

CIRCLE STAR LEASE AGREEMENT

by and between

CIRCLE STAR CENTER ASSOCIATES, L.P.

("Landlord")

and

2500 W.L.B. INC.

("Tenant")

Dated as of April 18, 2000

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## EXHIBITS

Exhibit "A" Floor Plan of Premises

Exhibit "B" Conduits

Exhibit "C" Rules and Regulations

Exhibit "D" Encumbrances

## BASIC LEASE INFORMATION

Lease Date: April 18, 2000

LANDLORD: CIRCLE STAR CENTER ASSOCIATES, L.P.  
a California limited partnership

Managing Agent: THE MOZART DEVELOPMENT COMPANY

Landlord's and Managing Agent's Address:  
c/o THE MOZART DEVELOPMENT COMPANY  
1068 East Meadow Circle  
Palo Alto, CA 94303  
Attention: James Freitas

TENANT: 2500 W.L.B. INC.  
a California corporation

Tenant's Address: c/o THE MOZART DEVELOPMENT COMPANY  
1068 East Meadow Circle  
Palo Alto, CA 94303  
Attention: James Freitas

Building: Two Circle Star Way, San Carlos, California

Premises: A portion of the first (1<sup>st</sup>) Floor of the Building, as crosshatched on the attached EXHIBIT "A"

Rentable Area of the Premises: 36 square feet

Rentable Area of the Building: 102,973 square feet

Tenant's Use of the Premises: Storage and operating room for the computers and monitoring systems related to the sign structures and the electronic signs contained therein located on the Project, which signs have two (2) faces and visible from both northerly-bound and southerly-bound traffic on Highway 101 (the "Permitted Use")

Lease Term: Twenty (20) years

Scheduled Rent  
Commencement Date: Lease Date

Monthly Base Rent: \$1.00 per Rentable Square Foot of the Rentable Area of the Premises ("Monthly Base Rent").

Base Rent Adjustment: On each anniversary of the Rent Commencement Date the Monthly Base Rent shall increase by three percent (3%) over the Monthly Base Rent applicable to the month immediately prior to the applicable anniversary.

Broker: None.

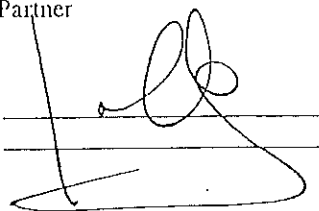
Broker's Fee or Commission, If Any, Paid By: None.

The foregoing Basic Lease Information is hereby incorporated into and made a part of this Lease. Each reference in this Lease to any of the Basic Lease Information shall mean the respective information hereinabove set forth and shall be construed to incorporate all of the terms provided under the particular paragraph pertaining to such information. In the event of any conflict between any Basic Lease Information and the Lease, the latter shall control.

LANDLORD:

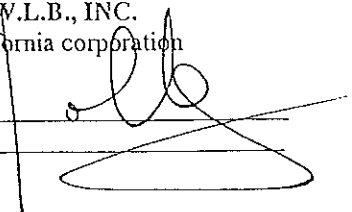
CIRCLE STAR CENTER ASSOCIATES, L.P.  
a California limited partnership

By: M-D Ventures, Inc.,  
a California corporation  
Its: General Partner

By: \_\_\_\_\_  
Its: \_\_\_\_\_  


TENANT:

2500 W.L.B., INC.  
a California corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_  


## LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into as of April 18, 2000, by and between CIRCLE STAR CENTER ASSOCIATES, L.P., a California limited partnership, (herein called "Landlord"), and 2500 W.L.B., INC., a California corporation (herein called "Tenant").

### 1. LEASED PREMISES.

(a) Upon and subject to the terms, covenants and conditions hereinafter set forth, Landlord hereby leases to Tenant and Tenant hereby hires from Landlord those premises (the "Premises") comprising the area substantially as crosshatched on the attached EXHIBIT "A", in the building (hereinafter referred to as the "Building") specified in the Basic Lease Information attached hereto. The number of square feet designated as Rentable Area of the Premises on the Basic Lease Information may include portions of the Building Common Area (as defined below) attributed to the Premises and not located within the area outlined on EXHIBIT "A". The Building is located on land which is currently improved with one (1) other building and one (1) parking garage structure in addition to the Building, all as an integrated project (the "Project"). Tenant's lease of the Premises shall include the exclusive use of the conduits in and through the Building and the Project Common Area, as more particularly set forth in EXHIBIT "B" attached hereto, which conduits are necessary for communications facilities used by Tenant to operate and monitor the sign structures and the electronic signs contained therein located on the Project, which signs have two (2) faces and visible from both northerly-bound and southerly-bound traffic on Highway 101 (the "Sign").

(b) The term "Building Common Area" shall mean all areas and facilities within the Building that are not designated by Landlord, from time to time, for the exclusive use of the Tenant or any other tenant or occupant of the Building, and any areas devoted to Building Systems (as defined in Paragraph 8(a)) and other facilities and equipment servicing the Building as a whole. The term "Project Common Area" shall mean all areas and facilities within the Project that are not designated by Landlord, from time to time, for the exclusive use of Tenant or any other tenant or other occupant of the Project, and that are located outside the perimeter footings of any buildings now or hereafter located in the Project, including the parking areas, access and perimeter roads, pedestrian sidewalks, landscaped areas, trash enclosures, recreation areas and the like.

(c) Tenant's lease of the Premises shall include the right to use, in common with others and subject to the other provisions of this Lease, the Building Common Area, the Project Common Area.

2. OCCUPANCY AND USE. Tenant may use and occupy the Premises for the Permitted Uses specified in the Basic Lease Information and for no other use or purpose without the prior written consent of Landlord. Landlord shall have the right to grant or withhold consent to a proposed change of use in its sole discretion. Tenant shall be entitled to the use on a nonexclusive basis of (i) the Building Common Area with other occupants of the Building, and (ii) for so long as Landlord continues to own the Project, the Project Common Area with other occupants of the Project in accordance with the Rules and Regulations established by Landlord from time to time; provided, however, that if Landlord reconfigures the Project or sells a portion of the Project, Landlord shall assure to Tenant that Tenant shall continue to have reasonable access to the Premises and to parking through execution of a Reciprocal Easement Agreement or other like mechanism prior to such reconfiguration or sale becoming effective. Notwithstanding the above, Tenant understands and agrees that (a) a Declaration of Covenants, Conditions and Restrictions made as of June 24, 1997 by and between Mozad, L.P., a California limited partnership and Homestead Village Inc., a Maryland corporation, as amended (the "CC&R's"), and (b) a Conditional Use Permit, Office Complex, 1717 Industrial Road, San Carlos, CA 94070, effective date June 12, 1997 may encumber the Land and Project and that Tenant's occupancy and use of the Premises and use of the Project Common Area may be restricted by such encumbrances. If necessary, Tenant shall execute such documents as are reasonably necessary to cause this Lease to become subordinate to such encumbrances (see the attached EXHIBIT "D", "Encumbrances").

3. TERM. The term of this Lease (the "Term") shall commence on the Lease Date as set forth in the Basic Lease Information sheet (the "Commencement Date") and, unless sooner terminated pursuant to the express provisions of this Lease, shall expire on the date immediately preceding the twentieth (20th) anniversary of the Commencement Date (the "Expiration Date"), provided that Tenant shall have an option to extend the Term in accordance with the terms and conditions of Paragraph 41.



4. RENT; RENT ADJUSTMENTS; ADDITIONAL CHARGES FOR EXPENSES AND TAXES.

(a) **Monthly Base Rent.** Commencing on the Rent Commencement Date and throughout the Term of this Lease, Tenant shall pay Monthly Base Rent, in the amount specified in the Basic Lease Information as adjusted pursuant to Paragraph 4(b), on the first day of each month, in advance, in lawful money of the United States (without any prior demand therefor and without deduction or offset whatsoever, except as expressly provided for in Paragraphs 21 and 22) to Landlord or its managing agent at the address specified in the Basic Lease Information or to such other firm or to such other place as Landlord or its Managing Agent may from time to time designate in writing. In addition, Tenant shall pay to Landlord all charges and other amounts whatsoever as provided in this Lease ("Additional Charges") at the place where the Monthly Base Rent is payable, and Landlord shall have the same remedies for a default in the payment of Additional Charges as for a default in the payment of Base Rent. As used herein, the term "Rent" shall include all Base Rent and Additional Charges (including, without limitation, Additional Charges for Real Estate Taxes and Expenses pursuant to Paragraph 4(c) below, and Additional Charges pursuant to Paragraphs 8(b), 9, 11(d) and 24). If the Rent Commencement Date occurs on a day other than the first day of a calendar month, or the Expiration Date occurs on a day other than the last day of a calendar month, then the Monthly Base Rent and Additional Charges for such fractional month shall be prorated on a daily basis.

(b) **Adjustments in Base Rent.** The Monthly Base Rent under Paragraph 4(a) shall be adjusted as provided in the Basic Lease Information.

(c) **Additional Charges for Expenses and Taxes.**

(i) **Definitions of Additional Charges:** For purposes of this Paragraph 4(c), the following terms shall have the meanings hereinafter set forth:

(A) "Tax Year" shall mean each twelve (12) consecutive month period commencing January 1st of the calendar year during which the Commencement Date of this Lease occurs, provided that Landlord, upon notice to Tenant, may change the Tax Year from time to time to any other twelve (12) consecutive month period and, in the event of any such change, Tenant's Share of Real Estate Taxes (as hereinafter defined) shall be equitably adjusted for the Tax Years involved in any such change.

(B) "Tenant's Share" shall mean the percentage figure so specified in the Basic Lease Information.

