit, properly enclosed, with all reasonable and necessary facilities for the continued occupancy thereof by Tenant.

18. ASSIGNMENT AND SUBLETTING.

18.1 Tenant shall not assign, transfer, encumber or hypothecate this Lease, Tenant's leasehold estate hereunder or any interest herein (by operation of law or otherwise) or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than Tenant without the written consent of Landlord first being obtained as set forth herein. The acceptance of any Rent by Landlord from a proposed assignee, sublessee or occupant of the Premises shall not constitute consent to such assignment or sublease by Landlord. If Tenant is a corporation, limited liability company or other entity, the transfer (as a consequence of a single transaction or any number of separate transactions) of fifty percent (50%) or more of the beneficial or equity ownership interest of the Tenant issued and outstanding as of the date hereof, shall constitute an assignment hereunder for which such consent is required. The sale or other transfer, whether pursuant to one or more successive transactions, of more than fifty percent (50%), by value, of the assets of Tenant used in conducting its business in the Premises shall also constitute an assignment for purposes of this Lease. Further, Tenant shall not assign this Lease or sublet the Premises or any portion thereof to any entity which controls, is controlled by or is under common control with Tenant, or to any corporation resulting from merger or consolidation with Tenant, or to any person or entity which acquires all the assets as a going concern of the business of Tenant that is being conducted on the Premises, without the written consent of Landlord as set forth herein. Any of the foregoing acts without such consent shall be void, and, at the option of Landlord, shall be an incurable default under this Lease.

18.2 In the event that Tenant should desire to sublet the Premises or any part thereof, or assign this Lease, Tenant shall provide Landlord with written notice of such desire at least thirty (30) days in advance of the effective date of such subletting or assignment. Such notice shall include: (i) the name of the proposed sublessee or assignee, (ii) the nature of business to be conducted by the proposed sublessee or assignee in the Premises, (iii) the terms and conditions of the proposed assignment or sublease and (iv) the most recent financial statements or other financial information concerning the proposed sublessee or assignee as Landlord may request. At any time within thirty (30) days following receipt of Tenant's notice, Landlord may by written notice to Tenant elect to: (i) terminate this Lease as to the space affected as of the effective date of the proposed subletting or assignment, (ii) consent to the proposed subletting of the Premises or assignment of this Lease, or (iii) disapprove of the proposed subletting or assignment. Landlord may elect to terminate this Lease in its sole and absolute discretion. If Landlord does not elect to terminate this Lease, however, Landlord shall not unreasonably withhold its consent

to a proposed subletting or assignment if Tenant is not in default under this Lease at the time Tenant requests such consent. Without limiting other situations in which it may be reasonable for Landlord to withhold its consent to any proposed assignment or sublease, Landlord and Tenant agree that it shall be reasonable for Landlord to withhold its consent in any one or more of the following situations: (i) in Landlord's reasonable judgment, the proposed subtenant or assignee or the proposed use of the Premises would detract from the status of the Building as a first-class office building or would generate foot traffic or density materially in excess of the amount customary for the Building or would impose a materially greater load upon elevator, janitorial, security or other services that is customary for the Building; (ii) in Landlord's reasonable judgment, the financial worth of the proposed subtenant or assignee does not meet the credit standards applied by Landlord in considering other tenants under leases with comparable terms, or Tenant shall have failed to provide Landlord with reasonable proof of the financial worth of the proposed subtenant or assignee; (iii) in Landlord's reasonable judgment, the business history and reputation in the community of the proposed subtenant or assignee does not meet the standards applied by Landlord in considering other tenants in the Building; or (iv) the proposed subtenant or assignee shall be a then existing or prospective tenant of the Building; provided that in any event Landlord shall be entitled to exercise its right of termination in lieu of consenting to a transfer, as set forth above.

18.3 Any assignment or sublease to which Landlord has consented shall be in a form reasonably satisfactory to Landlord. Any assignment or sublease permitted under this Section shall require the assignee or subtenant to agree therein for Landlord's benefit to assume, to be bound by and to perform the terms, covenants and conditions of this Lease to be done, kept and performed by Tenant. One copy of each such instrument, executed by all parties thereto, shall be delivered to Landlord within seven (7) days of execution.

18.4 Landlord and Tenant agree that seventy-five percent (75%) of any rent or other consideration received or to be received by or on behalf of or for the benefit of Tenant as a result of any assignment or subletting, in excess of the Base Rent and/or Tenant's Prorata Share of Taxes and Operating Expenses which Tenant is obligated to pay Landlord under this Lease (prorated to reflect obligations allocable to that portion of the Premises subject to such sublease) shall be payable to Landlord as additional Rent under this Lease without affecting or reducing any other obligation of Tenant hereunder. Landlord's right to such excess rent and other consideration is expressly reserved from the grant of Tenant's leasehold estate.

18.5 Regardless of Landlord's consent, no subletting or assignment shall release Tenant of Tenant's obligation or alter the primary liability of Tenant to pay the Rent and to perform all other obligations to be performed by Tenant hereunder. The acceptance of Rent by Landlord from any other person shall not be deemed to be a waiver by Landlord of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent or further assignment, subletting, hypothecation or third party use. In the event of default by any assignee or successor of Tenant in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against said assignee or successor. Landlord may consent to subsequent assignment or subletting of the Lease or amendments or modifications to this Lease with assignees of Tenant, without notifying Tenant, or any successor of Tenant, and without obtaining its or their consent thereto and such

action shall not relieve Tenant or any successor of Tenant of liability under this Lease.

18.6 Tenant shall pay Landlord's reasonable attorneys' fees and costs incurred in connection with Tenant's request to assign this Lease or sublet the Premises, whether or not Landlord consents to the proposed transfer.

19. RULES AND REGULATIONS.

Tenant and Tenant's agents, servants and employees, visitors and licensees shall observe and comply strictly with all rules and regulations now adopted or which may hereafter be adopted by Landlord from time to time for the reasonable care, protection, cleanliness and proper operation of the Building ("**Rules**"). All of such Rules shall be deemed a material term in this Lease. A copy of the current Rules are attached herewith as Exhibit B and made a part hereof. Landlord shall have the right to reasonably amend such Rules and supplement the same with other reasonable Rules (not expressly and materially inconsistent with this Lease) relating to the Building and Real Property, or the promotion of safety, care, cleanliness or good order therein, and all such amendments or new Rules shall be binding upon Tenant after five (5) days' notice thereof to Tenant. All Rules shall be applied on a non-discriminatory basis, but nothing herein shall be construed to give Tenant or any other person or entity any claim, demand or cause of action against Landlord arising out of the violation of such Rules by any other tenant, occupant, or visitor of the Building, or out of the enforcement, failure to enforce or waiver of the Rules by Landlord in any particular instance or instances.

20. COMMUNICATIONS AND COMPUTER LINES.

20.1 Tenant may install, maintain, replace, remove or use any communications or computer wires, cables and related devices (collectively the "**Lines**") in or serving the Premises, provided: (a) Tenant, at its sole cost and expense, shall contract with Landlord's Building telecommunications contractor for any vertical or riser connections within the Building, as identified by Landlord from time to time, (b) for any Lines or connections within the Premises, Tenant shall use an experienced and qualified contractor approved in writing by Landlord, obtain Landlord's prior written consent for any such work, and comply with all of the other provisions of this Lease, including, without limitation, Section 8, (c) any such installation, maintenance, replacement, removal or use shall comply with all Laws applicable thereto and good work practices, and shall not interfere with the use of any then existing Lines at the Building, (d) an acceptable number of spare existing Lines and space for additional Lines in the Building's vertical riser shall be maintained for existing and future occupants of the Building, as determined in Landlord's reasonable opinion, (e) if Tenant at any time uses any equipment that may create an electromagnetic field exceeding the normal insulation ratings of ordinary twisted pair riser cable or cause radiation higher than normal background radiation, the Lines therefor (including riser cables) shall be appropriately insulated to prevent such excessive electromagnetic fields or radiation, (f) as a condition to permitting the installation of new Lines, Landlord may require that Tenant remove existing Lines located in or serving the Premises, (g) Tenant's rights shall be subject to the rights of any regulated telephone company, and (g) Tenant shall pay all costs in connection therewith and shall be solely responsible for the existence, repair and maintenance thereof. Landlord reserves the right to require that Tenant remove any Lines located in or serving the Premises which are installed in violation of these provisions, or which are or become at any time in violation of any Laws or represent a dangerous or potentially dangerous condition

(whether such Lines were installed by Tenant or any other party), within three (3) days after written notice.

20.2 Landlord may (but shall not have the obligation to): (i) install new Lines at the Building, (ii) create additional space for Lines at the Building, and (iii) reasonably direct, monitor and/or supervise the installation, maintenance, replacement and removal of, the allocation and periodic re-allocation of available space (if any) for, and the allocation of excess capacity (if any) on, any Lines now or hereafter installed at the Building by Landlord, Tenant or any other party (but Landlord shall have no right to monitor or control the information transmitted through such Lines). Such rights shall not be in limitation of other rights that may be available to Landlord by Law or otherwise. If Landlord exercises any such rights, Landlord may charge Tenant for the costs attributable to Tenant, or may include those costs and all other costs in Operating Expenses (including, without limitation, costs for acquiring and installing Lines and risers to accommodate new Lines and spare Lines, any associated computerized system and software for maintaining records of Line connections, and the fees of any consulting engineers and other experts); provided, any capital expenditures included in Operating Expenses hereunder shall be amortized (together with reasonable finance charges) over the period of time prescribed by Section 3.2(i).

20.3 Notwithstanding anything to the contrary contained in this Lease, Tenant shall remove any or all Lines installed by or for Tenant within or serving the Premises upon termination of this Lease. If Tenant fails to remove such lines, or violates any other provision of this Section, Landlord may, after twenty (20) days' written notice to Tenant, remove such Lines or remedy such other violation, at Tenant's expense (without limiting Landlord's other remedies available under this Lease or applicable Law). Tenant shall not, without the prior written consent of Landlord in each instance, grant to any third party, a security interest or lien in or on the Lines, and any such security interest or lien granted without Landlord's written consent shall be null and void. Except to the extent arising from the intentional or grossly negligent acts of Landlord or Landlord's agents or employees, Landlord shall have no liability for damages arising from, and Landlord does not warrant that the Tenant's use of any Lines will be free from the following (collectively called "**Line Problems**"): (x) any eavesdropping or wire-tapping by unauthorized parties, (y) any failure of any Lines to satisfy Tenant's requirements, or (z) any shortages, failures, variations, interruptions, disconnections, loss or damage caused by the installation, maintenance, replacement, use or removal of Lines by or for other tenants or occupants of the Building, by any failure of the environmental conditions or the power supply for the Building to conform to any requirements for the Lines or any associated equipment, or any other problems associated with any Lines by any other cause. Under no circumstances shall any Line Problems be deemed an actual or constructive eviction of Tenant, render Landlord liable to Tenant for abatement of Rent, or relieve Tenant from performance of Tenant's obligations under this Lease. Landlord in no event shall be liable for damages by reason of loss of profits, business interruption or other consequential damage arising from any Line Problems.

20.4 Concurrently herewith, Landlord is hereby granting to Tenant a license to install an antenna or earth satellite on the roof of the Building or other location designated by Landlord upon the express terms and conditions set forth in Exhibit F, attached hereto and made a part hereof.

21. ENTRY BY LANDLORD.

21.1 Landlord or its agents may enter the Premises at reasonable hours (which shall be deemed to include all normal business hours) and upon reasonable notice (except in emergencies or to provide services are set forth herein) to: (i) inspect the same, (ii) exhibit the same to prospective purchasers, lenders or tenants, (iii) determine whether Tenant is complying with all its obligations hereunder, (iv) supply janitorial service and any other service to be provided by Landlord to Tenant hereunder, (v) post notices of non-responsibility, (vi) maintain the Building, or (vii) make repairs, alterations or additions to the Premises or any other portion of the Building, including the erection and maintenance of such scaffolding, canopies, fences and props as may be required, or for the purpose of placing upon the property of which the Premises are a part any ordinary "for sale" signs, and shall permit Landlord and its agents, at any time within six (6) months prior to the expiration of the Term hereof, to place any ordinary "to lease" signs and exhibit the Premises to prospective Tenants at reasonable hours. Landlord shall conduct all its activities as allowed in this Section in a manner that will not unreasonably interfere with Tenant's use of the Premises. In addition, Landlord and its agents and contractors shall have the right: (i) to use any and all means which Landlord deems proper to enter the Premises at any time in an emergency and (ii) to limit or prevent access to the Building, shut down elevator service, activate elevator emergency controls, or otherwise take such action or preventative measures deemed necessary by Landlord for the safety of tenants or other occupants of the Building or the protection of the Building and other property located thereon or therein, in case of fire, invasion, insurrection, riot, civil disorder, public excitement or other dangerous condition, or threat thereof.

21.2 There shall be no abatement of any Rent by reason of Landlord's entry of the Premises pursuant to this Section and Tenant hereby waives any claim of construction eviction or and claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises or any other loss occasioned by such entry. Landlord shall at all times have and retain a key and/or access card with which to unlock all of the doors in or about the Premises (excluding Tenant's vaults, safes and similar areas designated in writing by Tenant in advance). Landlord shall have the right to use any and all means which Landlord deems proper to open said doors in an emergency in order to obtain entry to the Premises, and any entry to the Premises obtained by Landlord by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be forcible or unlawful entry into or detainer of the Premises or an eviction, actual or constructive, of Tenant from the Premises or any portion thereof.

22. DEFAULT AND REMEDIES.

22.1 Event of Default. The occurrence of any of the following shall constitute a material default and breach of this Lease by Tenant:

(a) Any failure by Tenant to pay when due the Base Rent or any other sum(s) required to be paid pursuant to the terms of this Lease;

(b) The abandonment or surrender of the Premises or if Tenant vacates or fails to take possession of the Premises;

(c) A failure by Tenant to observe and perform any other provision of this Lease to be observed or performed by Tenant if such failure has not been cured by Tenant within fifteen (15) days after notice thereof from Landlord;

(d) The failure by Tenant to comply with the Rules, unless such failure is cured within five (5) days after notice; or

(e) The making of any assignment or sublease in violation of the terms and provisions of Section 18.