(C) "Real Estate Taxes" shall mean the Building Share (as defined in Paragraph 4(c)(i)(D)) of all taxes, assessments and charges levied upon or with respect to the Project or any personal property of Landlord used in the operation of thereof, or Landlord's interest in the Project or such personal property. Real Estate Taxes shall include, without limitation, all general real property taxes and general and special assessments, charges, fees or assessments for transit, housing, police, fire or other governmental services or purported benefits to the Project (provided, however, that any refunds of Real Estate Taxes paid by Tenant (as part of Tenant's Share of Real Estate Taxes) shall be credited against Tenant's further obligation to pay Real Estate Taxes during the Term or if the Term has ended it shall be returned to Tenant within thirty (30) days), service payments in lieu of taxes, and any tax, fee or excise on the act of entering into this Lease, or any other lease of space in the Project, or on the use or occupancy of the Project or any part thereof, or on the rent payable under any lease or in connection with the business of renting space in the Project, that are now or hereafter levied or assessed against Landlord by the United States of America, the State of California, or any political subdivision, public corporation, district or any other political or public entity, and shall also include any other tax, fee or other excise, however described, that may be levied or assessed as a substitute for, or as an addition to, in whole or in part, any other Real Estate Taxes, whether or not now customary or in the contemplation of the parties on the date of this Lease. Real Estate Taxes shall not include franchise, transfer, inheritance or capital stock taxes, gift or estate taxes, any assessments in excess of the amount which would be payable if such tax or assessment expense were paid in installments over the longest permitted term, any increases in taxes due to the improvement of the Project for the sole use of other occupants, or income taxes measured by the net income of Landlord from all sources unless, due to a change in the method of taxation, any of such taxes is levied or assessed against Landlord as a substitute for, in whole or in part, any other tax that would otherwise constitute a Real Estate Tax. Additionally, Real Estate Taxes shall not include any assessments or like charges to pay for any remediation of contamination from any Hazardous Substance (which are not the liability of Tenant

pursuant to Paragraph 39 hereof). Real Estate Taxes shall also include reasonable legal fees, costs and disbursements incurred in connection with proceedings to contest, determine or reduce Real Estate Taxes; provided that such fees, costs and disbursements do not exceed the actual savings in Real Estate Taxes obtained by Tenant over the Term of the Lease. If any assessments are levied on the Project, Tenant shall have no obligation to pay more than Tenant's Share of that amount of annual installments of principal and interest that would become due during the Lease Term had Landlord elected to pay the assessment in installment payments, even if Landlord pays the assessment in full.

(D) "Building's Share" shall mean the Rentable Area in the Building, divided by the total leased and occupied rentable area in the Project, as determined by Landlord in its reasonable discretion..

(E) "Expenses" shall mean the total costs and expenses reasonably paid or incurred by Landlord in connection with the management, operation, maintenance and repair of the Building (including Building Common Area) and Project Common Area, including, without limitation (i) the cost of air conditioning, electricity, steam, heating, mechanical, ventilating, elevator systems, security systems, and all other utilities, to the extent provided by Landlord, and the cost of supplies and equipment and maintenance and service contracts in connection therewith; (ii) the cost of repairs and general maintenance and cleaning; (iii) the Building's Share of the cost of fire, extended coverage, boiler, sprinkler, public liability, property damage, rent, earthquake (if Landlord elects to obtain it) and other insurance obtained by Landlord in connection with the Project, all including, without limitation, insurance premiums and any deductible amounts paid by Landlord, including, without limitation, the insurance required by Paragraph 11(f); (iv) fees, charges and other costs, including management fees, consulting fees, legal fees and accounting fees, fees of all independent contractors engaged by Landlord directly related to the operation of the Building or reasonably charged by Landlord if Landlord performs management services in connection with the Building, (though the management fee shall not exceed the cap noted in the following paragraph); (v) the cost of any capital improvements made to the Building, and the Building's Share of the cost of any capital improvements made to the Project Common Area, after the Commencement Date (a) as a labor saving device or to effect other economies in the operation or maintenance of the Building or Project Common Area (from which a reasonable person would anticipate that savings would actually result), (b) to repair or replace capital items which are no longer capable of providing the services required of them (other than in connection with a casualty which is addressed by Paragraph 21), or (c) that are made to the Building or Project Common Area after the date of this Lease and are required under any Laws (as defined in Paragraph 6) (excluding, however, any capital improvements required by Laws that are Tenant's responsibility under Paragraph 6, which shall be paid directly by Tenant pursuant to Paragraph 6), where such capital improvements were not required under any such Laws to be completed with respect to the Building or Project Common Area prior to the date the Lease was executed; and the cost of capital improvements incurred during any calendar year by Landlord, which are the responsibility of Tenant pursuant to this Lease, shall be amortized over the useful life of the capital item in question as determined in accordance with generally accepted accounting principles ("GAAP"), together with interest on the unamortized balance at the greater of (x) the rate paid by Landlord on funds borrowed for the purpose of constructing such capital improvements; or (y) 10% per annum; provided, however, the first \$.24 per square foot of the Rentable Area of the Premises of such cost of capital improvements may be included in Expenses even if such amount exceeds the foregoing amortization and any remaining balance of the cost of such capital improvements shall be amortized in accordance with the foregoing (such amortization to commence in the year following the year in which the \$.24 was taken as an expense item); and (vi) any other reasonable expenses of any other kind whatsoever reasonably incurred in managing, operating, maintaining and repairing the Building, including, but not limited to, costs incurred pursuant to the Encumbrances identified in EXHIBIT "D" and the Building's Share of Project Common Expenses. "Project Common Expenses" shall mean any expenses paid or incurred by Landlord in connection with the management, operation, maintenance and repair of the Project Common Areas in the Project and any other Expenses paid or incurred by Landlord for the benefit of the Project as a whole, including, but not limited to, the cost of maintaining the parking lot and facilities and landscaping. Any "deductible" amounts relating to capital improvements required to be paid by Tenant hereunder in connection with any casualty policy carried by Landlord shall be amortized over the useful life of the restoration work in accordance with GAAP; provided, however, such amounts shall no longer constitute Expenses from and after the date upon which Monthly Base Rent is adjusted to fair market rental pursuant to the terms and conditions of this Lease.

Notwithstanding anything to the contrary herein contained, Expenses shall not include, and in no event shall Tenant have any obligation to pay for pursuant to this Paragraph 4 or Paragraph 8(b), (aa) the initial construction cost of the Project or real property on which the Building is located; (bb) the cost of providing tenant improvements, renovations, painting or redecorating (other than in Common Areas) to Tenant or any other tenant; (cc) debt service (including, but without limitation, interest and principal) required to be made on any mortgage or deed of trust (the "Mortgage") recorded with respect to the Building and/or the real property on which the Building is located other than debt service and financing charges imposed pursuant to Paragraph 4(c)(i)(E)(v) above; (dd) the cost of special services, goods or materials provided to any tenant; (ee) depreciation; (ff) the portion of a management fee paid to Landlord or affiliate in excess of three percent (3%) of Monthly Base Rent and Additional Charges (excluding the management fee); (gg) costs occasioned by Landlord's fraud or willful misconduct under applicable laws; (hh) costs for which Landlord has a right of and has received reimbursement from others; (ii) costs to correct any construction or design defects in the original construction of the Premises, the Building or the Project, to the extent such defects are covered by third party warranties; (jj) costs arising from a disproportionate use of any utility or service supplied by Landlord to any other occupant of the Building to the extent that Landlord has the ability to charge such other tenant for said costs under the terms of a lease comparable to terms governing said costs in this Lease; (kk) repairs, replacement and upgrades to the structural elements of the Building, other than capital improvements described in Paragraph 4(c)(i)(E)(v) above; (ll) environmental pollution remediation related costs in connection with the remediation of the Project including costs for which Landlord has indemnified Tenant pursuant to Paragraph 39, except any such costs incurred as the result of Tenant's use of the Premises; (mm) advertising or promotional costs; (nn) leasing commissions; (oo) except as provided in Paragraph 21, costs occasioned by casualties or by the exercise of the power of eminent domain (other than deductible amounts under insurance policies which shall be included as an Expense); and (pp) legal costs incurred in connection with negotiations or disputes with any other occupant (or prospective occupant) of the Project. In the event that the Building or the Project is not at least ninety-five percent (95%) occupied during any fiscal year of the Term as determined by Landlord, an adjustment shall be made in computing the Expenses and/or the Project Common Expenses, as applicable, for such year so that Expenses and/or Project Common Expenses, as applicable, which vary with occupancy shall be computed as though the Building or Project, as applicable, had been ninety-five percent (95%) occupied; provided, however, that in no event shall Landlord be entitled to collect in excess of one hundred percent (100%) of the total Expenses from all of the tenants in the Building including Tenant. All costs and expenses shall be determined in accordance with generally accepted accounting principles which shall be consistently applied (with accruals appropriate to Landlord's business). Expenses shall not include specific costs incurred for the account of, separately billed to and paid by specific tenants.

(F) "Expense Year" shall mean each twelve (12) consecutive month period commencing January 1 of the calendar year during which the Commencement Date of the Lease occurs, provided that Landlord, upon notice to Tenant, may change the Expense Year from time to time to any other twelve (12) consecutive month period, and, in the event of any such change, Tenant's Share of Expenses shall be equitably adjusted for the Expense Years involved in any such change.

(ii) Payment of Real Estate Taxes: Commencing on the Commencement Date, Tenant shall pay to Landlord as Additional Charges one-twelfth (1/12th) of Tenant's Share of Real Estate Taxes for each Tax Year on or before the first day of each month during such Tax Year, in advance, in an amount reasonably estimated by Landlord and billed by Landlord to Tenant, and Landlord shall have the right initially to determine monthly estimates and to revise such estimates from time to time. With reasonable promptness after Landlord has received the tax bills for any Tax Year, Landlord shall furnish Tenant with a statement (herein called "Landlord's Tax Statement") setting forth the amount of Real Estate Taxes for such Tax Year, and Tenant's Share thereof. If the actual Tenant's Share of Real Estate Taxes for such Tax Year exceed the estimated Real Estate Taxes paid by Tenant for such Tax Year, Tenant shall pay to Landlord the difference between the amount paid by Tenant and the actual Real Estate Taxes within fifteen (15) days after the receipt of Landlord's Tax Statement, and if the total amount paid by Tenant for any such Tax Year shall exceed the actual Tenant's Share of Real Estate Taxes for such Tax Year, such excess shall be credited against the next installment of Real Estate Taxes due from Tenant to Landlord hereunder or if the Term has ended it shall be returned to Tenant within thirty (30) days. If it has been determined that Tenant has overpaid Real Estate Taxes during the last year of the Lease Term, then Landlord shall reimburse Tenant for such overage on or before the thirtieth (30th) day following the Expiration Date. No delay by Landlord in providing Landlord's Tax Statement shall be deemed a default by Landlord or a waiver of Landlord's right to require payment of the actual or estimated sums of Tenant's Share of Real Estate Taxes.

(iii) **Payment of Expenses:** Commencing on the Commencement Date, Tenant shall pay to Landlord as Additional Charges one-twelfth (1/12th) of Tenant's Share of the Expenses for each Expense Year on or before the first day of each month of such Expense Year, in advance, in an amount reasonably estimated by Landlord and billed by Landlord to Tenant, and Landlord shall have the right initially to determine monthly estimates and to revise such estimates from time to time. With reasonable promptness after the expiration of each Expense Year, Landlord shall furnish Tenant with a statement (herein called "Landlord's Expense Statement"), setting forth in reasonable detail the Expenses for such Expense Year and Tenant's Share thereof. If the actual Tenant's Share of Expenses for such Expense Year exceed the estimated Tenant's Share of Expenses paid by Tenant for such Expense Year, Tenant shall pay to Landlord the difference between the amount paid by Tenant and the actual Tenant's Share of Expenses within fifteen (15) days after the receipt of Landlord's Expense Statement, and if the total amount paid by Tenant for any such Expense Year shall exceed the actual Tenant's Share of Expenses for such Expense Year, such excess shall be credited against the next installment of the estimated Tenant's Share of Expenses due from Tenant to Landlord hereunder or if the Term has ended it shall be returned to Tenant within thirty (30) days. Any utility rebates for the Project which Landlord receives for payments made by Tenant (as part of Tenant's Share of Expenses) shall be forwarded to Tenant so long as such rebate is received within one year following the Expiration Date or sooner termination of the Lease. If it has been determined that Tenant has overpaid Expenses during the last year of the Lease Term (including rebates of utilities applicable to Tenant), then Landlord shall reimburse Tenant for such overage on or before the thirtieth (30th) day following the Expiration Date. No delay by Landlord in providing Landlord's Expense Statement shall be deemed a default by Landlord or a waiver of Landlord's right to require payment of the actual or estimated sums of Tenant's Share of Expenses.

(iv) **Other:** To the extent any item of Real Estate Taxes or Expenses is payable by Landlord in advance of the period to which it is applicable (e.g. insurance and tax escrows required by Landlord's Lender), or to the extent that prepayment is customary for the service or matter, Landlord may (i) include such items in Landlord's estimate for periods prior to the date such item is to be paid by Landlord and (ii) to the extent Landlord has not collected the full amount of such item prior to the date such item is to be paid by Landlord, Landlord may include the balance of such full amount in a revised monthly estimate for Additional Charges. If the Commencement Date or Expiration Date shall occur on a date other than the first day of a Tax Year and/or Expense Year, Tenant's Share of Real Estate Taxes and Expenses, for the Tax Year and/or Expense Year in which the Commencement Date or Expiration Date, as applicable, occurs shall be prorated.

(v) **Audit:** Within ninety (90) days after receipt of any Expense Statement or Tax Statement from Landlord, Tenant shall have the right to examine Landlord's books and records relating to such Expense Statements and Tax Statements, or cause an independent audit thereof to be conducted by an accounting firm to be selected by Tenant and subject to the reasonable approval of Landlord. If the audit conclusively proves that Tenant has overpaid either Expenses or Real Estate Taxes, Tenant shall notify Landlord within one hundred fifty (150) days after the date the applicable Expense Statement or Tax Statement was received by Tenant, and then Landlord shall promptly reimburse Tenant for such overage, provided that if such overage exceeds five percent (5%) of the actual amount of Expenses or Real Estate Taxes paid by Landlord for the Tax or Expense Year covered by such audit, then Landlord shall bear the cost of such audit, up to a maximum cost of \$5,000. If Tenant fails to object to any such Expense Statement or Tax Statement or to request an independent audit thereof, within ninety (90) days after receipt of the applicable statement, or if Tenant objects to any statement or requests an audit but then fails to complete the audit within one hundred fifty (150) days after receipt of the applicable statement, such Expense Statement and/or Tax Statement shall be final and shall not be subject to any audit, challenge or adjustment. All of the information obtained through any audit by Tenant and any compromise, settlement or adjustment reached between Landlord and Tenant relative to the results of such audit shall be held in strict confidence by the Tenant, except for any reasonably necessary disclosure to Tenant's consultants or as may be required by applicable Laws.

(d) **Late Charges.** Tenant recognizes that late payment of any Monthly Base Rent or Additional Charges will result in administrative expenses to Landlord, the extent of which additional expense is extremely difficult and economically impractical to ascertain. Tenant therefore agrees that if Tenant is in default in the payment of any Monthly Base Rent or Additional Charges, the amount of such unpaid Monthly Base Rent or Additional Charges shall be increased by a late charge to be paid to Landlord by Tenant in an amount equal to four percent (4%) of the amount of the delinquent Monthly Base Rent or Additional Charges. In addition, any outstanding Monthly Base Rent, Additional Charges, late charges and other outstanding amounts with respect to which Tenant is in default shall accrue interest at an annualized rate of the lesser of (i) the greater of, 10% or The Federal Reserve Discount Rate plus 5%, or (ii) the maximum rate permitted by law (the "Default Rate"), until paid to Landlord. Tenant agrees that such amount is a reasonable estimate of the loss and expense to be suffered by

Landlord as a result of such late payment by Tenant and may be charged by Landlord to defray such loss and expense. The provisions of this Paragraph 4(d) in no way relieve Tenant of the obligation to pay Monthly Base Rent or Additional Charges on or before the date on which they are due, nor do the terms of this Paragraph 4(d) in any way affect Landlord's remedies pursuant to Paragraph 20 in the event any Monthly Base Rent or Additional Charges are unpaid after the date due.

5. RESTRICTIONS ON USE. Tenant shall not do or permit anything to be done in or about the Premises which will unreasonably obstruct or interfere with the rights of other tenants or occupants of the Building or the Project or injure or annoy them, nor use or allow the Premises to be used for any unlawful purpose, nor shall Tenant cause or maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or suffer the commission of any waste in, on or about the Premises.

6. COMPLIANCE WITH LAWS.

(a) Tenant's Compliance Obligations. Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any present and future laws, statutes, ordinances, resolutions, regulations, proclamations, orders or decrees of any municipal, county, state or federal government or other governmental or regulatory authority with jurisdiction over the Project, or any portion thereof, whether currently in effect or adopted in the future and whether or not in the contemplation of the parties hereto (collectively, "Laws"), and Tenant shall promptly, at its sole expense, maintain the Premises, any Alterations (as defined in Paragraph 7 below) permitted hereunder and Tenant's use and operations thereon in strict compliance at all times with all Laws. "Laws" shall include, without limitation, all Laws relating to health and safety (including, without limitation, the California Occupational Safety and Health Act of 1973 and the California Safe Drinking Water and Toxic Enforcement Act of 1986, including posting and delivery of notices required by such Laws with respect to the Premises), disabled accessibility (including, without limitation, the Americans with Disabilities Act, 42 U.S.C. Section 12101 *et seq.*), Hazardous Substances, and all present and future life safety, fire, sprinkler, seismic retrofit, building code and municipal code requirements; provided however, that Tenant's obligation to comply with Laws relating to Hazardous Substances is subject to the terms and conditions of Paragraph 39, and Tenant shall not be responsible for compliance with clean-up provisions of any Laws with respect to Hazardous Substances except to the extent of any release caused by the Tenant Parties or otherwise included in Tenant's indemnity contained in Paragraph 39. Notwithstanding the foregoing, Landlord, and not Tenant, shall be responsible for correcting any condition with respect to the Project Common Area, exterior or structural portions of the Building (but not with respect to the interior of the Premises), or Building Common Area which is in violation of applicable Laws (subject to Tenant's obligation to pay Tenant's Share of such costs to the extent allowed in Paragraph 4(c)(i)(E)) except to the extent such condition is caused by the acts or omissions of the Tenant Parties, or such violation results from Tenant's use of the Premises in a manner other than as permitted under this Lease, or such condition will be altered in connection with the installation of the Tenant Improvements or any other Alterations. Tenant shall be responsible for compliance of the Tenant Improvements with all Laws. Notwithstanding the first sentence of this Paragraph 6(a), but subject to the immediately preceding sentence, Tenant shall not be required to make any structural alterations to the Premises after installation of the Tenant Improvements in order to comply with Laws unless the requirement that such alterations be made is triggered by any of the following (or, if such requirement results from the cumulative effect of any of the following when added to other acts, omissions, negligence or events, to the extent such alterations are required by any of the following): (i) the installation, use or operation of any Alterations, or any of Tenant's trade fixtures or personal property; (ii) the acts, omissions or negligence of Tenant, or any of its servants, employees, contractors, agents or licensees; or (iii) the particular use or particular occupancy or manner of use or occupancy of the Premises by Tenant, or any of its servants, employees, contractors, agents or licensees. Any alterations that are Tenant's responsibility pursuant to this Paragraph 6 shall be made in accordance with Paragraph 7 below, at Tenant's sole cost. The parties acknowledge and agree that Tenant's obligation to comply with all Laws as provided in this paragraph (subject to the limitations contained herein) is a material part of the bargained-for consideration under this Lease. Tenant's obligations under this Paragraph and under Paragraph 8(c) below shall include, without limitation, the responsibility of Tenant to make substantial or structural repairs and alterations to the Premises to the extent provided above, regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term hereof, the relative benefit of the repairs to Tenant or Landlord, the degree to which the curative action may interfere with Tenant's use or enjoyment of the Premises, and the likelihood that the parties contemplated the particular Law involved.

(b) **Insurance Requirements.** Tenant shall not do or permit anything to be done in or about the Premises or bring or keep anything therein which will in any way increase the rate of any insurance upon the Project or any of its contents (unless Tenant agrees to pay for such increase) or cause a cancellation of any insurance on the Project or otherwise violate any requirements, guidelines, conditions, rules or orders with respect to such insurance. Tenant shall at its sole cost and expense promptly comply with the requirements of the ISO, board of fire underwriters, or other similar body now or hereafter constituted relating to or affecting Tenant's use or occupancy of the Project (other than in situations where compliance involves repair, maintenance or replacement of items that Landlord is expressly required to repair, maintain or replace under this Lease).