22.2 Remedies. In the event of any such default or breach by Tenant, Landlord may, at any time thereafter without limiting Landlord in the exercise of any right or remedy at law or in equity which Landlord may have by reason of such default or breach, do the following:

(a) Maintain this Lease in full force and effect, consistent with Landlord's remedies described in California Civil Code 1951.4, and the Lease will continue in effect so long as Landlord does not terminate Tenant's right to possession, and Landlord shall have the right to collect Rent when due. Landlord shall also have the right to do all acts necessary to maintain or preserve the Premises as Landlord deems reasonable or necessary, including removal of all persons or property from the Premises. Tenant shall be liable immediately to Landlord for all costs Landlord incurs in reletting the Premises, including, without limitation, brokers' commissions, expenses of remodeling the Premises as required by the reletting, and like costs. Reletting by Landlord can be for a term shorter or longer than the remaining Term of this Lease. Tenant shall pay to Landlord the Rent (and other costs) due under this Lease on the dates the Rent is due, less rent Landlord receives from the reletting. No act by Landlord permitted under this Section shall terminate this Lease unless Landlord notifies Tenant that Landlord elects to terminate this Lease. After Tenant's default and for as long as Landlord does not terminate Tenant's right to possession of the Premises, Tenant shall have the right to assign or sublet its interest in this Lease, subject to the written consent of Landlord and consistent with the terms of Section 18, but Tenant shall not be released from liability. Landlord has 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 right to sublet or assign subject only to reasonable limitations).

(b) Subject to the rights and remedies provided by California Civil Code Section 1951.2, terminate Tenant's right to possession by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including without limitation thereto, the following: (a) the worth at the time of award of any unpaid Rent which had been earned at the time of such termination; plus (b) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that is proved could have been reasonably avoided; plus (c) the worth at the time

of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that is proved could be reasonably avoided; plus (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom; plus (e) 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 State Laws. Upon any such re-entry Landlord shall have the right to make any reasonable repairs, alterations or modifications to the Premises, which Landlord in its sole discretion deems reasonable and necessary. As used in (a) above, the "worth at the time of award" is computed by allowing interest from the date of default at the rate of ten percent (10%) per annum or the maximum allowed by law, whichever is less. As used in (b) and (c) the "worth at the time of award" is computed by discounting such amount at the discount rate of the U.S. Federal Reserve Bank at the time of award plus one percent (1%). In connection with any exercise by Landlord of the rights provided herein, Tenant waives all rights of redemption or relief from forfeiture under Sections 1174 and 1179 of the California Code of Civil Procedure and California Civil Code Section 3275 and under any other present or future law, in the event Tenant is evicted or Landlord otherwise lawfully takes possession of the Premises by reason of any default by Tenant.

(c) The remedies provided for in this Lease are in addition to any other remedies available to Landlord at law or in equity by statute or otherwise.

22.3 Landlord's Right to Cure Defaults. All agreements and provisions to be performed by Tenant under any of the terms of this Lease shall be at its sole cost and expense and without any abatement of Rent. If Tenant shall fail to pay any sum of money, other than Rent, required to be paid by it hereunder, or shall fail to perform any other act on its part to be performed hereunder and such failure shall continue for ten (10) days after notice thereof by Landlord, or a shorter period if additional damage may result, Landlord may, to protect its interests, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such other act on Tenant's part to be made or performed as provided herein. All sums so paid by Landlord and all necessary incidental costs shall be deemed additional Rent hereunder and shall be payable with interest from the date Landlord makes such payments until paid by Tenant, at the rate of ten percent (10%) per annum or the maximum allowed by law, whichever is less, and Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of Rent.

22.4 Default by Landlord. Landlord shall not be deemed to be in default under this Lease unless Landlord has failed to perform any obligation within sixty (60) days after written notice by Tenant to Landlord specifying such failure; provided, however, that if Landlord requires more than sixty (60) days to perform such obligation, then Landlord shall not be deemed to be in default if Landlord commences performance within such sixty (60) day period and thereafter diligently prosecutes performance.

23. INSOLVENCY OR BANKRUPTCY.

The occurrence of any of the following events shall constitute a default under this Lease by Tenant: (i) the appointment of a receiver to take possession of all or substantially all of the assets of Tenant or the Premises, (ii) an assignment by Tenant for the benefit of creditors, (iii) any action taken or suffered by Tenant as debtor under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted, (iv) the filing of any voluntary petition in bankruptcy by Tenant, or the filing of any involuntary petition by Tenant's creditors, which involuntary petition remains undischarged for a period of sixty (60) days, (v) the attachment, execution or other judicial seizure of all or substantially all of Tenant's assets or the Premises, if such attachment or other seizure remains undismissed or undischarged for a period of thirty (30) days after the levy thereof, (vi) the admission by Tenant in writing of its inability to pay its debts as they become due, (vii) the filing by Tenant of any answer admitting or failing timely to contest a material allegation in any proceeding filed against Tenant seeking reorganization, arrangement, composition, readjustment, liquidation or dissolution of Tenant or similar relief or the filing or commencement of any proceeding by Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, (viii) the issuance of an order by a court of competent jurisdiction that Tenant be dissolved and/or that substantially all of the assets of Tenant be sold or assigned or (ix) the failure of Tenant to provide prompt written notice to Landlord of any of the foregoing occurrences. Tenant shall not assign, mortgage or encumber this Lease, nor sublet, suffer or permit the Premises or any part thereof to be used by others, without the prior written consent of Landlord in each instance; provided, however, that if this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. §§ 101, et seq. (the "**Bankruptcy Code**"), any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord, shall be and remain the exclusive property of Landlord and shall not constitute property of Tenant or the estate of Tenant within the meaning of the Bankruptcy Code. Any and all monies or other consideration constituting Landlord's property under the preceding sentence not paid or delivered to Landlord shall be held in trust for the benefit of Landlord and shall be promptly paid or delivered to Landlord. Notwithstanding the provisions of Section 22.1, there shall be no cure periods for any of the events described in this Section, except to the extent expressly provided in this Section.

24. ESTOPPEL CERTIFICATE.

Tenant shall within ten (10) days after receipt of a request therefor from Landlord execute, acknowledge and deliver to Landlord a statement in writing: (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect and the date to which the Rent and other charges are paid is in full force and effect and the date to which the Rent and other charges are paid in advance, if any), (ii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed, and (iii) certifying such other matters as may be requested by Landlord's lender or as may be reasonably requested by Landlord. Any such statement may be conclusively relied upon by a prospective purchaser or encumbrancer of the Premises. If Landlord desires to finance or refinance the Building or any part thereof, Tenant hereby agrees to deliver to any lender designated by Landlord such financial statements of Tenant as may be

reasonably required by such lender. All such financial statements shall be received by Landlord in confidence and shall be used only for the purposes herein set forth.

25. SUBORDINATION.

25.1 This Lease shall be subordinate to any ground lease, mortgage, deed of trust, or any other hypothecation for security now or hereafter placed upon the Real Property, to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof and to all other encumbrances and matters of public record applicable to the Real Property. The foregoing provision shall be self-operative without the need of any further execution or delivery of documents to offset said subordination. Notwithstanding the foregoing, (i) if any mortgagee, trustee or ground lessor shall elect to have this Lease prior to the lien of its mortgage or deed of trust or prior to its ground lease, and shall give notice thereof to Tenant, this Lease shall be deemed prior to such mortgage or deed of trust, or prior to its ground lease, whether this Lease is dated prior or subsequent to the date of said mortgage, deed of trust or ground lease or the date of recording thereof, and (ii) Tenant's agreement to subordinate its interest under this Lease to a lien or ground lease not in existence as of the date of this Lease shall be conditioned upon the holder of such lien, or a ground lessor, as applicable, confirming in writing that Tenant's leasehold interest hereunder shall not be disturbed so long as Tenant is not in default under this Lease.

25.2 In the event any mortgage or deed of trust to which this Lease is subordinate is foreclosed or a deed in lieu of foreclosure is given to the mortgagee or beneficiary, Tenant shall attorn to the purchaser at the foreclosure sale or to the grantee under the deed in lieu of foreclosure; in the event any ground lease to which this Lease is subordinate is terminated, Tenant shall attorn to the ground lessor. Tenant agrees to execute any documents required to effectuate such subordination, to make this Lease prior to the lien of any mortgage or deed of trust or prior to any ground lease, or evidence such attornment. In the event any mortgage or deed of trust to which this Lease is subordinate is foreclosed or a deed in lieu of foreclosure is given to the mortgagee or beneficiary, or in the event any ground lease to which this Lease is subordinate is terminated, this Lease shall not be barred, terminated, cut off or foreclosed nor shall the rights and possession of Tenant hereunder be disturbed if Tenant shall not then be in default in the payment of rental and other sums due hereunder or otherwise be in default under the terms of this Lease beyond any applicable notice and cure period or, if requested, enter into a new lease for the balance of the term hereof upon the same terms and provisions as are contained in this Lease. Tenant shall execute and deliver upon demand, without charge therefor, in recordable form, such further instruments evidencing any subordination of this Lease to such ground or underlying leases, and to the lien of any such mortgages or deeds of trust as may reasonably be required by Landlord or its lender.

25.3 In no event will Landlord be deemed to be in default under this Lease until the Tenant shall have given written notice of such failure to any holder of a mortgage or to any ground lessor of which Tenant shall have been advised in writing and until a reasonable period of time shall have elapsed following the giving of such notice, during which such holder or ground lessor shall have the right, but not the obligation, to remedy such failure.

26. MODIFICATIONS AND FINANCING CONDITIONS.

Landlord may after the date of this Lease obtain financing for the Real Property and the operation thereof, secured by mortgages or deeds of trust encumbering the Building. If any mortgage lender should require, as a condition to such financing, or pursuant to rights of approval set forth in the mortgage or deed of trust encumbering the Real Property, or any portion thereof, any modification of the terms or conditions of this Lease, Tenant agrees to execute such modification or amendment, provided that, such modification or amendment shall not increase the Base Rent or Tenant's Prorata Share, materially interfere with or alter Tenant's use, enjoyment or occupancy of the Premises or materially increase Tenant's obligations or liability under this Lease

27. **CHANGES BY LANDLORD.**

27.1 Landlord reserves the right from time to time, without liability to Tenant of any kind (including without limitation for loss of business or profits), to use any of the Common Areas of the Building and/or Real Property, and the roof, risers and conduits of the Building for telecommunications and/or any other purposes; make any changes, additions, improvements, repairs and/or replacements in or to the Building or any portion or elements thereof; to change, add to, eliminate or reduce the extent, size, shape, number or configuration of any aspect of the Building or its operations; to temporarily close to the general public all or any portion of the Building to the extent and for the period necessary to avoid any dedication to the public; to effect any repairs or further construction; to change the arrangement, character, use or location of entrances or passageways, exists, doors and doorways, corridors, loading and unloading areas, ingress, egress, elevators, stairs, atria, landscaping, toilets, mechanical, plumbing, electrical or other operating systems or any other portions of the Common Area or other parts of the Building; to change Common Area to rental space and rental space to Common Area; to utilize portions of the Common Areas for entertainment, displays, product shows, art work, the leasing of temporary or permanent kiosks or such other uses as, in Landlord's judgment, tend to attract the public; to locate (both vertically and horizontally), relocate, install, maintain, use, service, repair and replace pipes, conduits, facilities and structural elements as may be located in the Premises for the common use and benefit of Landlord and other tenants of the Building; to add or install energy-saving devices; to change the name, number or designation by which the Building is commonly known; and to perform such other acts and make such other changes with respect to the Real Property as Landlord may, in the exercise of good faith business judgment, deem to be appropriate; provided, however, Landlord shall not unreasonably interfere with Tenant's use of the Premises. Landlord shall have the exclusive right to use all exterior walls, roofs and other portions of the Building (excluding the interior of the Premises) for signs, notices, promotional purposes and all other purposes which Landlord deems necessary or desirable

27.2 Landlord shall have the right to relocate Tenant to other space in the Building reasonably comparable to the Premises, and all terms and conditions of the Lease shall apply to the new space with equal force and effect. If Landlord decides to relocate Tenant, Landlord shall: (i) give Tenant at least sixty (60) days prior notice of Landlord's intention to relocate the Premises, which notice shall include an identification of the proposed new premises; (ii) provide Tenant with new premises substantially the same in size and nature as the Premises, as determined by Landlord in Landlord's reasonable discretion; (iii) provide Tenant, at Landlord's expense, with improvements at least equal in quality to those in the Premises; and (iv) move Tenant's furniture, fixtures and equipment, at Landlord's expense, to the new premises at a time

and in a manner that will inconvenience Tenant as little as possible. Upon a relocation of the Premises, the parties shall execute an amendment to the Lease confirm such relocation and identifying the new premises. After the date on which Tenant is relocated to the new premises, the term "Premises" in the Lease shall refer to the new premises.

28. SIGNAGE.

Tenant shall be entitled, at Landlord's cost and expense, to an identification sign providing for Tenant's business name on or near the entry doors of the Premises and, for multi-tenant floors, an identification or directional sign, as designated by Landlord, in the elevator lobby on the floor on which the Premises are located. Such signs shall be installed by a signage contractor designated by Landlord. The location, quality, design, style and size of such signs shall be consistent with the Landlord's Building standard signage program. Except for such identification signs, Tenant may not install any signs on the exterior or roof of the Building or the Common Areas. 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 approval of Landlord, in its sole and absolute discretion.

29. NON-DISCRIMINATION BY TENANT.

Tenant covenants by and for Tenant and Tenant's successors and assigns and all persons claiming under Tenant or through Tenant that this Lease is made subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, creed, sex, sexual orientation, or national origin in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises herein leased nor shall Tenant or any person claiming under or through Tenant establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, employees or vendees of the Premises herein leased.