(c) **No Limitation on Obligations.** The provisions of this Paragraph 6 shall in no way limit Tenant's maintenance, repair and replacement obligations under Paragraph 8 or Tenant's obligation to pay Expenses under Paragraph 4(c). The judgment of any court of competent jurisdiction or the admission of Tenant in an action against Tenant, whether Landlord is a party thereto or not, that Tenant has so violated any such Law shall be conclusive of such violation as between Landlord and Tenant.

## 7. TENANT IMPROVEMENTS; ALTERATIONS.

(a) Tenant shall not make or suffer to be made any alterations, additions or improvements (collectively, "Alterations") in, on or to the Premises or any part thereof without the prior written consent of Landlord. Failure of Landlord to give its disapproval within twenty (20) calendar days after receipt of Tenant's written request for approval shall constitute approval by Landlord of such Alterations. Any alterations in, on or to the Premises, except for Tenant's movable furniture and equipment, shall be the property of Tenant during the Term and shall become Landlord's property at the end of the Term without compensation to Tenant. Landlord shall not unreasonably withhold its consent to Alterations that (i) do not materially affect the structure of the Building or the Building Systems (as defined below), (ii) are not visible from the exterior of the Premises, (iii) are consistent with Tenant's Permitted Use hereunder, (iv) do not adversely affect the value or marketability of Landlord's reversionary interest upon termination or expiration of this Lease; (v) do not require any application to a political jurisdiction for rezoning, general plan amendment, variance, conditional use permit or architectural review approval; (vi) will not unreasonably interfere with the use and occupancy of any other portion of the Project by any other tenants or their invitees, or by any other party with the right to use any portion of the Project; and (vii) comply with the Encumbrances and any Mortgage.

(b) Any Alterations consented to by Landlord pursuant to Paragraph 7(a), shall be made by Tenant, at Tenant's sole cost and expense, in accordance with plans and specifications reasonably approved by Landlord, and any contractor or person selected by Tenant to make the same must first be reasonably approved in writing by Landlord. With respect to any Alterations that affect the structure of the Building, the Building Systems, or any portion of the Building outside the Premises, at Landlord's option the Alterations shall be made by Landlord, or by a contractor specified by Landlord, for Tenant's account and Tenant shall reimburse Landlord for the cost thereof (including a reasonable charge for Landlord's overhead), as an Additional Charge, within twenty (20) days after receipt of a statement from Landlord therefor.

(c) Tenant shall reimburse Landlord upon demand for any reasonable out-of-pocket expenses incurred by Landlord in the review of any Alterations made by Tenant, including fees charged by Landlord's contractors or consultants to review plans and specifications, and such obligation shall be an Additional Charge. Landlord's consent to any Alterations shall not obligate Landlord to repair, maintain, insure or otherwise assume any responsibility or liability with respect to any such Alteration. In addition, notwithstanding Landlord's review, Tenant and not Landlord shall be responsible for compliance of the Alterations, and plans and specifications therefor, with all applicable Laws, and Landlord shall not be responsible for any omissions or errors therein.

(d) In addition to the requirements for all Alterations set forth in this Paragraph 7, the following requirements shall apply with respect to Tenant's initial leasehold improvements (the "Tenant Improvements"):

(i) Promptly after the Commencement Date, Tenant shall furnish and install, at Tenant's expense, the Tenant Improvements necessary to complete the Premises, in accordance with this Paragraph 7(d).

(ii) The cost of preparing the plans, specifications and working drawings for the Tenant Improvements shall be paid by Tenant. Landlord has approved the architectural and engineering plans and

specifications for the Tenant Improvements prepared by Devcon Construction Incorporated dated March 14, 2000 (the "Tenant's Plans").

(iii) Tenant shall submit the Tenant's Plans to the appropriate municipal authorities for all applicable building permits necessary for construction of the Tenant Improvements. Tenant shall be responsible for obtaining any building permit or certificate of occupancy for the Premises; provided that Landlord shall cooperate with Tenant in executing permit applications and performing other ministerial acts reasonably necessary. No material changes, modifications or alterations in Tenant's Plans approved by Landlord may be made without the prior written consent of Landlord, in Landlord's reasonable discretion.

(iv) After Tenant has received any required permits, Tenant shall administer and diligently prosecute the construction of the Tenant Improvements in accordance with Tenant's Plans and in accordance with a construction contract with Devcon Construction Incorporated.

(v) Tenant shall be obligated to keep the Project free of all liens and claims relating to the design and construction of the Tenant Improvements.

(vi) Landlord shall have the right to inspect the Tenant Improvements at all times; provided, however, that Landlord's failure to inspect the Tenant Improvements shall in no event constitute a waiver of any of Landlord's rights hereunder nor shall Landlord's inspection of the Tenant Improvements constitute Landlord's approval of the same. If Landlord disapproves any portion of the Tenant Improvements, Landlord shall notify Tenant in writing of such disapproval and shall specify the items disapproved. Any defects or deviations in, and/or disapproval.

#### 8. REPAIR AND MAINTENANCE.

(a) Landlord shall be responsible for the following repair, replacement and maintenance obligations: (i) maintenance and repair of the exterior, roof and structural portions of the Building (including load bearing walls and foundations); (ii) repair and maintenance of the elevators and building systems for mechanical, electrical (connection to the main panel installed in the Premises), HVAC (stubbed to the Premises) and plumbing, and all controls appurtenant thereto (collectively, "Building Systems"); (iii) repair, replacement and maintenance of Building Common Area and Project Common Area, and (iv) structural alterations to the Premises required under applicable Laws to the extent not the responsibility of Tenant pursuant to Paragraphs 6 or 7 hereof. Notwithstanding the foregoing, Tenant shall be responsible for Tenant's Share of the costs described in the previous sentence to the extent such costs are properly included in Expenses. Landlord's obligations under this Paragraph 8(a) with respect to any particular repair, replacement or maintenance requirement (other than general maintenance of the Project Common Area and Building Common Area, in the ordinary course of business) shall not commence until Tenant notifies Landlord in writing of any circumstances that Tenant believes may trigger Landlord's obligations.

(b) Tenant shall maintain, repair and replace, at its sole cost and expense, all portions of the Premises that are not Landlord's obligations under Paragraph 8(a) in good working order and first class condition, including, without limitation, the interior portion of the Premises, the Tenant Improvements, the Alterations, and any additional tenant improvements, alterations or additions installed by or on behalf of Tenant within the Premises. Tenant shall be responsible for the expense of installation, operation, and maintenance of its telephone and other communications cabling from the point of entry into the Premises and throughout the Premises; though Landlord shall have the right to perform such work on behalf of Tenant in Building Common Area and Project Common Area. Tenant hereby waives and releases its right to make repairs at Landlord's expense under Sections 1941 and 1942 of the California Civil Code or under any similar law, statute or ordinance now or hereafter in effect. In addition, Tenant hereby waives and releases its right to terminate this Lease under Section 1932(1) of the California Civil Code or under any similar law, statute or ordinance now or hereafter in effect.

(c) The purpose of Paragraph 8(a) and 8(b) is to define the obligations of Landlord and Tenant to perform various repair and maintenance functions; the allocation of the costs therefor are covered under this Paragraph 8(c) and Paragraph 4. Tenant shall bear the full cost of repairs or maintenance interior or exterior, structural or otherwise, to preserve the Premises and the Building in good working order and first-class condition, arising out of (i) the existence, installation, use or operation of the Tenant Improvements, any Alterations, or any of Tenant's trade fixtures or personal property; (ii) the moving of Tenant's property or fixtures in or out of the Building or Project or in and about the Premises; or (iii) except to the extent any claims arising from any of the foregoing are

reimbursed by insurance carried by Landlord, are covered by the waiver of subrogation in Paragraph 12 or are otherwise provided for in Paragraph 21, the acts, omissions or negligence of Tenant, or any of its servants, employees, contractors, agents, visitors, or licensees, or the particular use or particular occupancy or manner of use or occupancy of the Premises by Tenant or any such person. All costs payable by Tenant in connection therewith, to the extent such costs are incurred by Landlord but payable by Tenant, shall be considered Additional Charges and shall be payable to Landlord by Tenant on demand with interest at the Default Rate. Any Alterations required with respect to Tenant's responsibilities pursuant to this Paragraph 8(c) shall be made in accordance with Paragraph 7.

(d) Except to the extent any claims arising from any of the foregoing are reimbursed by rental abatement insurance proceeds actually received by Landlord, are covered by the waiver of subrogation in Paragraph 12 or are otherwise provided for in Paragraph 21, there shall be no abatement of Rent with respect to, and except for Landlord's gross negligence or willful misconduct, Landlord shall not be liable for any injury to or interference with Tenant's business arising from, any repairs, maintenance, alteration or improvement in or to any portion of the Project, including the Premises, or in or to the fixtures, appurtenances and equipment therein.

9. **LIENS.** Tenant shall keep the Premises free from any liens arising out of any work performed, material furnished or obligations incurred by Tenant. In the event that Tenant shall not, within ten (10) days after the imposition of any such lien, cause the same to be released of record by payment or posting of a proper bond, Landlord shall have, in addition to all other remedies provided herein and by law, the right, but not the obligation, 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 shall be considered Additional Charges and shall be payable to Landlord by Tenant on demand with interest at the Default Rate. 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, the Project, and any other party having an interest therein, from mechanics' and materialmen's liens, and Tenant shall give notice to Landlord at least fifteen (15) days' prior notice of commencement of any construction on the Premises.

#### 10. ASSIGNMENT AND SUBLETTING.

(a) Tenant shall not directly or indirectly, voluntarily or by operation of law, sell, assign, encumber, pledge or otherwise transfer or hypothecate all or any part of the Premises or Tenant's leasehold estate hereunder (collectively, "Assignment"), or permit the Premises to be occupied by anyone other than Tenant or sublet the Premises or any portion thereof (collectively, "Sublease"), without Landlord's prior written consent in each instance, which consent shall not be unreasonably withheld by Landlord. Without otherwise limiting the criteria upon which Landlord may withhold its consent to any proposed Sublease or Assignment, if Landlord withholds its consent where either (i) the creditworthiness of the proposed Sublessee or Assignee is not reasonably acceptable to Landlord, or (ii) the proposed Sublessee's or Assignee's use of the Premises is not in compliance with Tenant's Permitted Uses of the Premises as described in the Basic Lease Information. If Landlord consents to the Sublease or Assignment, Tenant may thereafter enter into a valid Sublease or Assignment upon the terms and conditions set forth in this Paragraph 10.

(b) If Tenant desires at any time to enter into an Assignment of this Lease or a Sublease of the Premises or any portion thereof, it shall first give written notice to Landlord of its desire to do so, which notice shall contain (i) the name of the proposed assignee, subtenant or occupant; (ii) the name of the proposed assignee's, subtenant's, or occupant's business to be carried on in the Premises; (iii) the terms and provisions of the proposed Assignment or Sublease; and (iv) such financial information as Landlord may reasonably request concerning the proposed assignee, subtenant or occupant.

(c) At any time within fifteen (15) days after Landlord's receipt of the notice specified in Paragraph 10(b), Landlord may by written notice to Tenant elect to (i) consent to the Sublease or Assignment; (ii) disapprove the Sublease or Assignment; or (iii) terminate this Lease as to the portion of the Premises that is specified in Tenant's notice, with a proportionate abatement in Base Rent and Additional Charges. If Landlord elects to terminate the Lease as to a portion of the Premises pursuant to clause (iii) above, Tenant shall at all times provide reasonable and appropriate access to such portion of the Premises and use of any common facilities within the Building. Promptly after request from Landlord, Tenant shall enter into any amendment to this Lease or other documentation reasonably requested by Landlord in connection with any such termination of this Lease as to a portion of the Premises.



If Landlord consents to the Sublease or Assignment within fifteen (15) days after receipt of Tenant's notice as provided above, Tenant may thereafter within one hundred twenty (120) days after Landlord's consent, but not later than the expiration of said one hundred twenty (120) days, enter into such Assignment or Sublease of the Premises or portion thereof upon the terms and conditions set forth in the notice furnished by Tenant to Landlord pursuant to Paragraph 10(b). However, Tenant shall pay to Landlord fifty percent (50%) of any rent or other consideration realized by Tenant under any and all Subleases in excess of the Monthly Base Rent and Additional Charges payable hereunder (or the amount thereof proportionate to the portion of the Premises subject to such Sublease(s)), after first deducting from such excess the unamortized costs of any portion of the Tenant Improvements paid for by Tenant (and not from the Tenant Improvement Allowance) or costs reasonably incurred for tenant improvements installed by Tenant to obtain the Sublease in question, each of which are installed in that portion of the Premises which is the subject of the Sublease and which unamortized costs shall be amortized on a straight line basis (without interest) over the term of the Sublease in equal installments, and after deducting therefrom any customary brokers' commissions that Tenant has incurred in connection with such Sublease amortized on a straight line basis (without interest) over the term of the Sublease.

(d) No consent by Landlord to any Assignment or Sublease by Tenant shall relieve Tenant of any obligation to be performed by Tenant under this Lease, whether arising before or after the Assignment or Sublease. The consent by Landlord to any Assignment or Sublease shall not relieve Tenant from the obligation to obtain Landlord's express written consent to any other Assignment or Sublease. Any Assignment or Sublease that is not in compliance with this Paragraph 10 shall be void and, at the option of Landlord, shall constitute a material default by Tenant under this Lease. The acceptance of Base Rent or Additional Charges by Landlord from a proposed assignee or sublessee shall not constitute the consent to such Assignment or Sublease by Landlord.

(e) Any (i) dissolution, merger, consolidation, or other reorganization of Tenant, and (ii) if the capital stock of Tenant is not a publicly traded corporation, any sale or transfer to one person or entity of stock or other beneficial ownership interests of Tenant representing more than fifty percent (50%) of the total combined voting power of all stock or other beneficial ownership interests of Tenant, shall be deemed a voluntary assignment of Tenant's interest in this Lease; provided, however, that notwithstanding anything to the contrary contained in this Paragraph 10, Tenant may enter into any of the following transfers (a "Permitted Transfer") without Landlord's prior written consent and without triggering Landlord's rights under Paragraph 10(c): (1) Tenant may assign its interest in the Lease to a corporation or other entity which results from a merger, consolidation or other reorganization, so long as the surviving corporation or entity has a net worth immediately following such transaction that is equal to or greater than the net worth of Tenant both as of the date of this Lease and as of the date immediately prior to such transaction; and (2) Tenant may assign this Lease to a corporation or other entity which purchases or otherwise acquires all or substantially all of the assets of Tenant, so long as such acquiring corporation or entity has a net worth immediately following such transaction that is equal to or greater than the net worth of Tenant as of the date immediately prior to such transaction.

(f) Notwithstanding anything to the contrary in this Lease, no Sublease shall be binding on Landlord unless and until Landlord shall agree in writing following termination of this Lease to recognize such sublessee and such sublessee agrees in writing to attorn to Landlord on the terms and conditions of the sublease (including the obligations under this Lease to the extent that they relate to the portion of the Premises subleased), and any Sublease entered into by Tenant hereunder shall include an obligation by the sublessee to so attorn to Landlord if Landlord, in Landlord's sole discretion, elects to recognize such Sublease upon any termination of this Lease.

(g) Tenant shall have the right, without Landlord's consent, but with written notice to Landlord at least ten (10) days prior thereto, to enter into an Assignment of Tenant's interest in the Lease or a Sublease of all or any portion of the Premises to an Affiliate (as defined below) of Tenant, provided that (i) in connection with an Assignment that is not a Sublease, the Affiliate delivers to Landlord concurrent with such Assignment a written notice of the Assignment and an assumption agreement whereby the Affiliate assumes and agrees to perform, observe and abide by the terms, conditions, obligations, and provisions of this Lease arising from and after the effective date of the assignment; and (ii) the assignee or sublessee remains an Affiliate throughout the term of this Lease (and, in connection with an Assignment that is not a Sublease, the assumption agreement shall contain provisions consistent with the provisions of this subparagraph allowing Landlord to terminate this Lease at such time as the entity is no longer an Affiliate of the original Tenant). If this Lease is assigned or sublet to an Affiliate and thereafter any circumstance occurs which causes such assignee or sublessee to no longer be an Affiliate of the original Tenant, Tenant shall give written notice thereof to Landlord, which notice, to become effective, shall refer

to Landlord's right to terminate this Lease pursuant to this subparagraph, in the event of an Assignment, or to cause Tenant to terminate the Sublease, in the event of a Sublease ("Affiliation Termination Notice"). Following occurrence of the circumstance giving rise to the discontinuation of such assignee or sublessee being an Affiliate ("Affiliate Termination") of the original Tenant, Landlord shall be entitled to terminate this Lease in the event of an Assignment, or to cause Tenant to terminate the Sublease in the event of a Sublease, unless Landlord has given its prior written consent to such circumstance, which consent shall not be unreasonably withheld by Landlord so long as, in the event of an Assignment, such assignee (after giving effect to such circumstance) has financial strength (as demonstrated by audited financial statements) equal to or greater than the original Tenant (including its net worth) as of the date of execution of this Lease, or the original Tenant executes a guaranty in usual form reasonably acceptable to Landlord (however, this does not imply that Tenant would be released without such guaranty). No Sublease or Assignment by Tenant made pursuant to this Paragraph shall relieve Tenant of Tenant's obligations under this Lease. As used in this paragraph, the term "Affiliate" shall mean and collectively refer to a corporation or other entity which controls, is controlled by or is under common control with Tenant, by means of an ownership of either (aa) more than fifty percent (50%) of the outstanding voting shares of stock or partnership or other ownership interests, or (bb) stock, or partnership or other ownership interests, which provide the right to control the operations, transactions and activities of the applicable entity.

(h) Tenant shall have the right, without Landlord's consent, but with written notice to Landlord at least ten (10) days prior thereto, to enter into an Assignment of Tenant's interest in the Lease to the purchaser of the Sign from Tenant, provided that in connection with an Assignment, such purchaser delivers to Landlord concurrent with such Assignment a written notice of the Assignment and an assumption agreement whereby such purchaser assumes and agrees to perform, observe and abide by the terms, conditions, obligations, and provisions of this Lease arising from and after the effective date of the assignment. No Assignment by Tenant made pursuant to this Paragraph shall relieve Tenant of Tenant's obligations under this Lease, except to the extent that the assignee expressly assumes the terms, conditions, obligations, and provisions under this Lease arising from and after the effective date of the assignment.

## 11. INSURANCE AND INDEMNIFICATION.

(a) Except to the extent caused by the gross negligence or willful misconduct of Tenant Parties (as defined in Paragraph 11(c) below) or Tenant's breach of this Lease, Landlord shall indemnify and hold Tenant harmless from and defend Tenant against any and all claims or liability for any injury or damage to any person or property including any reasonable attorney's fees (but excluding any consequential damages or loss of business) occurring in, on, or about the Project to the extent such injury or damage is caused by the gross negligence or willful misconduct of Landlord, its agents, servants, contractors, employees (collectively, including Landlord, "Landlord Parties") or Landlord's breach of this Lease.

(b) Landlord shall not be liable to Tenant, and Tenant hereby waives all claims against Landlord Parties for any injury or damage to any person or property in or about the Premises by or from any cause whatsoever (other than the negligence or willful misconduct of Landlord Parties, including Landlord's negligence or willful misconduct as related to construction or property management), and without limiting the generality of the foregoing, whether caused by water leakage of any character from the roof, walls, basement, or other portion of the Premises or the Building, or caused by gas, fire, oil, electricity, or any cause whatsoever, in, on, or about the Premises, the Building or any part thereof (other than that caused by the negligence or willful misconduct of Landlord Parties). Tenant acknowledges that any casualty insurance carried by Landlord will not cover loss of income to Tenant or damage to the alterations in the Premises installed by Tenant or Tenant's personal property located within the Premises. Tenant shall be required to maintain the insurance described in Paragraph 11 (d) below during the Term.

(c) Except to the extent caused by the gross negligence or willful misconduct of Landlord Parties or Landlord's breach of this Lease, Tenant shall indemnify and hold Landlord harmless from and defend Landlord against any and all claims or liability for any injury or damage to any person or property whatsoever: (i) occurring in or on the Premises; or (ii) occurring in, on, or about any other portion of the Project to the extent such injury or damage shall be caused by the negligence or willful misconduct by Tenant, its agents, servants, employees, or invitees (collectively, including Tenant, "Tenant Parties"). Tenant further agrees to indemnify and hold Landlord harmless from, and defend Landlord against, any and all claims, losses, or liabilities (including damage to Landlord's property) arising from (x) any breach of this Lease by Tenant, (y) injuries to persons or damage to property resulting from the conduct of any work or business of Tenant Parties in or about the Project, and/or (z) any

matter referred to in Paragraph 11(g). This Paragraph 11 does not govern liability for Hazardous Substances, which subject is governed by Paragraph 39 of the Lease concerning Hazardous Substance Liability.