30. BROKERS.

Tenant represents that it has dealt only with the broker, if any, identified in the Summary (whose commission shall be paid by Landlord pursuant and subject to separate written agreement) as broker, agent or finder in connection with this Lease. Tenant represents and warrants to Landlord that no other broker, agent, finder or similar entity has represented Tenant with respect to this Lease and that Tenant knows of no other broker, agent or finder who is, or might be entitled to a commission or compensation in connection with this Lease. Any broker, agent or finder whom Tenant has failed to disclose herein shall be paid by Tenant. Tenant shall pay the commission or fee of any other broker, agent, finder or similar entity acting for Tenant or claiming any commissions or fee on the basis of contacts or dealings with Tenant and not herein disclosed by Tenant, and Tenant shall hold Landlord harmless from all damages and indemnify Landlord from and against any claims made by any such broker, agent, finder or similar entity and any and all costs and damages suffered by Landlord as a consequence thereof, including, without limitation, reasonable attorney's fees.

31. CONFIDENTIALITY.

Except as may be reasonably necessary for the performance of each party hereto and as a material inducement for Landlord to enter into this Lease, Tenant shall not disclose or release, or permit to be disclosed or released, to any person, directly or indirectly, by themselves or any of their respective employees, attorneys or agents, orally or in writing, the commercial terms, conditions or covenants of this Lease, and shall take all steps reasonably necessary or appropriate to preserve the confidentiality thereof, and to prevent any unauthorized duplication, distribution, or release thereof, or of any summary thereof. Notwithstanding any provision to the contrary herein contained, Tenant shall not be prohibited from disclosing or releasing a copy of this Lease or a summary of its terms, conditions or covenants (a) to any accountant or auditor retained by any party, to examine and report on the books and records and/or the financial condition of the parties hereto, or (b) to counsel or regulators of Tenant, or (c) to any current or prospective shareholder, member, partner or other owner of Tenant, or (d) when required to do so pursuant to any order, subpoena, summons, or other legal process issued by any court, governmental body, or governmental investigator, by which Tenant is legally bound to produce the same. The foregoing covenants shall not apply to any document or the contents thereof which may be disclosed in public records of any kind or which are otherwise deemed to be in the public domain. Tenant's covenants as set forth herein constitute a material inducement for Landlord to enter into this Lease and any violation by Tenant of its obligations as set forth in this Section shall constitute a material breach of this Lease.

32. NOTICES.

Every notice, consent, demand or other communication to be given by either party to the other with respect hereto or to the Premises, the Building or Real Property, shall be in writing and shall not be effective for any purpose unless the same shall be served personally or by national air courier service, or United States certified mail, return receipt requested, postage prepaid, addressed, if to Landlord and Tenant at the addresses set forth in the Summary, or such other address or addresses as Tenant or Landlord may from time to time designate by notice given as above provided. Every notice or other communication hereunder shall be deemed to have been given as of the third business day following the date of such mailing (or as of any earlier date evidenced by a receipt from such national air courier service or the United States Postal Service) or immediately if personally delivered. Notices not sent in accordance with the foregoing shall be of no force or effect until received by the foregoing parties at such addresses required herein.

33. QUIET ENJOYMENT.

If and for so long as Tenant pays Rent, performs the covenants and conditions hereof and is not otherwise in default hereunder, Tenant shall peaceably and quietly have, hold and enjoy the Premises for the full Term of this Lease and any renewals thereof, subject, however, to the terms and conditions of this Lease and any instruments or encumbrances to which this Lease is subordinate. Notwithstanding the foregoing, Tenant acknowledges, understands and agrees that the Building is a multi-tenant building and that there will be periods during the Lease Term when Landlord is completing improvements therein or making other alterations as permitted herein, including locations near the Premises. This covenant (and any and all other covenants of Landlord contained in this Lease) shall be binding upon Landlord and its successors only with respect to breaches occurring during its or their respective ownerships of Landlord's interest hereunder.

34. HOLDING OVER.

Any holding over after the expiration of the Term with the consent of Landlord shall be construed to be a tenancy from month-to-month at one hundred fifty percent (150%) of the Rent payable during the final full month of the Lease, together with an amount estimated by Landlord for the monthly additional Rent payable under this Lease, and shall otherwise be on the terms and conditions herein specified so far as applicable. No holding over by Tenant after the Term shall operate to extend the Term. In the event of any unauthorized holding over, Tenant shall indemnify, defend and hold harmless Landlord from and against all claims for damages by any other tenant to which Landlord may have leased all or any part of the Premises commencing upon or after the expiration of the Term. Any holding over without Landlord's consent shall entitle Landlord to reenter the Premises as provided in Section 22, and to enforce all other rights and remedies provided at law, in equity or under this Lease.

35. MISCELLANEOUS PROVISIONS.

35.1 Entire Agreement. This Lease, along with any exhibits and attachments hereto, constitute the entire agreement between Landlord and Tenant relative to the Premises and this Lease and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant. Landlord and Tenant agree hereby that all prior or contemporaneous oral agreements between and among themselves and their agents and representatives relative to the leasing of the Premises are merged in or revoked by this Lease.

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

35.3 Waiver. No covenant, term, condition hereunder or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver or the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition herein contained, nor shall custom or practice which may grow between the parties in the administration of the terms hereof be construed to waive or lessen the right of such party to insist upon the performance by the other party in strict accordance with said terms. Acceptance by Landlord of any performance by Tenant after the time the same shall have become due shall not constitute a waiver by Landlord of the breach or default of any covenant, term, or condition unless otherwise expressly agreed to by Landlord in writing.

35.4 Survival. All of Tenant's covenants, indemnities and similar obligations contained in this Lease shall survive the expiration or earlier termination of this Lease. No provision of this Lease providing for termination in certain events shall be construed as a limitation or restriction on Landlord's rights and remedies at law or in equity available upon a default by Tenant under this Lease.

35.5 No Light, Air or View Easement. Any diminution or shutting off of light, air or view to the Premises or any part thereof, or the Building or Real Property, by the Building or any personal property, fixture or improvement which may be erected in or upon the premises of any other tenant, any portion of the Building or Real Property other than the Premises or on lands adjacent to the Building shall in no way affect this Lease or impose any liability on Landlord.

35.6 No Merger. The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work as a merger and shall, at the option of the Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or subtenancies.

35.7 Authority. If Tenant is a corporation, limited liability company or other entity, each individual executing this Lease on behalf of said corporation represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of said entity in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with such other form of authorization as may be applicable, and that this Lease is binding upon said entity in accordance with its terms.

35.8 Financial Representations. Tenant represents and warrants that any and all financial statements and other information furnished to Landlord as of the execution of this Lease are true and correct. Tenant further represents and warrants that none of the statements, information and representations made by Tenant in connection with its financial position contains any untrue statement of a material fact, or omits any material fact, the omission of which would make the statement, information or representation made by Tenant misleading.

35.9 No Pending Litigation. Tenant represents and warrants to Landlord that, as of the date of execution and delivery of this Lease by Tenant, neither Tenant nor any of its officers, directors, trustees, agents, employees, members or partners is subject to any existing, threatened or pending litigation, judgment or administrative hearing that is likely to result in a materially adverse impact on the resources, business or reputation of Tenant.

35.10 Consent of Landlord. Whenever the consent of Landlord is referred to in this Lease, such consent must be in writing executed by an officer of Landlord, or a designee authorized by an officer of Landlord in writing.

35.11 Headings. The captions of the paragraphs and sections of this Lease are for convenience only and are not a part of this Lease and shall have no effect upon the construction and interpretation of this Lease.

35.12 Parties. The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. If there be more than one Tenant, the obligations hereunder imposed upon Tenant shall be joint and several.

35.13 Successors and Assigns. The terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and, except as otherwise

provided herein, their respective personal representatives, successors, assigns, heirs and marital communities.

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

35.15 Cumulative Remedies. All remedies hereinbefore and hereafter conferred upon Landlord shall be deemed cumulative and no one shall be exclusive of the other, or shall in any way limit the availability to Landlord of any other remedy conferred by law, whether or not specifically conferred by the provisions of this Lease.

35.16 Governing Law; Consent to Jurisdiction and Venue. Regardless of where or in what sequence this Lease is executed, it shall be deemed to be made and entered into in California and shall be governed by, and construed in accordance with, the laws of the State of California applicable to leases made and entirely performed in California by California residents. Each party expressly consents to the personal jurisdiction of either the California courts or the United States District Courts located in the State of California and agrees that any action relating to or arising out of this Lease shall be instituted and prosecuted only in the Municipal or Superior Court of the County of Alameda or the United States Federal District Court for the Northern District of California, except that actions to enforce any judgment or writ of attachment shall be prosecuted through the courts of the state in which the assets subject to such enforcement action are located. Each party waives any right to a change of the aforesaid venue and any and all objections to the jurisdiction of the California courts or the Federal courts over the parties hereto.

35.17 Jury Trial; Attorneys' Fees. IF EITHER PARTY COMMENCES LITIGATION AGAINST THE OTHER FOR THE SPECIFIC PERFORMANCE OF THIS LEASE, FOR DAMAGES FOR THE BREACH HEREOF OR OTHERWISE FOR ENFORCEMENT OF ANY REMEDY HEREUNDER, THE PARTIES HERETO AGREE TO AND HEREBY DO WAIVE ANY RIGHT TO A TRIAL BY JURY. In the event of any such commencement of litigation or any other proceeding, 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.

35.18 Waiver of Redemption by Tenant. Tenant hereby waives for Tenant and for all those claiming under Tenant all right now or hereafter existing to redeem by order or judgment of any court or by any legal process or writ, Tenant's right of occupancy of the Premises after any termination of this Lease.

35.19 Memorandum of Lease. Tenant shall, upon request of Landlord, execute, acknowledge and deliver a short form memorandum of this Lease (and any amendment hereto or consolidation hereof), in form suitable for recording. In no event shall this Lease or any memorandum hereof be recorded without the prior written consent of Landlord, and any attempt to do so shall constitute a default hereunder by Tenant. The party requesting recordation shall be solely responsible for all costs and expenses associated with such recordation, including without limitation any transfer taxes.

35.20 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, except with respect to the obligations imposed with regard to Rent and other charges to be paid by Tenant pursuant to this Lease (collectively, the “**Force Majeure**”), 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.

35.21 Counterparts and Signatures. This Lease may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. In addition, the parties agree that this Lease may be delivered either by a party or its counsel by fax or electronically (by email transmission) to the other party or its counsel and that signatures so transmitted shall be deemed to be binding on the party whose signature is so transmitted.

35.22 Full Execution Required. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option to lease, and it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant.

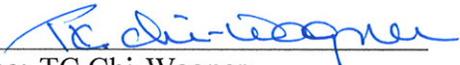
35.23 Condition Precedent; Board of Education Approval. This Lease, and the obligations of the parties set forth herein shall be conditioned on approval by the Board of Education on or before June 30, 2013. If such approval is not obtained, this Lease shall terminate and be of no further force or effect.

[Signatures on next page]

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first above written.

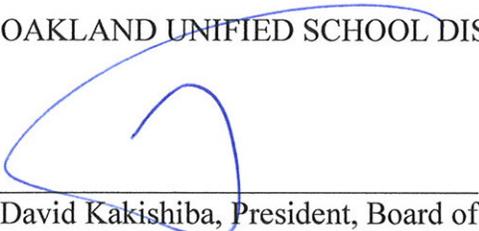
LANDLORD:

SPARKNIGHT, LLC
a Florida limited liability company
By: World Gateway Investments, Inc.
Its: Managing Member

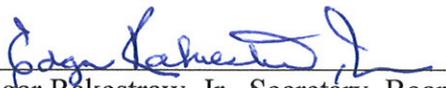
By: 
Name: TC Chi-Wagner
Title: V.P. Accounting & Finance

TENANT:

OAKLAND UNIFIED SCHOOL DISTRICT


David Kakishiba, President, Board of Education

Date: 6/27/13


Edgar Rakestraw, Jr., Secretary, Board of Education

Date: 6/27/13

APPROVED AS TO FORM:


Jacqueline Minor, General Counsel

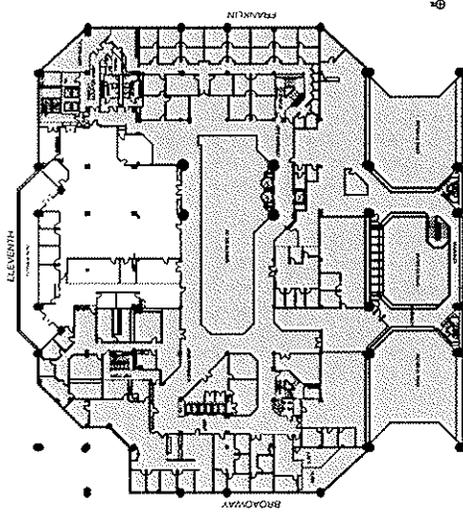
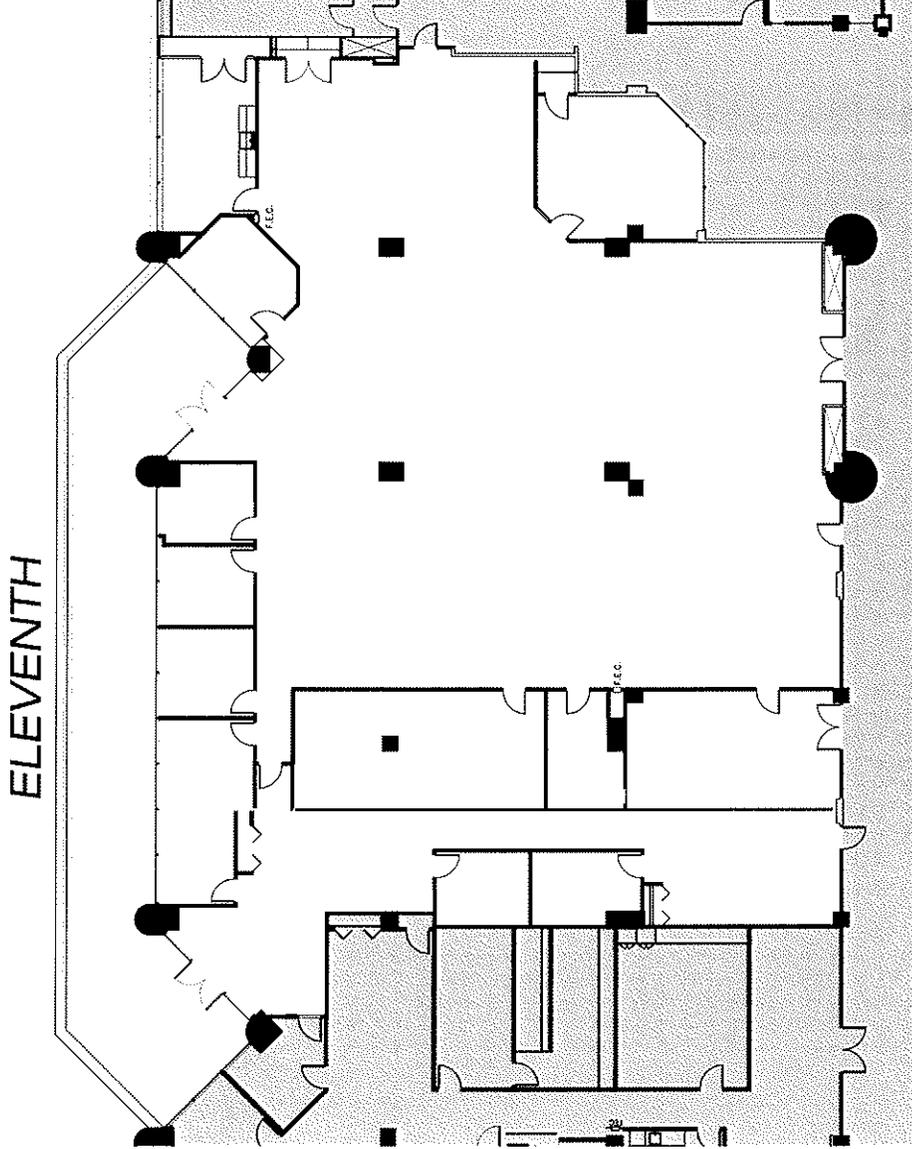
Date: 6/21/2013