(d) From and after the Commencement Date, Tenant shall procure at its cost and expense and keep in effect during the Term the following insurance:

(i) Commercial general liability insurance on an occurrence form, including contractual liability, with a minimum combined single limit of liability and annual aggregate of Ten Million Dollars (\$10,000,000). Such insurance shall name Landlord, any Mortgagee and such other parties as Landlord may reasonably request as additional insureds, shall specifically include the liability assumed hereunder by Tenant, and shall provide that it is primary insurance, and not excess over or contributory with any other valid, existing, and applicable insurance in force for or on behalf of Landlord, and shall provide that Landlord shall receive thirty (30) days' written notice from the insurer prior to any cancellation or change of coverage. The limits of such insurance shall not limit the liability of Tenant hereunder, and Tenant is responsible for ensuring that the amount of liability insurance carried by Tenant is sufficient for Tenant's purposes.

(ii) Business interruption insurance, insuring Tenant for a period of twelve (12) months against losses arising from the interruption of Tenant's business, and for lost profits, and charges and expenses which continue but would have been earned if the business had gone on without interruption, insuring against such perils, in such form and with such deductible amount as are reasonably satisfactory to Landlord.

(iii) "Special" (also known as "all risk") property insurance (including, without limitation, boiler and machinery (if applicable); sprinkler damage, vandalism and malicious mischief) on all leasehold improvements installed in the Premises by Tenant at its expense (if any), and on all Tenant's personal property. Such insurance shall be an amount equal to full replacement cost of the aggregate of the foregoing and shall provide coverage comparable to the coverage in the standard ISO All Risk form, when such form is supplemented with the coverages required above.

(iv) Worker's compensation insurance as may be required by law.

(v) Such other insurance as may be required by Laws or by Landlord, in its reasonable discretion.

Insurance required under this Paragraph 11(d) shall be in companies rated "A" X or better in "Best's Insurance Guide." Tenant shall deliver copies of policies of such insurance and certificates naming the additional insureds thereof to Landlord on or before the Commencement Date, and thereafter at least thirty (30) days before the expiration dates of expiring policies; and, in the event Tenant shall fail to procure such insurance, or to deliver such policies or certificates, Landlord may, at its option, procure same for the account of Tenant, and the cost thereof shall be paid to Landlord as Additional Charges within five (5) days after delivery to Tenant of bills therefor.

(e) The provisions of this Paragraph 11 shall survive the expiration or termination of this Lease with respect to any claims or liability occurring prior to such expiration or termination.

(f) Landlord shall maintain insurance on the Project, against fire and risks covered by "special" (also known as "all risk") (excluding earthquake and flood, though Landlord, at its option, may include this coverage) on a 100% of "replacement cost" basis (though reasonable deductibles may be included under such coverage). Landlord's insurance shall also cover the improvements installed by Landlord prior to the commencement of the Term, shall have a building ordinance provision, and shall provide for rental interruption insurance covering a period of twelve (12) full months. In no event shall Landlord be deemed a co-insurer under such policy. Landlord shall also maintain commercial general liability insurance on an occurrence basis in amounts not less than Ten Million Dollars (\$10,000,000) per occurrence with respect to bodily injury or death and property damage in the Project. Notwithstanding the foregoing obligations of Landlord to carry insurance, Landlord may modify the foregoing coverages if and to the extent it is commercially reasonable to do so. Tenant acknowledges that, notwithstanding any provision of this Paragraph 11(f) or this Lease, Landlord intends to carry earthquake insurance on the Project during the Term of this Lease.

(g) Tenant acknowledges that even if Landlord installs and operates security cameras or other security equipment and/or provides any other services that could be construed as being intended to enhance security,

Landlord shall have no obligation to Tenant or to any of Tenant's Parties for any damage, claim, loss or liability related to any claim that Landlord had a duty to provide security or that the equipment or services provided by Landlord were inadequate, inoperative or otherwise failed to provide adequate security. Any such claim made against Landlord by any employee, customer or invitee of Tenant shall be included within Tenant's obligation of indemnity and defense set forth in Paragraph 11(c) above.

12. WAIVER OF SUBROGATION. Notwithstanding anything to the contrary in this Lease, the parties hereto release each other and their respective agents, employees, successors, assignees and subtenants from all liability for injury to any person or damage to any property that is caused by or results from a risk (i) which is actually insured against, to the extent of receipt of payment under such policy (unless the failure to receive payment under any such policy results from a failure of the insured party to comply with or observe the terms and conditions of the insurance policy covering such liability, in which event, such release shall not be so limited), (ii) which is required to be insured against under this Lease, or (iii) which would normally be covered by the standard form of "all risk-extended coverage" casualty insurance, without regard to the negligence or willful misconduct of the entity so released. Landlord and Tenant shall each obtain from their respective insurers under all policies of fire, theft, and other property insurance maintained by either of them at any time during the Term insuring or covering the Project or any portion thereof of its contents therein, a waiver of all rights of subrogation which the insurer of one party might otherwise, if at all, have against the other party, 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.

### 13. SERVICES AND UTILITIES.

(a) Landlord shall provide the maintenance and repairs described in Paragraph 8(a), except for damage occasioned by the act of Tenant or for which Tenant is responsible pursuant to Paragraph 8(c), in which case, but in any event subject to the terms of Paragraph 12 above, such damage shall be repaired by Landlord at Tenant's expense.

(b) Subject to the provisions elsewhere herein contained and to the Rules and Regulations, Tenant shall be responsible for arranging for, and direct payment of any and all cost of, internal security, transportation management programs, telephone, cable and digital communications equipment and services, and any and all other utilities and services not provided by Landlord. Landlord shall cooperate with Tenant's efforts to arrange all such services.

(c) Subject to the provisions elsewhere in this Lease and to the Rules and Regulations, Tenant shall have access to the Premises, and Landlord shall furnish the following services and utilities to the Premises and the Building Common Areas (as applicable), twenty-four (24) hours a day, seven (7) days a week: water and electricity suitable for the intended use of the Premises, heat and air conditioning required in Landlord's judgment for the use and operation of the computers and monitoring systems within the Premises, janitorial services during the times and in the manner that such services are, in Landlord's judgment, customarily furnished for such space in comparable office buildings in the immediate market area, and elevator service (if the Building has an elevator) which shall mean service either by non-attended automatic elevators or elevators with attendants, or both, at the option of the Landlord. To the extent Tenant requires water, electricity, heat, air conditioning or other services in portions of the Premises which are not metered separately from other tenants of the Building and in amounts in excess of amounts delivered to such other tenants of the Building, both as reasonably determined by Landlord, then Landlord shall provide such excess services at Tenant's request pursuant to procedures established by Landlord and Tenant shall pay to Landlord a reasonable charge for such excess services as determined by Landlord. Landlord shall make available to Tenant reasonable documentation supporting its charges for such excess services. Tenant agrees at all times to cooperate fully with Landlord and to abide by all the regulations and requirements which Landlord may prescribe for the proper functioning and protection of the Building Systems. Wherever heat generating machines, excess lighting or equipment are used in the Premises which affect the temperature otherwise maintained by the air conditioning system, Landlord reserves the right to install supplementary air conditioning units in the Premises, and the cost thereof, including the cost of installation and the cost of operation and maintenance thereof, shall be paid by Tenant to Landlord upon demand by Landlord.

(d) Tenant will not without the written consent of Landlord, which consent shall not be unreasonably withheld or delayed, use any apparatus or device in the Premises which, when used, puts an excessive load on the Building or its structure or Building Systems, including, without limitation, electronic data processing machines, punch card machines and machines using excess lighting or voltage in excess of the amount for which the

Building is designed, which will in any way materially increase the amount of gas, electricity or water usually furnished or supplied for use of the Premises as computer operation space; nor connect with electric current, except through existing electrical outlets in the Premises, or water pipes or gas outlets, any apparatus or device for the purposes of using gas, electrical current or water. If Tenant shall require water or electrical current or any other resource in excess of that usually furnished or supplied for use of the Premises as computer operation space, Tenant shall first obtain the consent of Landlord, which Landlord may refuse, to the use thereof, and Landlord may cause a special meter to be installed in the Premises so as to measure the amount of water, electric current or other resource consumed for any such other use. The cost of any such meters and of installation, maintenance and repair thereof shall be paid for by Tenant, and Tenant agrees to pay Landlord promptly upon demand by Landlord for all such water, electric current or other resource consumed, as shown by said meters, at the rates charged by the local public utility, furnishing the same, plus any additional reasonable expense incurred in keeping account of the water, electric current or other resource so consumed.

(e) Landlord shall not be in default hereunder, nor be deemed to have evicted Tenant, nor be liable for any damages directly or indirectly resulting from, nor shall the rental herein reserved be abated by reason of (i) the installation, use or interruption of use of any equipment in connection with the foregoing utilities and services; (ii) failure to furnish or delay in furnishing any services to be provided by Landlord when such failure or delay is caused by acts of God or the elements, acts of the government, labor disturbances of any character, shortages of materials or labor, or any other conditions or causes beyond the reasonable control of Landlord (any of the foregoing, "Force Majeure"), or by the making of repairs or improvements to the Premises or to the Building (unless such failure or delay is caused by Landlord's gross negligence or willful misconduct); or (iii) the limitation, curtailment, rationing or restriction on use of water, electricity, gas or any other form of energy, or any other service or utility whatsoever serving the Premises, the Building or the Project. Furthermore, Landlord shall be entitled to cooperate with the mandatory requirements of national, state or local governmental agencies or utilities suppliers in connection with reducing energy or other resources consumption. If the Premises become unsuitable for Tenant's use as a consequence of cessation of gas and electric utilities or other services provided to the Premises resulting from a casualty covered by Landlord's insurance, then Tenant's Base Rent and Additional Charges for Expenses and Taxes shall abate during the period of time in which Tenant cannot occupy the Premises for Tenant's use, but only to the extent of rental abatement insurance proceeds received by Landlord. Landlord shall use reasonable diligence to make such repairs as may be required to lines, cables, wires, pipes equipment or machinery within the Project to provide restoration of the services Landlord is responsible for providing under this Paragraph 13 and, where the cessation or interruption of such services has occurred due to circumstances or conditions beyond Project boundaries, to cause the same to be restored by diligent application or request to the provider thereof. In no event shall any mortgagee or beneficiary under any mortgage or deed of trust on all or any portion of the Project, the Building, or the land on which all of any portion of the Project is located (any such mortgagee or beneficiary, a "Mortgagee") be or become liable for any default of Landlord under this Paragraph 13.