EXHIBIT A
FLOOR PLANS OF PREMISES

160 Pine Street
San Francisco, CA 94111
Tel 415.781.9800
Fax 415.788.5216
www.rmw.com

RMWthink
architecture & interiors

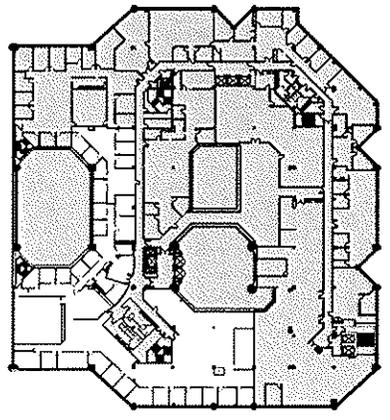
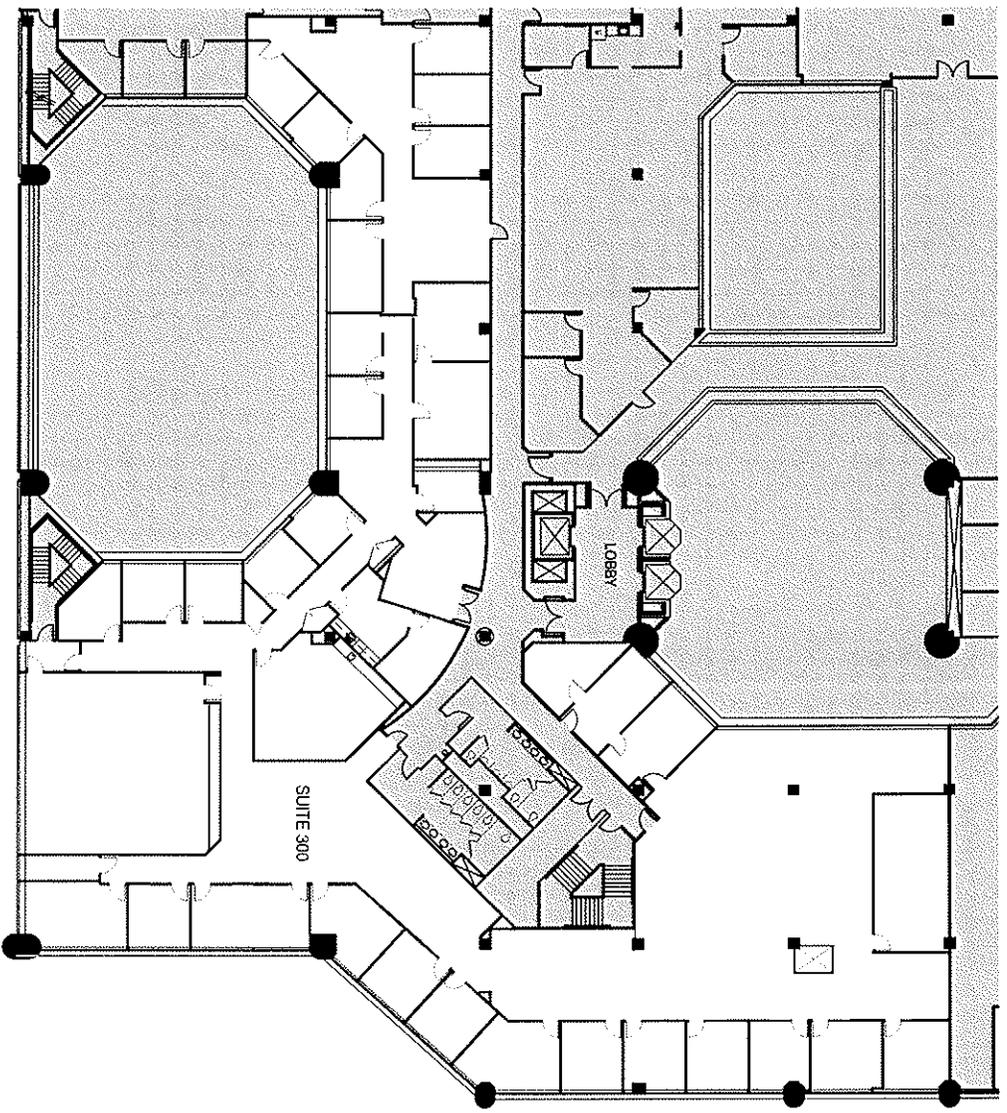
LEASE EXHIBIT A
SUITE 294 & 295
11,513 RSF



project : SUITE 294 +295
1000 BROADWAY, 2ND FLOOR, OAKLAND, CA

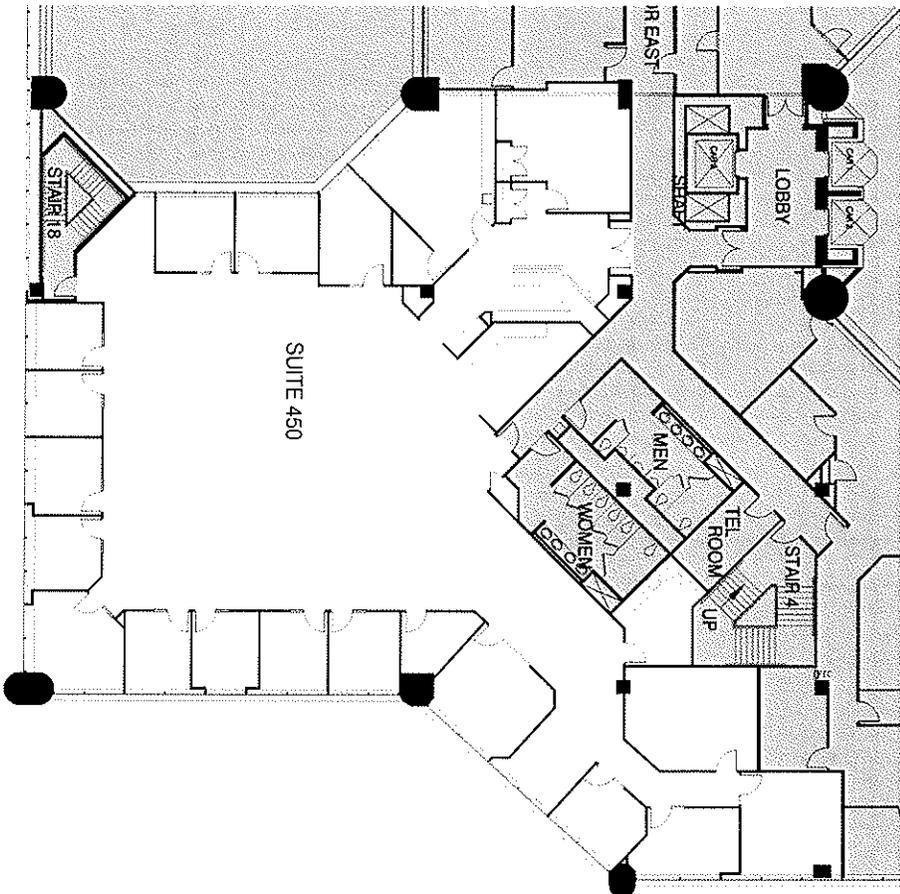
number : 2703515 date : 06.11.13 scale : NTS

LEASE EXHIBIT A
SUITE 300
18, 379 RSF

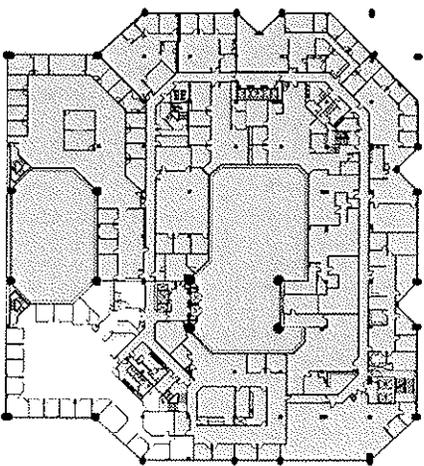


project : SUITE 300
1000 BROADWAY 3rd FLOOR OAKLAND, CA

number : 27035.15 date : 05.31.13 scale : NTS



LEASE EXHIBIT A
SUITE 450
9,494 RSF



Project : SUITE 450
1000 BROADWAY ST, 4TH FLOOR, OAKLAND, CA

number : 27035.15

date : 05.31.13

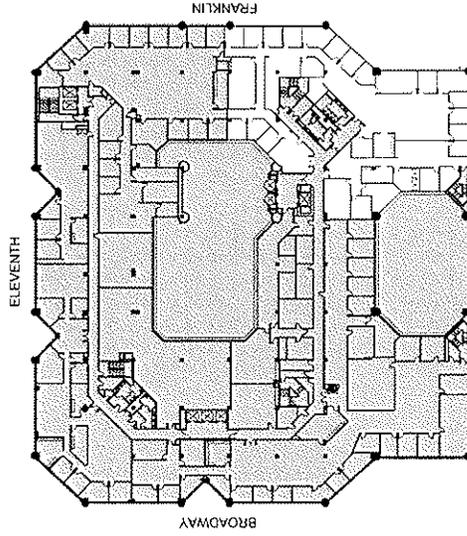
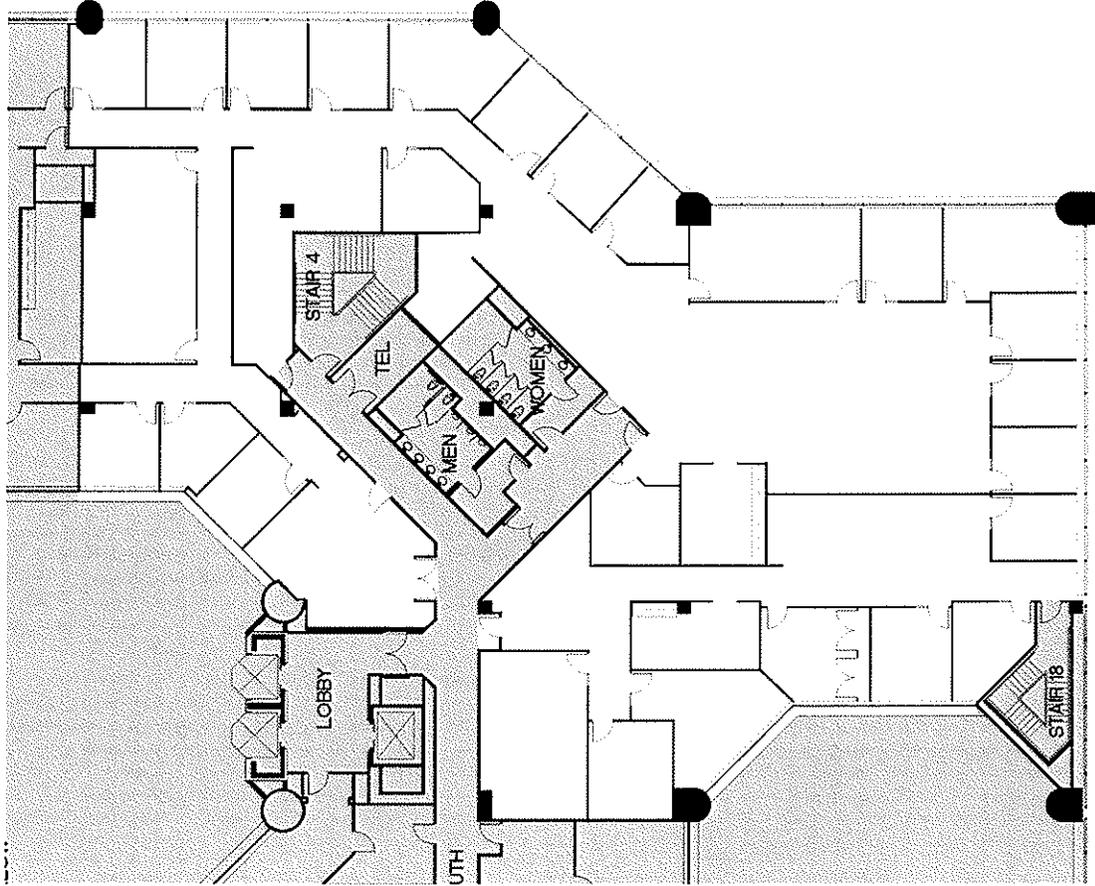
scale : NTS

160 Pine Street
San Francisco, CA 94111
Tel: 415.781.9800
Fax: 415.788.5216
www.rmw.com

RMWthink

architecture & interiors

LEASE EXHIBIT A
SUITE 680
12,937 RSF



project : SUITE 680
1000 BROADWAY, 6TH FLOOR, OAKLAND, CA

number : 27035.15

date : 06.11.13

scale : NTS

EXHIBIT B
BUILDING RULES AND REGULATIONS

1. The sidewalks, halls, passages, exits, entrances, elevators and stairways to the Building shall not be obstructed by any of the tenants or used by them for any purpose other than for ingress to and egress from their respective premises. The halls, passages, exits, entrances, elevators and stairways are not for the general public, and Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence, in the judgment of Landlord, would be prejudicial to the safety, character, reputation and interests of the Building and its tenants. No tenant and no employee or invitee of any tenant shall go upon the roof of the Building or access the mechanical, electrical or telephone rooms of the Building.