14. TENANT'S CERTIFICATES. Tenant, at any time and from time to time, within ten (10) days from receipt of written notice from Landlord, will execute, acknowledge and deliver to Landlord and, at Landlord's request, to any prospective tenant, purchaser, ground or underlying lessor or Mortgagee or any other party acquiring an interest in Landlord, a certificate containing any information that may reasonably be required by any of such persons. It is intended that any such certificate of Tenant delivered pursuant to this Paragraph 14 may be relied upon by Landlord and any prospective tenant, purchaser, ground or underlying lessor or Mortgagee, or such other party. If requested by Tenant, Landlord shall provide Tenant with a similar certificate.

15. HOLDING OVER. If Tenant (directly or through any successor-in-interest of Tenant) remains in possession of any or all of the Premises after the expiration or termination of this Lease with the consent of Landlord, such continued possession shall be construed to be a tenancy from month to month at one hundred twenty-five percent (125%) of the Monthly Base Rent payable in the last full month prior to such termination or expiration (and shall be increased in accordance with Paragraph 4(b)) together with an amount estimated by Landlord for the monthly Additional Charges payable under this Lease, and shall otherwise be on the terms and conditions herein specified so far as applicable. If Tenant (directly or through any successor-in-interest of Tenant) remains in possession of all or any portion of the Premises after the expiration or termination of this Lease without the consent of Landlord, Tenant's continued possession shall be on the basis of a tenancy at the sufferance of Landlord. In such event, Tenant shall continue to comply with or perform all the terms and obligations of Tenant under this Lease (including, without limitation, payment of Additional Charges), except that the Monthly Base Rent during Tenant's holding over shall be the greater of the then-fair market rent for the Premises (as reasonably determined by Landlord) or one hundred fifty percent (150%) of the Monthly Base Rent and Additional Charges payable in the last

full month prior to the termination or expiration of this Lease (and shall be increased in accordance with Paragraph 4(b)). In addition to Rent, Tenant shall pay Landlord for all damages proximately caused by reason of the Tenant's retention of possession. Landlord's acceptance of Rent after the termination of this Lease shall not constitute a renewal of this Lease, and nothing contained in this provision shall be deemed to waive Landlord's right of re-entry or any other right hereunder or at law. Tenant acknowledges that, in Landlord's marketing and re-leasing efforts for the Premises, Landlord is relying on Tenant's vacation of the Premises on the Expiration Date. Accordingly, Tenant shall indemnify, defend and hold Landlord harmless from and against all claims, liabilities, losses, costs, expenses and damages arising or resulting directly or indirectly from Tenant's failure to timely surrender the Premises, including (i) any loss, cost or damages suffered by any prospective tenant of all or any part of the Premises, and (ii) Landlord's damages as a result of such prospective tenant rescinding or refusing to enter into the prospective lease of all or any portion of the Premises by reason of such failure of Tenant to timely surrender the Premises.

#### 16. SUBORDINATION.

(a) Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, this Lease shall be subject and subordinate at all times to: (i) the Encumbrances and all ground leases or underlying leases which may now exist or hereafter be executed affecting the Building or the land upon which the Building is situated or both; (ii) any CC&Rs or other similar Encumbrances, currently in effect or that Landlord may enter into in the future, that affect all or any portion of the Project; and (iii) the lien of any Mortgage which may now exist or hereafter be executed in any amount for which the Building, land, Project, ground leases or other underlying leases, or Landlord's interest or estate in any of said items, is specified as security. Notwithstanding the foregoing, Landlord shall have the right to subordinate or cause to be subordinated any such ground leases or underlying leases or any such Mortgages or other liens or encumbrances to this Lease. In the event that any ground lease or underlying lease terminates for any reason or any Mortgage is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant shall, notwithstanding any subordination, attorn to and become the Tenant, on the terms and conditions of this Lease, of the successor in interest to Landlord at the option of such successor in interest. Notwithstanding anything to the contrary contained herein, this Lease shall not be subject or subordinate to any ground or underlying lease or to any Mortgage, lien or other security interest affecting the Premises, unless the ground lessor, Mortgagee or other holder of the interest to which this Lease would be subordinated executes a reasonable recognition and non-disturbance agreement which provides that Tenant shall be entitled to continue in possession of the Premises on the terms and conditions of this Lease if and for so long as Tenant fully performs all of its obligations hereunder. Tenant covenants and agrees to execute and deliver upon demand by Landlord and in the form requested by Landlord and reasonably acceptable to Tenant, any customary additional documents evidencing the priority or subordination of this Lease with respect to any such ground leases or underlying leases or the lien of any such Mortgage. Tenant shall execute, deliver and record any such documents within ten (10) days after Landlord's written request.

17. RULES AND REGULATIONS. Tenant shall faithfully observe and comply with the rules and regulations attached to this Lease as Exhibit "C" and all reasonable modifications thereof and additions thereto from time to time put into effect by Landlord (as so modified and amended from time to time, the "Rules and Regulations"). Landlord shall not be responsible for the nonperformance by any other Tenant or occupant of the Building or the Project of any Rules and Regulations. In the event of a conflict between the terms, covenants, agreements and conditions of this Lease and those set forth in the Rules and Regulations, this Lease shall control.

18. RE-ENTRY BY LANDLORD. Landlord reserves and shall at all reasonable times, upon reasonable prior notice (except in the case of an emergency), and subject to Tenant's reasonable security precautions and the right of Tenant to accompany Landlord at all times, have the right to re-enter the Premises to inspect the same, to supply any service to be provided by Landlord to Tenant hereunder, to show the Premises to prospective purchasers, Mortgagees or tenants (as to prospective tenants, only during the last twelve (12) months of the Lease Term), to post notices of nonresponsibility or as otherwise required or allowed by this Lease or by law, and to alter, improve or repair the Premises and any portion of the Building and may for that purpose erect, use, and maintain scaffolding, pipes, conduits, and other necessary structures in and through the Premises where reasonably required by the character of the work to be performed. Landlord shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance or other damage arising from Landlord's entry and acts pursuant to this Paragraph and Tenant shall not be entitled to an abatement or reduction of Monthly Base Rent or Additional Charges if Landlord exercises any rights reserved in this paragraph. Tenant hereby waives any 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, and any other loss occasioned thereby, except for Landlord's negligence or willful misconduct. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults and safes, or special security areas (designated in advance), and Landlord shall have the right to use any and all means which Landlord may deem necessary or proper to open said doors in an emergency, in order to obtain entry to any portion of the Premises, and any entry to the Premises, or portion thereof obtained by Landlord by any of said means, or otherwise, shall not under any emergency circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction, actual or constructive, of Tenant from the Premises or any portions thereof. Landlord shall use best efforts during re-entry to not unreasonably interfere with Tenant's use of the Premises or its business conducted therein.

19. INSOLVENCY OR BANKRUPTCY. The appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or an assignment of Tenant for the benefit of creditors, or any action taken or suffered by Tenant under any insolvency, bankruptcy, reorganization or other debtor relief proceedings, whether now existing or hereafter amended or enacted, shall at Landlord's option constitute a breach of this Lease by Tenant; provided that a petition in bankruptcy, or receiver attachment, or other remedy pursued by a third party (without any action or complicity by Tenant) will not constitute a breach so long as it is discharged within sixty (60) days. Upon the happening of any such breach or at any time thereafter, this Lease shall terminate five (5) days after written notice of termination from Landlord to Tenant. In no event shall this Lease be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency, reorganization or other debtor relief proceedings.

## 20. DEFAULT.

(a) The failure to perform or honor any covenant, condition or representation made under this Lease shall constitute a "default" hereunder by Tenant upon expiration of the appropriate grace or cure period hereinafter provided. Tenant shall have a period of three (3) days from the date of written notice from Landlord (which notice shall be in lieu of and not in addition to the notice required by Section 1161 of the California Code of Civil Procedure) within which to cure any failure to pay Monthly Base Rent or Additional Charges for Expenses and Taxes; provided, however, that Landlord shall not be required to provide such notice more than four (4) times during any two (2) year period during the Term with respect to non-payment of Monthly Base Rent or Additional Charges, the third such non-payment constituting default without requirement of notice. Tenant shall have a period of thirty (30) days from the date of written notice from Landlord within which to cure any other curable failure to perform any obligation under this Lease; provided, however, that with respect to any curable failure to perform non-monetary obligations that cannot reasonably be cured within thirty (30) days, the cure period shall be extended for an additional period of time reasonably required to cause such cure if Tenant commences to cure within thirty (30) days from Landlord's notice and continues to prosecute diligently the curing thereof, provided that such cure period shall in no event extend beyond ninety (90) days (subject to delay by Force Majeure) after Landlord's notice. Notwithstanding the foregoing, (i) if a different cure period is specified elsewhere in this Lease with respect to any specific obligation of Tenant, such specific cure period shall apply with respect to a failure of such obligation; and (ii) the cure period specified in Paragraph 24 shall apply with respect to Landlord's rights to cure Tenant's default pursuant to Paragraph 24. Upon a default of this Lease by Tenant, Landlord shall have the following rights and remedies in addition to any other rights or remedies available to Landlord at law or in equity, or under this Lease:

(i) The rights and remedies provided by California Civil Code, Section 1951.2, including but not limited to, recovery of the worth at the time of award of the amount by which the unpaid Monthly Base Rent and Additional Charges for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that the Tenant proves could be reasonably avoided, as computed pursuant to subsection (b) of said Section 1951.2;

(ii) The rights and remedies provided by California Civil Code, Section 1951.4, that allows Landlord to continue this Lease in effect and to enforce all of its rights and remedies under this Lease, including the right to recover Monthly Base Rent and Additional Charges as they become due, for so long as Landlord does not terminate Tenant's right to possession; provided, however, if Landlord elects to exercise its remedies described in this Paragraph 20(a)(ii) and Landlord does not terminate this Lease, and if Tenant requests Landlord's consent to an assignment of this Lease or a sublease of the Premises at such time as Tenant is in default, Landlord shall not unreasonably withhold its consent to such assignment or sublease. Acts of maintenance or

preservation, efforts to relet the Premises or the appointment of a receiver upon Landlord's initiative to protect its interest under this Lease shall not constitute a termination of Tenant's rights to possession;

(iii) The right to terminate this Lease by giving notice to Tenant in accordance with applicable law;

(iv) If Landlord elects to terminate this Lease, the right and power to enter the Premises and remove therefrom all persons and property and, to store such property in a public warehouse or elsewhere at the cost of and for the account of Tenant, and to sell such property and apply such proceeds therefrom pursuant to applicable California law.