2. No sign, placard, picture, name, advertisement or notice visible from the exterior of any tenant's premises shall be inscribed, painted, affixed or otherwise displayed by any tenant on any part of the Building without the prior written consent of Landlord, which consent Landlord may withhold in its sole discretion. Landlord has developed Building standard signage for the Building's retail and office space. Tenant agrees to conform to such guidelines. All approved signs shall be ordered through the Building office and paid for by tenant, and the cost of affixing such signage shall be pay by tenant. Material visible from outside the Building will not be permitted.

3. The Premises shall not be used for the storage of merchandise held for sale to the public or for lodging. No cooking shall be done or permitted by any tenant on its premises, except that use by the Tenant of Underwriter's Laboratory-approved equipment for brewing coffee, tea, hot chocolate and similar beverages shall be permitted, and the use of two (2) microwave ovens shall be permitted, provided that (i) such use is in accordance with all applicable federal, state and city laws, codes, ordinances, rules and regulations, (ii) such equipment is equipped with a timer or similar device to turn off all heating elements automatically at such times as the equipment is not in use, and (iii) if Tenant uses a microwave oven, Tenant installs a dedicated circuit used solely for such microwave oven.

4. No tenant shall employ any person or persons other than the janitor of Landlord for the purpose of cleaning its premises, unless otherwise agreed to by Landlord in writing. Except with the written consent of the Landlord, no person or persons other than those approved by Landlord shall be permitted to enter the Building for the purpose of cleaning the same. No tenant shall cause any unnecessary labor by reason of such tenant's carelessness or indifference in the preservation of good order and cleanliness. Except as otherwise expressly stated in the Lease, all janitorial work and engineering services for the premises shall be paid for by the Tenant.

5. Landlord will furnish each tenant free of charge with two keys to each door lock in its premises. Landlord may make a reasonable charge for any additional keys. No tenant shall have any keys made. No tenant shall alter any lock or install a new or additional lock or any bolt on any door of its premises without the prior written consent of the Landlord. Tenant shall in each case furnish Landlord with a key for any such lock. Each tenant, upon the

termination of its tenancy, shall deliver to Landlord all keys to doors in the Building which shall have been furnished to Tenant.

6. No tenant shall use or keep in its premises of the Building any kerosene, gasoline or flammable or combustible fluid or material other than limited quantities thereof reasonably necessary for the operation or maintenance of office equipment, or, without Landlord's prior written approval, use any method of heating or air conditioning other than that supplied by Landlord. No tenant shall use or keep or permit to be used or kept any foul or noxious gas or substance in its premises, or permit or suffer its premises to be occupied or used in a manner offensive, immoral or objectionable to Landlord other occupants of the Building by reason of noise, odors or vibrations, or interfere in any way with other tenants or those having business therein, nor shall Tenant bring into or keep in or about the Premises any birds or animals, except service animals when accompanied by their masters.

7. Landlord reserves the right to exclude from the Building between the hours of 6 p.m. and 7 a.m. weekdays and at all hours on Saturdays and Sundays, and Building holidays, all persons who do not present a pass to the Building signed by Landlord. Landlord may elect to furnish passes to persons for whom any tenant requests the same in writing. Each tenant shall be responsible for all persons for whom it requests passes and shall be liable to Landlord for all acts of such persons. Notwithstanding the foregoing, Landlord may, in consultation with its security consultants and Building Manager, implement an alternative method of controlling or restricting access to the Building during the hours specified above or otherwise. Landlord shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. In the case of invasion, mob, riot, public excitement or other circumstances rendering such action advisable in Landlord's opinion, Landlord reserves the right to prevent access to the Building during the continuance of the same by such action as Landlord may deem appropriate, including closing and locking doors.

8. Without the consent of Landlord, Tenant shall not use the name of the Building in connection with or in promoting or advertising the business of Tenant except as Tenant's address.

9. Upon prior written notice to Tenant, Landlord shall have the right, exercisable without liability to any tenant, to change the name and street address of the Building.

10. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency. In connection therewith, Tenant (or a representative appointed by Tenant) shall attend all life-safety training sessions offered by Landlord from time to time during the term of the Lease. Further, Tenant, and any employees of Tenant working in the Building, shall attend and participate in at least one of Landlord's practice emergency evacuation per year.

11. Except for Landlord's sole negligence or willful misconduct, Tenant 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 closed.

12. Tenant shall not use any method of heating or air-conditioning other than that supplied by Landlord.

13. When wiring of any kind is introduced, it must be connected as directed by Landlord and no boring or cutting for wires will be allowed except with the consent of Landlord. The location of telephones, electrical outlets and other office equipment affixed to the Premises shall be prescribed by Landlord.

14. Tenant shall not mark, drive nails, screw or drill into partitions, woodwork or plaster or in any way deface the Premises or any part thereof, except to install normal wall hangings. Landlord reserves the right to direct electricians as to where and how telephone and other telecommunication wires or cabling are to be introduced into the Premises. Tenant shall not cut or bore holes for wires. Tenant shall not affix any floor covering to the floor of the Premises in any manner except as approved by Landlord. Tenant shall repair any damage resulting from noncompliance with this rule.

15. Tenant shall not allow anything to be placed against or near the glass in the partitions or in the doors between its Premises and in the halls, corridors or exterior of the Premises or Building. The doors between the Premises and the corridors of the Building shall at all times, except when in actual use for ingress and egress, be kept closed.

16. Tenant shall not place a load upon any floor of the Premises which exceeds the load per square foot which such floor is designated to carry and which is allowed by law. Landlord shall have the right to prescribe the weight, size and position of all equipment, materials, furniture or other property brought into the Building. Machines and equipment belonging to Tenant 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 Landlord or to any tenants of the Building, shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration. Heavy objects shall, if considered necessary by Landlord, stand on wood strips of such thickness as is necessary to properly distribute the weight. The persons employed to move such equipment in or out of the Building shall be acceptable to Landlord. Landlord will not be responsible for loss or damage to any such property from any cause, and all damage done to the Building by moving or maintaining such property shall be repaired at the expense of Tenant.

17. No equipment, materials, furniture, packages, supplies, merchandise or other property will be received in the Building or carried in the elevators except between such hours and in such elevators as may be designated by Landlord. In no event shall any such items be brought through any of the Building's front glass entry doors; instead, Tenant shall use the Building's loading dock and freight elevators to bring such items into the Building.

18. The directory of the Building will be provided for the display of the name and location of tenants and a reasonable number of the principal officers and employees of tenants, and Landlord reserves the right to exclude any other names therefrom. Any additional name which Tenant shall desire to place upon said directory must first be approved by Landlord, and, if so approved, a charge will be made therefor.

19. No curtains, draperies, blinds, shutters, shades, screens or other coverings, hangings or decorations shall be attached to, hung, or placed in, or used in connection with any window, wall or ceiling of the Building without the prior written consent of the Landlord. In any event, with the prior written consent of the Landlord, such items shall be installed on the office side of Landlord's standard window covering and shall in no way be visible from the exterior of the Building.

20. No tenant shall obtain for use in its premises ice, drinking water, food, beverage, towel or other similar services, except at such reasonable hours and under such reasonable regulations as may be fixed by Landlord. Tenant shall not install, maintain or operate upon the Premises any vending machine without the written consent of Landlord; if Landlord so consents, Tenant shall provide a dedicated circuit installed for the sole use of such machine.

21. Each tenant shall see that the doors of its premises are closed and locked and that all water faucets, water apparatus and utilities are shut off before Tenant or Tenant's employees leave the Premises, so as to prevent waste or damage, and for any default or carelessness in this regard Tenant shall make good all injuries sustained by other tenants or occupants of the Building or Landlord. On multiple-tenancy floors, all tenants shall keep the doors to the Building corridors closed at all times except for ingress and egress.

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

23. Except with the prior written consent of Landlord, no tenant shall sell, or permit the sale at retail, of newspapers, magazines, periodicals, theater tickets or any other goods or merchandise to the general public in or on its premises, nor shall the premises of any tenant be used for manufacturing of any kind, or any business or activity other than that specifically provided for in such tenant's lease.

24. No tenant shall install any radio or television antenna, loudspeaker or other device on the roof or exterior walls of the Building.

25. There shall not be used in any space, or in the public halls of the Building, either by any tenant or others, any hand trucks except those equipped with rubber tires and side guards or such other material handling equipment as Landlord may approve; further, tenants shall use such devices in the Building's freight elevators only and not in any passenger elevators. No other vehicles of any kind shall be brought by any tenant into the Building or kept in or about the Premises.

26. Each tenant shall store all its trash, recycling and compost and other refuse within its premises. Tenant shall fully participate in the Building's recycling and composting programs. 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, recycling and composting in the City of Oakland without being in violation of any law or ordinance governing such disposal. All garbage and refuse disposal shall be made only through entry ways and elevators provided for such purposes and at such times as Landlord shall designate, but in no event shall tenants dispose of any trash, garbage, compost, recycling or other refuse through the Building's passenger elevators. All boxes shall be broken down and labeled with a "Basura" sticker for the janitors to remove at night.

27. Canvassing, peddling, soliciting, and distribution of handbills or any other written materials in the Building are prohibited, and each tenant shall cooperate to prevent the same.

28. The requirements of the tenants will be attended to only upon application by telephone, the online work order system, or in person at the office of the Building Manager. Employees of Landlord or Building Manager shall not perform any work or do anything outside of their regular duties unless under special instructions from Landlord or Building Manager.

29. The Trans Pacific Centre is a non-smoking Building. Tenant will be responsible for ensuring Tenant, its employees, agents and visitors refrain from smoking while in the Premises and/or the Building.

30. 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 and Regulations against any or all of the tenants of the Building. Landlord is not responsible to any tenant for the non-observance or violation of the Rules and Regulations by any other tenant.

31. These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the terms, covenants, agreements and conditions of this Lease.

32. Landlord reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for the safety, care and cleanliness of the Building, and for the preservation of good order therein.

33. Tenant shall not use the Building freight elevator or loading dock for ingress or egress to and from the Premises or the Building.

EXHIBIT C

COMMENCEMENT MEMORANDUM

TRANS PACIFIC CENTRE
1000 BROADWAY
OAKLAND, CALIFORNIA 94607

DELIVERY OF POSSESSION OF PREMISES

TENANT: OAKLAND UNIFIED SCHOOL DISTRICT

LOCATION: 1000 Broadway, Suite 280
Oakland, California 94607

Pursuant to the Office Lease dated _____, 2013, between SPARKNIGHT, LLC as "Landlord" and OAKLAND UNIFIED SCHOOL DISTRICT as "Tenant". Tenant hereby acknowledges and agrees to the following:

1. Tenant acknowledges that Landlord has substantially completed the Work under the Work Agreement, and Tenant has accepted the Premises and shall take possession of the Premises as of _____, 2013.
2. The Lease Commencement Date shall be _____ and the Expiration Date shall be _____.
3. Rent is payable commencing _____.

Nothing in this Agreement is intended to change or modify the rights of the parties under the lease.

TENANT:

LANDLORD:

OAKLAND UNIFIED SCHOOL DISTRICT

SPARKNIGHT, LLC

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT D

PARKING RIDER

Landlord hereby licenses Tenant to use the number of parking spaces in the Building parking garage identified in the Lease Summary, at such prevailing rates as may be established by Landlord from time to time for the Building parking garage. Such use shall be for parking passenger vehicles only and for no other purpose and such parking spaces shall be provided at unreserved and nonexclusive locations designated by Landlord. Tenant acknowledges that Landlord, in its sole discretion, shall have the right to increase the monthly and/or daily parking fee from time to time to the then current market rate for parking in the area in which the Building is located. This license shall terminate upon the earlier of the expiration or earlier termination of the Lease or upon Tenant's failure to perform its obligations hereunder, including its obligation to pay monthly parking fees when due. Without limiting the foregoing, or Landlord's rights and remedies hereunder, any sums payable by Tenant for parking spaces licensed hereunder shall be additional Rent under the Lease and Landlord shall have all of the rights and remedies to Landlord in the event of any non-payment thereof.

Tenant shall not use more parking spaces than the number set forth in the Lease Summary and shall not use such parking for: (a) vehicles larger than full-size passenger automobiles; (b) small pick-up trucks with no more than four (4) wheels; (c) for oversized or over height vehicles; (d) for storage or overnight parking of vehicles; or (e) washing, waxing, cleaning or servicing of vehicles (collectively "**Prohibited Parking Activities**"). If Tenant commits, permits or allows any of the Prohibited Parking Activities described above or violates any provision in this Lease regarding parking or the rules and regulations then in effect, then Landlord shall have the right, without notice, in addition to such other rights and remedies that it may have, to terminate this license and/or to remove or tow away the vehicle(s) involved and charge the cost thereof to Tenant, which cost shall be immediately payable upon demand by Landlord as additional Rent.

Tenant and Landlord acknowledge that Tenant shall have the right to use fewer than the number of parking spaces identified in the Lease Summary; provided, however, once Tenant chooses to use fewer spaces, Landlord shall have no duty or obligation to provide or make available to Tenant any more parking spaces than the lesser number leased by Tenant, other than to make reasonable attempts to make available to Tenant any parking space that may become available from time to time at prevailing rates for said spaces.

Tenant's use and rental of parking spaces within the Building parking garage shall be in accordance with the rules and regulations established from time to time by Landlord governing the use of the garage. Landlord may establish an identification system for vehicles of Tenant and its employees, which may consist of stickers, magnetic parking cards or other identification devices supplied by Landlord. All identification devices shall remain the property of Landlord, shall be displayed as required by Landlord or upon request and may not be reproduced, mutilated or obliterated in any manner. Those devices shall not be transferable and any such device in the possession of an unauthorized holder shall be void and may be confiscated. Landlord may

impose a reasonable fee for identification devices and a replacement charge for devices which are lost or stolen. Each identification device shall be returned to Landlord promptly following the date Tenant is no longer using any applicable space or the termination of this license, whichever is earlier. Loss or theft of parking identification devices shall be reported to Landlord or its parking area/parking lot operator immediately and a written report of loss filed if requested by Landlord or such operator.

The automobiles and other motor vehicles of Tenant, its employees, agents, contractors and subcontractors shall be parked only in areas designated by Landlord, and Landlord shall have the right to remove the vehicles of Tenant or any of its employees, agents, contractors or subcontractors found in an area not designated for Tenant's parking, without liability of any kind for such act on the part of Landlord, its employees, contractors or agents. Upon request of Landlord, Tenant shall supply Landlord with a list of license numbers for vehicles used by its employees, agents, contractors and subcontractors. Tenant agrees that it will use its best efforts to cooperate, including registration and attendance, in programs which may be undertaken to reduce traffic. Tenant acknowledges that as a part of those programs, it may be required to distribute employee transportation information, participate in employee transportation surveys, allow employees to participate in commuter activities, designate a liaison for commuter transportation activities, distribute commuter information to all employees, and otherwise participate in other reasonable programs or services initiated under any transportation management program.

WORK AGREEMENT

This Agreement is made as of the 20th day of June, 2013, by and between SPARKNIGHT LLC, a Florida limited liability company ("Landlord"), and OAKLAND UNIFIED SCHOOL DISTRICT, a California public school district ("Tenant").

Reference is made to the Office Lease dated as of the date hereof ("Lease") for premises comprising as aggregate of 52,323 rentable square feet on the second, third, fourth and sixth floors ("Premises") of the property located at 1000 Broadway in Oakland, California ("Property").

I. Basic Terms.

- (a) **Space Planner:** RMW ARCHITECTURE & INTERIORS
- (b) **Date to Complete Planning:** ten (10) business days following execution of this Agreement and the Lease by Landlord and Tenant (including any Space Plan, Working Drawings, if applicable, and Finish Selections)
- (c) **Target Date to Substantially Complete Work:** Identified in the Lease
- (d) **Improvement Allowance Provided by Landlord:** Turnkey, except for Tenant Costs (defined below).

II. Basic Agreement.

(a) On or before the "Date to Complete Planning" described above, Tenant shall provide Space Planner with all information concerning Tenant's requirements in order for Space Planner to prepare Working Drawings approved by both Tenant and Landlord. However, Tenant shall not be responsible for "Landlord Delays" caused by Landlord or Space Planner as described in Section IV below. The Plans shall be based upon the Work Letter, with attachments, dated June 17, 2013 prepared by SGI Construction Management, incorporating Building standard quantities and finishes ("Space Plan").

(b) Landlord agrees to complete the Work shown on the final approved Plans using Landlord's Building contractor. Landlord shall bear the cost of the Plans (including any engineering reports, or other studies or tests in connection therewith, but excluding any furniture planning, reception desk or furniture systems) and the Work (including the cost of building permits) except for the following, which shall be borne by Tenant: (i) all costs associated with designing, constructing and/or installing non-building standard items or quantities, (ii) any supplemental heating, ventilation and air conditioning requirements, (iii) installation or redistribution of Tenant's telephone and data cabling, systems and equipment or any security systems (all of which shall be installed subject to the terms and conditions of the Lease), and (iv) any and all costs related to or resulting from revisions to any approved Plans or revisions to the Space Plan, which revisions are requested or initiated by Tenant ("Tenant Cost," as further described in Section VIII below). All Work shall be completed during normal business hours except for any demolition, which shall be completed outside of normal business hours.

(c) Once the Plans are approved and the cost of the Work has been determined, Tenant shall pay to Landlord, prior to the commencement of construction, any sums payable by Tenant hereunder, as Tenant's Cost, consistent with the provisions of Section VIII below.

III. Tenant Delays. To the extent that substantial completion of the Work is delayed as a result of one or more of the following events (separately and collectively called a "Tenant Delay"), the Lease Commencement Date shall instead be the date the Work would have been substantially complete but for the Tenant Delay:

- (a) The Plans are not approved by the Date to Complete Planning identified in Section I.B. (except for Landlord Delays described below);
- (b) Tenant requests, initiates or authorizes Change Orders under Section VII or cost estimates under Section VIII;
- (c) Tenant's failure to furnish an amount equal to Landlord's reasonable estimate of Tenant Costs (if any) within three (3) days, as described in Section VIII (which shall give Landlord the absolute right to postpone the Work until such amount is furnished to Landlord),
- (d) The Work includes any upgrades, special work or other non-building standard items, or items not customarily provided by Landlord to office tenants, to the extent that the same involve longer lead times, installation items, and delays or difficulties in obtaining building permits, requirements for any governmental approval, permit or action beyond the issuance of normal building permits (as described in Section VI), or other delays not typically encountered in connection with Landlord's standard office improvements,
- (e) The Work results in delays or difficulties in obtaining building permits, requirements for any governmental approval, permit or action beyond the issuance of normal building permits to the extent described in Section VI below (as distinguished from permits or approvals necessary to use or occupy the Premises as office space),
- (f) The performance by Tenant or Tenant's contractors, agents, or employees of any work at or about the Premises or Property, or
- (g) Any action or omission of Tenant or Tenant's contractors, agents or employees or any breach by the Tenant of any provisions contained in this Agreement or in the Lease, or any failure of Tenant to cooperate with Landlord or otherwise act in good faith in order to cause the Work to be designed and performed in a timely manner.

IV. Landlord Delays. For purposes hereof, one or more of the following events shall be considered a "Landlord Delay" to the extent that the completion of the Work is delayed as a

result thereof:

- (a) Landlord takes more than five (5) working days to approve or disapprove the Plans or revision thereof after receiving the same (or such longer time as may be reasonably required in order to obtain any engineering or HVAC report or due to other special or unusual features of the Work or Plans),
- (b) Space Planner takes more than five (5) working days to meet with Tenant after receiving a written request for a meeting, or takes more than ten (10) working days to prepare or revise the Plans after meeting with Tenant and receiving all information from Tenant required in order to do so, or
- (c) Landlord takes more than fifteen (15) working days to provide Tenant with cost estimates after receiving Plans sufficiently detailed for such purposes.

V. Landlord's Approval of Plans. Landlord shall either approve any Plans or revisions submitted pursuant to this Agreement or disapprove the same with suggestions for making the same acceptable within the time required under Section IV. Landlord shall not unreasonably withhold approval, if the plans provide for a customary office layout, with finishes and materials generally conforming to building standard finishes and material currently being used by Landlord at the Property, are compatible with the Property's shell and core construction, and if no modifications will be required for the Property electrical, heating, air-conditioning, ventilation, plumbing, fire protection, life safety, or other systems or equipment, and will not require any structural modifications to the Property, whether required by heavy loads or otherwise; provided, however, Landlord will not unreasonably withhold approval if, as a Tenant Cost, structural support is necessary to accommodate the loads for Tenant's furniture, fixtures and equipment. Landlord may request that Tenant approve Landlord's suggested changes in writing (such approval may not be unreasonably withheld), or Landlord may arrange directly with Space Planner for revised Plans to be prepared in incorporating such suggestions (in which case, Tenant shall sign or initial the revised Plans and/Landlord's notice concerning the suggested changes, if requested by Landlord). Landlord's approval of the Plans shall not be deemed a warranty as to the adequacy or legality of the design, and Landlord hereby disclaims any responsibility or liability for the same.

VI. Governmental Approval of Plans. Landlord shall apply for any normal building permits required for the Work which are issued pursuant to a local building code as a ministerial matter. If the Plans must be revised in order to obtain such building permits, Landlord shall promptly notify Tenant. In such case, Landlord shall promptly arrange for the Plans to be revised to satisfy the building permit requirements and shall submit the revised Plans to Tenant for approval, which approval shall not be unreasonably withheld. Landlord shall have no obligation to apply for any zoning, parking or sign code amendments, approvals, permits or variances, or any other governmental approval, permits or action (except normal building permits as described above). If any such other matters are required, Tenant shall promptly seek to satisfy such requirements or revise the Plans to eliminate such requirements.

VII. Changes After Plans Are Approved. If Tenant shall desire any changes,

alterations, or additions to the Space Plan or to the final Plans after they have been approved by Landlord, Tenant shall submit a detailed written request or revised Plans ("Change Order") to Landlord for approval. If reasonable and practicable and generally consistent with the Plans theretofore approved, Landlord shall not unreasonably withhold approval, but all costs in connection therewith, including without limitation construction costs, permit fees, and any additional plans, drawings and engineering reports or other studies or tests, or revisions of such existing items, shall be paid for by Tenant as a Tenant Cost under Section VIII.

VIII. Tenant Costs; Estimates (If Applicable). Any amounts that Tenant is required to pay under this Agreement shall be referred to as "Tenant Costs" herein. Tenant Costs shall be deemed additional "Rent" under the Lease. Landlord may at any time reasonably estimate Tenant Costs in advance, in which case, Tenant shall deposit such estimated amount with Landlord within three (3) days after requested by Landlord. If such amount is not deposited with Landlord as set forth herein Landlord shall have the absolute right to stop the Work until such amount is furnished to Landlord, in addition to any other rights or remedies to which Landlord may be entitled. If, following the completion of the Work, such estimated amount exceeds the actual amount of Tenant Costs, Tenant shall receive a refund of the difference within thirty (30) days after the costs of the Work and Plans have been properly determined by Landlord. If the actual amount shall exceed the estimated amount, Tenant shall pay the difference to Landlord within thirty (30) days following Landlord written request therefor. Any cost estimates will be preliminary in nature, and may not be relied on by Tenant.

In connection with any Tenant Cost, Tenant may request that Landlord obtain a written estimate from Landlord's contractor concerning Tenant Costs. If any such estimates are unacceptable to Tenant, Tenant may, subject to the terms hereof, eliminate or substitute items in order to reduce the estimated Tenant Costs in connection with preparing a revised version of the Plans.

IX. Completion.

(a) Landlord shall be deemed to have "substantially completed" the work for purposes hereof and the Lease if Landlord has caused all of the Work to be completed substantially except for so-called "punch list items" (e.g., minor details of construction or decoration or mechanical adjustments), which do not substantially interfere with Tenant's occupancy of the Premises or Tenant's ability to complete any improvements to the Premises to be made by Tenant. If there is any dispute as to whether Landlord has substantially completed the Work, the good faith decision of Space Planner shall be final and binding on the parties.

(b) If Landlord notifies Tenant in writing that the Work is substantially completed, and Tenant fails to object thereto in writing within five (5) days thereafter specifying in reasonable detail the items of work needed to be performed in order for substantial completion, Tenant shall be deemed conclusively to have agreed that the Work is substantially completed, for purposes of determining the Commencement Date and Rent under the Lease.

(c) Substantial completion shall not prejudice Tenant's rights to require full completion of any remaining items of Work. However, if Landlord notifies Tenant in writing that the Work is fully completed, and Tenant fails to object thereto in writing within ten (10)

days thereafter specifying in reasonable detail the items of work needed to be completed and the nature of work needed to complete said items, Tenant shall be deemed to conclusively to have accepted the Work as fully completed (or such portions thereof as to which Tenant has not so objected).

(d) Landlord reserves the right to substitute comparable or better materials and items for those shown in the Plans, so long as they do not materially and adversely affect the appearance or function of the Premises.

X. Work Performed by Tenant. Tenant and Tenant's agents and contractors may enter the Premises prior to completion of the Work to install voice and data wiring or cabling consistent with the terms and conditions of the Lease and consistent with Landlord's construction schedule for the Work provided Tenant and Tenant's agents, contractors, workman, mechanics, and suppliers work in harmony and do not interfere with Landlord and Landlord's contractors in doing the Work and with other tenants and occupants of the Building. In connection therewith and subject to the terms hereof, Landlord will allow Tenant's contractor five (5) days once outlets and boxes are installed to install and pull cables to Tenant's server room prior to any ceiling installation. If at any time such entry shall cause or threaten to cause such disharmony or interference, Landlord shall have the right to deny entry upon twenty-four (24) hours oral and written notice to Tenant. Tenant agrees that any such entry into the Premises shall be deemed to be under all the terms, covenants, conditions and provisions of the Lease (including, without limitation, all insurance requirements), except as to the covenant to pay Base Rent thereunder, and further agrees that Landlord shall not be liable in any way for any injury, loss or damage which may occur to any items of work constructed by Tenant or to other property of Tenant that may be placed in the Premises prior to completion of the Work, the same being at Tenant's sole risk.

XI. Liability. The parties acknowledge that Landlord is not an architect or engineer, and that the Work will be designed and performed by independent architects, engineers or contractors. Accordingly, Landlord does not guarantee or warrant that the Plans will be free from errors or omissions, nor that the Work will be free from defects, and Landlord shall have no liability therefor, provided that such architects, engineers and contractors are licensed and reputable. In the event of such errors, omissions, or defects, Landlord agrees to assign any applicable warranties to Tenant and agrees to cooperate in any action Tenant desires to bring against such parties.

XII. Certain Definitions.

(a) "Work" herein means the construction of the improvements shown on the final approved Working Drawings, and any demolition, preparation or other work required in connection therewith, including without limitation, any work required to be performed outside the Premises in order to obtain building permits for the work to be performed within the Premises (if Landlord elects to perform such work outside the Premises).

(b) "Finish Selections" herein means the type and color of floor and wall-coverings, wall paint and any other finishes.

(c) "Plans" herein means, collectively, the Space Plan and any pricing plan, Working Drawings, or other plans, drawings or specifications and Finish Selections approved by Landlord and Tenant (and in the event of any inconsistency between any of the same, or revisions thereto, the latest dated item approved shall control). The Plans shall be signed or initialed by Tenant, if requested by Landlord.

(d) "Working Drawings" herein means fully dimensioned architectural construction drawings and specifications, and any required engineering drawings (including mechanical, electrical, plumbing, air-conditioning, ventilation and heating), and shall include any applicable items described above for the Space Plan, and if applicable: (1) electrical outlet locations, circuits and anticipated usage therefor, (2) reflected ceiling plan, including lighting, switching, and any special ceiling specifications (3) duct locations for heating, ventilating and air-conditioning equipment, (4) details of all millwork, (5) dimensions of all equipment and cabinets to be built in, (6) furniture plan showing details of space occupancy, (7) keying schedule, (8) lighting arrangement, (9) location of print machines, equipment in lunch rooms, concentrated file and library loadings and any other equipment or systems (with brand names wherever possible) which require special consideration relative to air-conditions, ventilation, electrical, plumbing, structural, fire protection, life-fire-safety system, or mechanical systems, (10) special heating, ventilating and air conditioning equipment and requirements, (11) weight and location of heavy equipment, and anticipated loads for special usage rooms, (12) demolition plan, (13) partition construction plan, (14) Finish Sections, and any other details or features reasonably required in order to obtain a more firm cost estimate as described in Section VIII, above, or otherwise reasonably requested by Landlord or Space Planner.

XIII. Incorporation into Lease; Default. THE PARTIES AGREE THAT THE PROVISIONS OF THIS WORK AGREEMENT ARE HEREBY INCORPORATED BY THIS REFERENCE INTO THE LEASE FULLY AS THOUGH SET FORTH THEREIN. In the event of any express inconsistencies between the Lease and this Work Agreement, the latter shall govern and control. Any default by a party hereunder shall constitute a default by that party under the Lease and said party shall be subject to the remedies and other provisions applicable thereto under the Lease.

XIV. Condition Precedent; Board of Education Approval. This Agreement, and the obligations of the parties set forth herein shall be conditioned on approval by the Board of Education on or before June 30, 2013. If such approval is not obtained, this Agreement shall terminate and be of no further force or effect.

[Signatures on next page]

IN WITNESS WHEREOF the parties have executed this Work Agreement as of the date first above-written.

LANDLORD:

SPARKNIGHT, LLC,
a Florida limited liability company

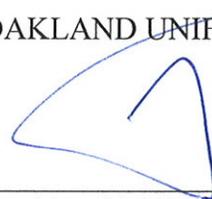
By: World Gateway Investments, Inc.
Its: Managing Member

By:


Name: Techi Wagner
Its: V.P. Accounting & Finance

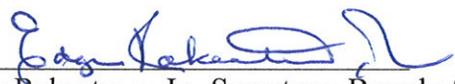
TENANT:

OAKLAND UNIFIED SCHOOL DISTRICT


David Kakishiba, President, Board of Education

Date:

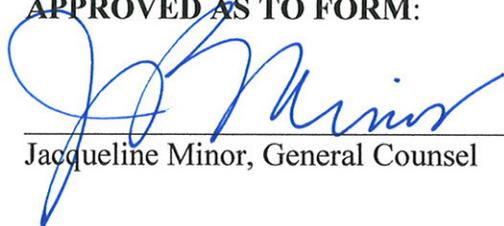
6/27/13


Edgar Rakestraw, Jr., Secretary, Board of Education

Date:

6/27/13

APPROVED AS TO FORM:


Jacqueline Minor, General Counsel

Date:

6/26/13

File ID Number: 13-1600
Introduction Date: 6-26-13
Enactment Number: 13-1149
Enactment Date: 6-26-13
By:

1000 Broadway – OUSD Landlord's Work Letter

6/17/13

General Items – pertaining to all OUSD Suites:

- A. All walls are to be patched and painted as required to look as new.
- B. All existing carpeting is to be professionally cleaned and dirt and stains are to be removed to the extent possible.
- C. Provide glue down building standard carpet and vinyl base, where missing or to repair existing.
- D. All window blinds are to be cleaned and in good working order.
- E. All light fixtures are to be in good working conditions and all bulbs are to be consistent within each of the separate portions of the Premises to the extent possible with existing fixtures.

Suite Specific Notes:

Suite #294 & 295

1. Paint suite #294 the same two tone color scheme as suite #295.
2. Provide new carpeting in suite #294. Tenant to pick color.
3. Provide the power for the Office Max cubicles layout. (The Office Max plans are attached.)
4. Demolish wall to provide passage from suite #294 to #295. Relocate the existing door to become the new door into the file room. Remove the wing walls from the existing relocated door to create a corridor with no width restrictions, and provide new drywall wall to frame in relocated door as required.
5. Provide a new doorway passage into the file room from suite #294.
6. Provide a new floor monument with a duplex outlet and the capacity for data and phone lines in center of the room to provide. (Data and telephone by tenant's vendor)
7. Provide wall base where missing.

Suite Specific Notes:

Suite #300 (portion identified on plan)

1. Provide a new wall and door dividing suite for privacy. Match building standard for specifications. Provide panic hardware to exiting side and keyed access from the pull side. See sketch for approximate location.
2. Provide the power for the Office Max cubicles layout. (The Office Max plans are attached.)

Suite Specific Notes:

Suite #450

1. Fix the dent in the main front doors to look like new.
2. Provide the power for the Office Max cubicles layout. (The Office Max plans are attached.)
3. Provide a new floor monument with a duplex outlet and the capacity for data and phone lines in center of the room to provide. (Data and telephone by tenant's vendor)
4. All doors are to have all typical hardware intact and in good working order.
5. Repaint over all blue accent walls with the existing sage green color near the front entry.
6. Demo wall and patch wall base to match and carpet with a neutral color. See sketch.

Suite Specific Notes:

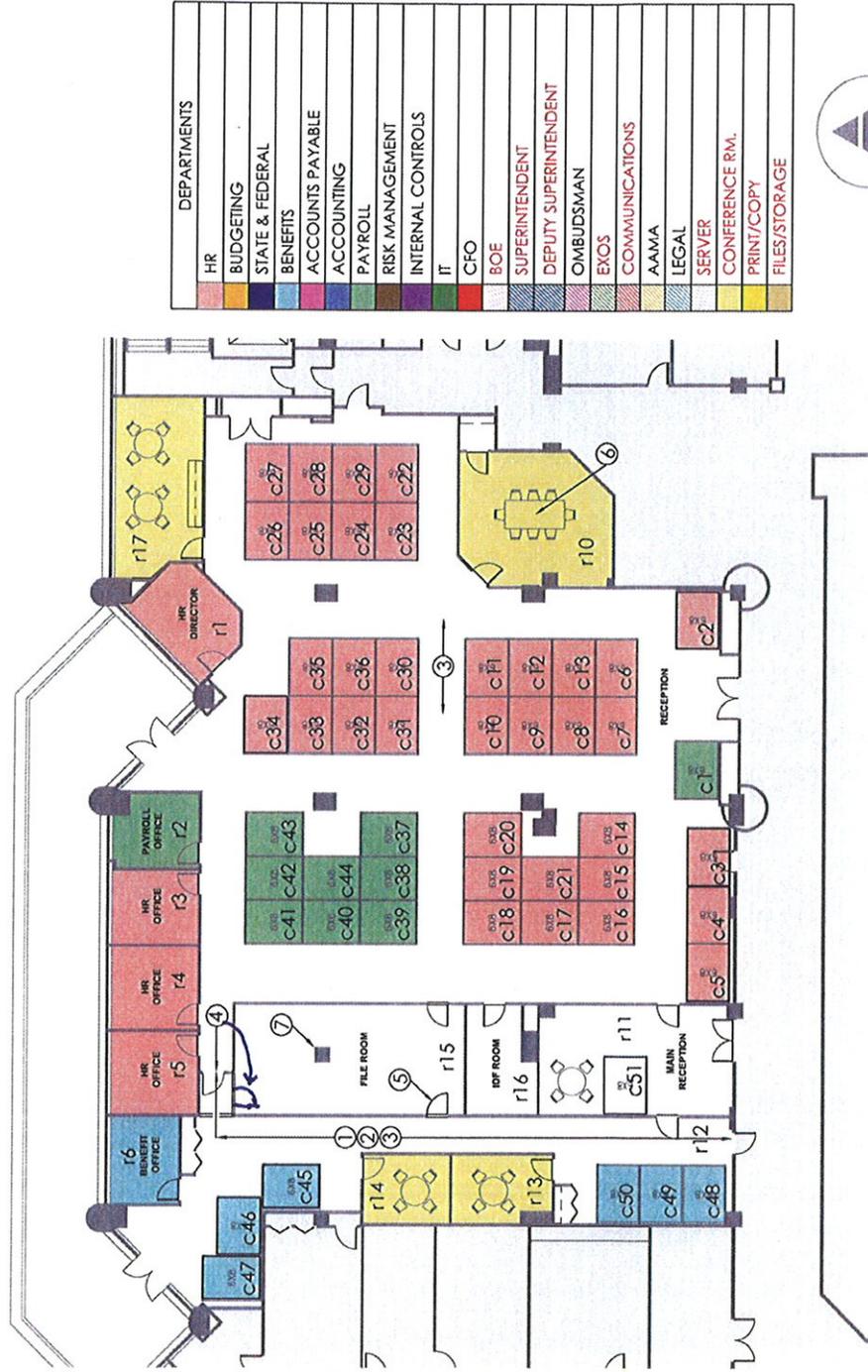
Suite #680

1. Fix the dent in the main front doors to look like new.
2. Provide the power for the Office Max cubicles layout. (The Office Max plans are attached.)
3. Provide a new floor monument with a duplex outlet and the capacity for data and phone lines in center of the room to provide. (Data and telephone by tenant's vendor)
4. Paint entire suite.
5. Re-carpet the entire suite, with exceptions of the existing VCT floors.
 - a. Cubicles will be removed and reinstalled by tenant.
6. Demolish the existing demising wall 5'-0" from the existing office and 15'-0" feet from the existing kitchen wall. See sketch.
7. Demolish wall to join suites as shown.

End.



OAKLAND UNIFIED
SCHOOL DISTRICT

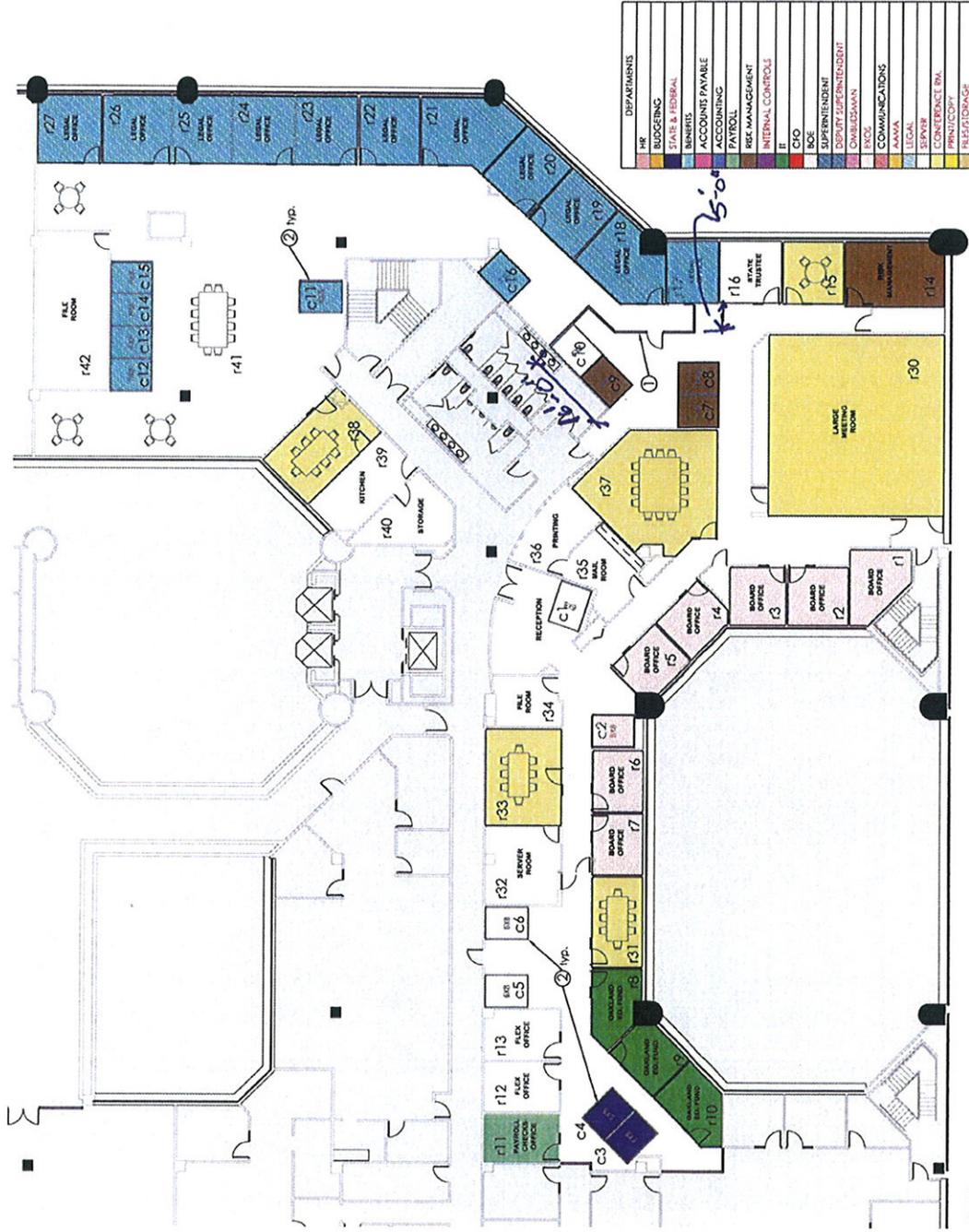


1000 BROADWAY - SUITES 294 & 295

LANDLORD'S WORK - JUNE 17, 2013



OAKLAND UNIFIED
SCHOOL DISTRICT



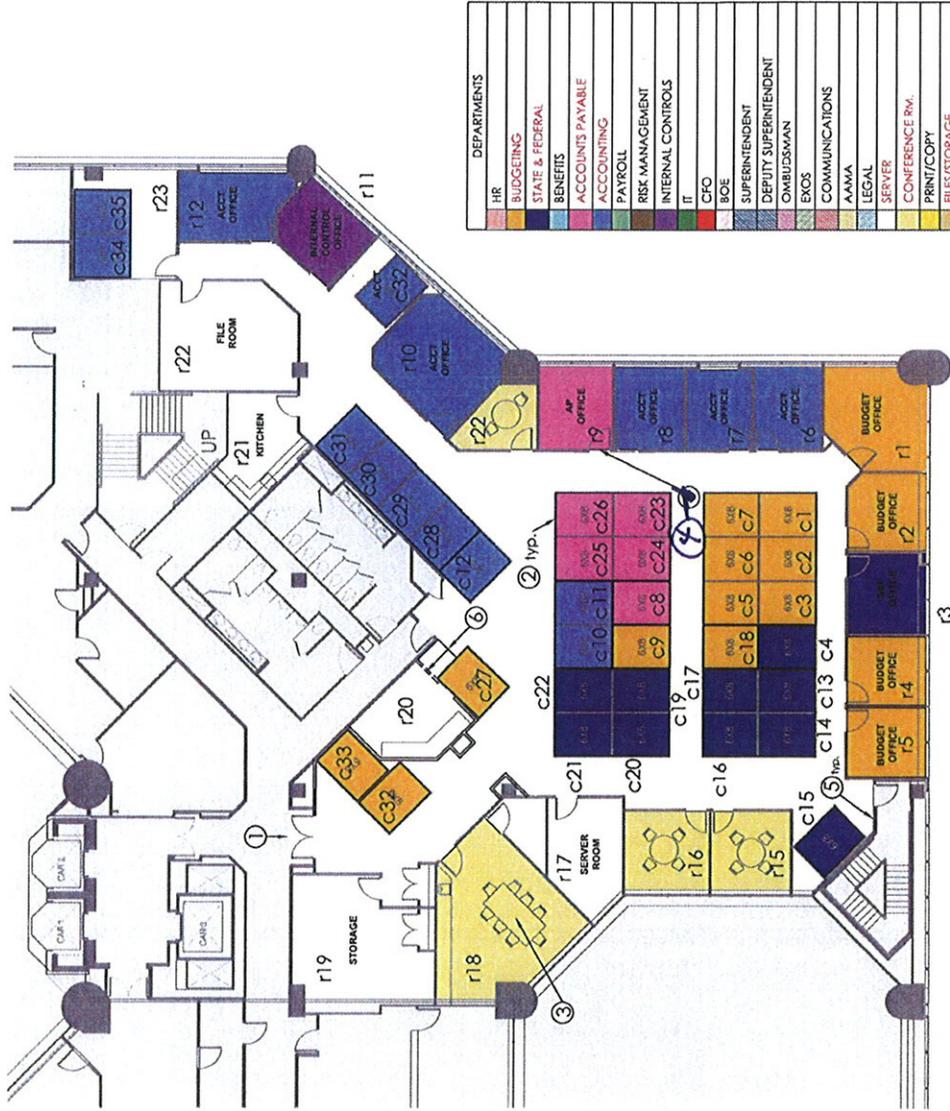
1000 BROADWAY - SUITE 395

LANDLORD'S WORK - JUNE 17, 2013





OAKLAND UNIFIED
SCHOOL DISTRICT



1000 BROADWAY - SUITE 450

LANDLORD'S WORK - JUNE 14, 2013

EXHIBIT F
ANTENNA RIDER

1. Subject to the terms hereof, the Premises shall include the non-exclusive right of Tenant to use a certain portion of the space either on the roof of the Building or such other location as determined by Landlord in Landlord's sole discretion (such location is hereinafter referred to as the "Designated Area"), for the sole use and purpose of installing, maintaining and operating, at the sole expense and risk of Tenant, an antenna or earth satellite station (the "Antenna"). In the event that Tenant shall elect to install the Antenna, Tenant shall give Landlord written notice thereof, which notice shall be accompanied by a complete set of plans and specifications (to be prepared by Tenant at its sole cost and expense), identifying the manner of installation thereof as well as the type of any equipment, related elements and cabling with size, engineering structure, broadcast frequencies, operating characteristics and other relevant information, as requested by Landlord, of the Antenna; no work shall commence until Landlord has approved in writing all of said plans and specifications and any such work shall comply with the terms and conditions set forth in Section 8 of the Lease. Tenant shall pay all engineering fees and other costs incurred by Landlord in connection with its review of Tenant's plans and specifications. The area used for the Antenna and the size, configuration and type of equipment used (including but not limited to any modifications and replacements) shall be subject to Landlord's approval. Nothing contained herein shall prohibit Landlord from granting other tenants of the Building or third parties the right to place satellite earth stations, antennas or other telecommunication equipment or related apparatus in the Designated Area. Tenant shall pay Landlord's then current fair market monthly charges as additional rent for use of the Designated Area for the Antenna; provided, however, the parties agree that no such charges shall be due during the initial Lease term.

2. Tenant shall use the Antenna solely for its own internal, intra-corporate communications and shall not use the Antenna or allow it to be used by others for any other purpose, including but not limited to commercial communication transmission or reception.

3. Tenant shall pay all federal, state and local taxes applicable to the Antenna. Further, Tenant shall procure, maintain and pay all fees, permits and governmental agency licenses (including, without limitation, FAA and FCC approval, if applicable) necessary in connection with the installation, maintenance and operation of the Antenna. Landlord shall reasonably cooperate with Tenant, at Tenant's expense, in obtaining all such permits, licenses and other approvals.

4. All installations required in connection with the Antenna shall be made by means of conduits, wires or cables which pass through existing openings in the walls or roof decks of the Building if such openings exist, and all cables and wires located in the Designated Area used in connection with the Antenna shall be covered by rust-proof conduits and attachments. In no event shall any of Tenant's installations be made without the prior written consent of Landlord which consent may be withheld by Landlord in Landlord's sole and absolute discretion. The installation of the Antenna shall be subject to Landlord's review and approval and shall conform

to the highest engineering standards commonly used for installing similar earth satellite stations on similar buildings; no part of the Antenna shall extend beyond the parapet walls of the Building if located on the roof of the Building. Tenant further agrees that the Antenna and all other related equipment installed by Tenant shall be painted so as to blend with the parapet wall. All wiring installed in the Building or used in connection with the Antenna shall be labeled with information identifying its use, points of origin and termination, and other information reasonably requested by Landlord.

5. Notwithstanding anything to the contrary contained in the Lease by which Landlord may consent to a sublease or assignment by Tenant, the right to use the Designated Area for the operation of the Antenna is a personal right granted by Landlord to Tenant and may not be assigned by Tenant to any successor, sublessee or other assignee.

6. Upon the expiration of the Term of the Lease, or within thirty (30) days of any earlier termination of the Lease, Tenant shall remove the Antenna and all wires and cables used in connection with the Antenna, at the sole expense of Tenant, and shall restore and repair all damage to the Designated Area and the Building occasioned by the installation, maintenance or removal of the Antenna. If Tenant fails to timely complete such removal, restoration and repair, all sums incurred by Landlord to complete such work will be paid by Tenant to Landlord immediately upon demand. Default by Tenant in the performance of Tenant's obligations hereunder shall be treated in the same manner as a default by Tenant under the Lease.

7. Landlord makes no representations or warranties whatsoever with respect to the condition of the Designated Area, or the fitness or suitability of the Designated Area for the installation, maintenance and operation of the Antenna, including, without limitation, with respect to the quality and clarity of any reception or transmissions to or from the Antenna and the presence of any interference with such signals whether emanating from the Building, or otherwise. The Designated Area is and shall be delivered to Tenant "as-is" with all flaws and faults and Tenant hereby acknowledges that it has inspected the Designated Area and agrees to accept the Designated Area in its present condition. Nothing contained in this Exhibit shall be deemed a guaranty of the availability, now or in the future, of a Designated Area or that any particular Designated Area is being reserved for Tenant; provided, however, Landlord will make reasonable efforts to accommodate Tenant's desire to place an Antenna at the Real Property.

8. Tenant shall contact the manager of the Building prior to the date Tenant proposes to make any modification or replacement of the Antenna or any part thereof in order to make arrangements for the movement of materials needed in connection therewith, and shall in all instances cooperate with Landlord and Landlord's telecommunications contractor. Landlord shall have no obligation to supply Tenant with any materials or property whatsoever in connection with adequate security and maintenance personnel in order to ensure the safe operation of the Antenna. In addition, Tenant shall install, maintain and operate all of its equipment used in connection with the Antenna in a fashion and manner so as not to interfere with use and operation of any: (a) other television or radio equipment in the Building; (b) present or future electronic control system for any of the Building's operating services or the operation of the elevators in the Building; (c) other transmitting, receiving or master television, communications or micro-wave antenna currently or hereafter located in the Building; or (d)

radio communication system now or hereafter used or desired to be used by Landlord or any other tenant of the Building. Notwithstanding anything in the Rules and Regulations to the contrary, during the term of the Lease Landlord shall afford Tenant, its employees, agents or contractors reasonable access to the roof of the Building (if the Designated Area is on the roof) for purposes of maintaining and repairing the Antenna; provided, however, that Tenant shall provide at least 24 hours advance notice (one business days' notice) of same and Landlord may reasonably specify the time and any conditions of such access, including but not limited to requiring that any such persons gaining access to the roof be accompanied by the Building engineer or other representatives designated by the Landlord.

9. Tenant, at its sole cost and expense, shall comply with all present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary as well as ordinary, all governmental authorities now existing or hereafter created and any applicable fire rating bureau, or other body exercising similar functions, affecting the Building, or affecting the maintenance, use or occupation of Building, which are applicable to the Designated Area, or the use thereof. Tenant shall install, maintain and operate all of its equipment used in connection with the Antenna in compliance with the laws, codes and regulations of all governmental agencies having jurisdiction over the installation, use and operation of the Antenna; provided, however, if compliance with such laws, codes and regulations would require a change in the size, configuration or location of the Designated Area or the Antenna, such changes shall be subject to Landlord's prior written consent, which consent may be withheld in Landlord's sole and absolute discretion.

10. Throughout the term of the Lease, Tenant, at Tenant's sole cost and expense, shall maintain and take good care of the Designated Area, including the Antenna, and other fixtures and appurtenances therein, and make all non-structural repairs thereto as and when needed to preserve them in good working order and condition. Notwithstanding the foregoing, all damage or injury to the Designated Area or any other part of the Building, or to its fixtures, equipment and appurtenances, whether requiring structural or non-structural repairs, caused by or resulting from any act, misuse, negligent conduct, or omission of Tenant, or Tenant's agents, contractors, employees, invitees or licensees, will be repaired at Tenant's sole cost and expense by Tenant to Landlord's reasonable satisfaction (if the repairs required are non-structural in nature and do not affect any Building system); or by Landlord at Tenant's expense (if the required repairs are structural in nature or affect any Building system). Tenant shall also repair all damage to the Building and the Designated Area caused by the Antenna.

11. If possible, Tenant shall pay directly to the utility company or the governmental authority providing utilities all charges for electricity and other sources of energy consumed in connection with the Antenna and Landlord shall have no obligation to provide any services to the Designated Area. If such electricity and other sources of energy cannot be provided directly to Tenant, Tenant shall reimburse Landlord for all utility and electricity charges incurred by Landlord which are attributable to Tenant's use and operation of the Antenna.

12. To the fullest extent permitted by law, Tenant shall indemnify and hold Landlord and Landlord's agents, owner's, employees, contractors and representatives harmless from and against all claims, damages, losses and expenses, including, without limitation, attorneys' fees,

directly or indirectly arising out of or resulting from Tenant's use of the Antenna or the Designated Area, including, without limitation, all claims, damages, losses or expenses which may be: (a) attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property, including the loss of use therefrom; and (b) which may be caused in whole or in part by any fault or act or omission by Tenant or anyone employed by Tenant, or anyone for whose acts Tenant may be liable, or anyone acting on Tenant's behalf, except to the extent such bodily injury, sickness, disease or death or injury to or destruction of property is caused solely by Landlord's gross negligence or willful misconduct. The indemnity provisions of this paragraph are cumulative and in addition to any similar or related requirements or obligations of Tenant under the Lease, and shall survive the termination of the Lease.

13. Landlord shall not be liable for any failure to provide access to the Designated Area, to assure the beneficial use of the Designated Area or to furnish any services or utilities required when such failure is caused by natural occurrences, riots, civil disturbances, insurrection, war, court order, public enemy, accidents, breakages, repairs, strike, lockouts or other labor disputes, the making of repairs, alterations or improvements to the Designated Area or the Building, the inability to obtain an adequate supply of fuel, gas, steam, water, electricity, labor or other supplies or by any other condition beyond Landlord's reasonable control, and Tenant shall not be entitled to any damages resulting from such failure, nor shall such failure relieve Tenant of the obligation to pay all sums due hereunder or under the Lease or constitute or be construed as a constructive or other eviction of Tenant.

14. If Tenant fails to perform any of the Tenant's obligations contained in this Amendment, Landlord shall have the right to (i) pursue any remedies Landlord may have in the Lease or otherwise, and/or (ii) revoke Tenant's right to use to Designated Area and install, maintain or operate an Antenna upon five (5) days written notice.

15. Upon not less than ten (10) days written notice, Landlord shall have the right to require Tenant to relocate the Antenna to such other suitable space in the Building as Landlord shall reasonably designate. Such relocation of the Antenna shall be at Tenant's sole cost and expense and shall otherwise be subject to the terms and conditions contained herein. Upon such relocation of the Antenna, the Designated Area shall be deemed to be such portion of the Building or other location determined by Landlord, as the Antenna is then located as designated by Landlord.