(b) Landlord shall have a period of thirty (30) days from the date of written notice from Tenant within which to cure any default by Landlord under this Lease; provided, however, that with respect to any default that cannot reasonably be cured within thirty (30) days, the default shall not be deemed to be uncured if Landlord commences to cure within thirty (30) days from Tenant's notice and continues to prosecute diligently the curing thereof. Tenant agrees to give any Mortgagee, by registered or certified mail, a copy of any Notice of Default served upon the Landlord, provided that prior to such notice Tenant has been notified in writing (by way of Notice of Assignment of Rents and Leases, or otherwise) of the address of such Mortgagee. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in this Lease, then, unless otherwise provided to the contrary in a written agreement between Tenant and Mortgagee, the Mortgagee shall have an additional thirty (30) days (provided that Tenant notifies Mortgagee concurrently with Tenant's notice to Landlord at the beginning of Landlord's thirty (30) day period; otherwise Mortgagee shall have sixty (60) days from the date on which it is noticed) within which to cure such default or if such default cannot be cured within that time, then the cure period shall be extended for such additional time as may be necessary to cure such default shall be granted if within such applicable period Mortgagee has commenced and continues to prosecute diligently the cure of such default (including, but not limited to, commencement of foreclosure proceedings, if necessary to effect such cure).

21. DAMAGE BY FIRE, ETC. If the Premises or the Building are damaged by fire or other casualty, Landlord shall forthwith repair the same, provided that such repairs can be made within two hundred seventy (270) days after the date of such damage under the laws and regulations of the federal, state and local governmental authorities having jurisdiction thereof. In such event, this Lease shall remain in full force and effect except that Tenant shall be entitled to a proportionate reduction of Monthly Base Rent and Additional Charges while such repairs to be made hereunder by Landlord are being made. Such reduction of Monthly Base Rent and Additional Charges, if any, shall be based upon the greater of (i) the proportion that the area of the Premises rendered untenantable by such damage bears to the total area of the Premises; or (ii) the extent to which such damage and the making of such repairs by Landlord shall interfere with the business carried on by Tenant in the Premises, and shall be limited to the extent of rental abatement insurance proceeds actually paid to Landlord under Landlord's casualty insurance policy. Within thirty (30) days after the date of such damage, Landlord shall notify Tenant of the approximate date by which Landlord believes that it can complete the repair of such damage ("Estimated Damage Completion Date") and the date by which Landlord would need to commence construction ("Estimated Construction Commencement Date") in order to complete repairs by the Estimated Damage Completion Date and Landlord's determination thereof shall be binding on Tenant. If Landlord's Estimated Damage Completion Date is more than two hundred seventy (270) days from the date of such damage, Landlord shall have the option within thirty (30) days after the date of such damage either to: (i) notify Tenant of Landlord's intention to repair such damage and diligently prosecute such repairs, in which event this Lease shall continue in full force and effect and the Monthly Base Rent and Additional Charges shall be reduced as provided herein; or (ii) notify Tenant of Landlord's election to terminate this Lease as of a date specified in such notice, which date shall not be less than thirty (30) days nor more than sixty (60) days after notice is given. In the event that such notice to terminate is given by Landlord, this Lease shall terminate on the date specified in such notice. In the event that Landlord notifies Tenant that Landlord's Estimated Damage Completion Date is more than two hundred seventy days (270) days following the date of the damage, Tenant shall have a right to terminate the Lease within fifteen (15) days following receipt of Landlord's notice, by providing Landlord with written notice of its election to do so. In such event (and also in the event Landlord terminates the Lease pursuant to the immediately preceding sentence), Tenant shall have no liability for payment of the deductible under Landlord's insurance relating to such damage. In case of termination by either event, the Monthly Base Rent and Additional Charges shall be reduced by a proportionate amount based upon the extent to which such damage interfered with the business carried on by Tenant in the Premises, and Tenant shall pay such reduced Monthly Base Rent and Additional Charges up to the date of termination. Landlord agrees to refund to Tenant any Monthly Base Rent and Additional Charges previously paid for any period of time subsequent to such



date of such termination. If, and to the extent, neither Landlord nor Tenant have terminated this Lease pursuant to the provisions set forth above, and the construction of the repairs has not commenced within ninety (90) days of the Estimated Construction Commencement Date, Tenant shall have the additional right to terminate this Lease during the first five (5) business days of each calendar month following the end of such period until such time as the repairs are complete, by notice to Landlord (the "Damage Termination Notice"), effective as of a date set forth in the Damage Termination Notice (the "Damage Termination Date"), which Damage Termination Date shall not be earlier than thirty (30) days or later than sixty (60) days following the date of such Damage Termination Notice. At any time, and from time to time, after the date occurring sixty (60) days after the date of the damage (but not more than once in any calendar month), Tenant may request that Landlord inform Tenant of Landlord's reasonable opinion of the date of completion of the repairs and Landlord shall respond to such request in reasonable detail within five (5) business days following receipt of such request. The repairs to be made hereunder by Landlord shall not include, and Landlord shall not be required to repair, any damage by fire or other cause to the property of Tenant or any repairs or replacements of any paneling, decorations, railings, floor coverings or any alterations, additions, fixtures or improvements installed on the Premises by or at the expense of Tenant, including the Tenant Improvements; provided, however, that to the extent Landlord's insurance policies cover any Tenant Improvements pursuant to Paragraph 11(f), Landlord shall make available to Tenant any available insurance proceeds with respect to any damage or destruction that affects such Tenant Improvements, after deducting therefrom the cost, if any, to the Landlord for the recovery of such proceeds and/or of any repair to the Building or Premises for which Landlord is responsible hereunder, in order for Tenant to repair and restore such Tenant Improvements, pursuant to disbursement procedures established by Landlord and/or any Mortgagee. Tenant hereby waives the provisions of Section 1932.2, and Section 1933.4, of the Civil Code of California. Notwithstanding anything contained herein to the contrary, if a Major Casualty occurs with respect to any portion of the Building, and the net insurance proceeds obtained as a result of such casualty are ninety percent (90%) or a lesser percentage of the cost of restoration, rebuilding or replacement, then Landlord shall not be obligated to undertake such restoration, rebuilding or replacement unless Landlord elects to do so in writing. For the purpose of this Lease, a "Major Casualty" shall mean a casualty that renders unusable twenty percent (20%) or more of the Net Rentable Area of the Building or which materially adversely affects the use of such Building.

22. EMINENT DOMAIN. If any part over fifteen percent (15%) of the Premises shall be taken or appropriated under the power of eminent domain or conveyed in lieu thereof, Tenant shall have the right to terminate this Lease at its option. If any part of the Building shall be taken or appropriated under power of eminent domain or conveyed in lieu thereof and such taking is so extensive that it renders the remaining portion of the Building unsuitable for the use being made of the Building on the date immediately preceding such taking, Landlord may terminate this Lease at its option. In either of such events, Landlord shall receive (and Tenant shall assign to Landlord upon demand from Landlord) any income, rent, award or any interest therein which may be paid in connection with the exercise of such power of eminent domain, and Tenant shall have no claim against Landlord for any part of sum paid by virtue of such proceedings, whether or not attributable to the value of the unexpired term of this Lease except that Tenant shall be entitled to petition the condemning authority for the following: (i) the then unamortized cost of any Tenant Improvements paid for by Tenant from its own funds (as opposed to the Tenant Allowance provided by Landlord); (ii) the value of Tenant's trade fixtures; (iii) Tenant's relocation costs; and (iv) Tenant's goodwill, loss of business and business interruption. If a part of the Premises shall be so taken or appropriated or conveyed and neither party hereto shall elect to terminate this Lease and the Premises have been damaged as a consequence of such partial taking or appropriation or conveyance, Landlord shall restore the Premises continuing under this Lease at Landlord's cost and expense; provided, however, that Landlord shall not be required to repair or restore any injury or damage to the property of Tenant or to make any repairs or restoration of the Tenant Improvements or any Alterations installed on the Premises by or at the expense of Tenant. Thereafter, the Monthly Base Rent and Additional Charges to be paid under this Lease for the remainder of the Term shall be proportionately reduced, such that thereafter the amounts to be paid by Tenant shall be in the ratio that they are of the portion of the Premises not so taken bears to the total area of the Premises prior to such taking. Notwithstanding anything to the contrary contained in this Paragraph 22, if the temporary use or occupancy of any part of the Premises shall be taken or appropriated under power of eminent domain during the Term, this Lease shall be and remain unaffected by such taking or appropriation and Tenant shall continue to pay in full all Monthly Base Rent and Additional Charges payable hereunder by Tenant during the Term; in the event of any such temporary appropriation or taking, Tenant shall be entitled to receive that portion of any award which represents compensation for the use of or occupancy of the Premises during the Term, and Landlord shall be entitled to receive that portion of any award which represents the cost of restoration of the Premises and the use and occupancy of the Premises after the end of the Term. If such temporary taking is for a period longer than two hundred and seventy (270) days and unreasonably interferes with Tenant's use of the Premises or the Building Common Area or Project Common Area, then Tenant shall have the right to terminate the Lease. Landlord and Tenant understand and agree that the

provisions of this Paragraph 22 the Premises. Accordingly, the parties each hereby waives any right to terminate this Lease in whole or in part under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure or under any similar Law now or hereafter in effect.

23. SALE BY LANDLORD. If Landlord sells or otherwise conveys its interest in the Premises, Landlord shall be relieved of its obligations under the Lease from and after the date of sale or conveyance (including the obligations of Landlord under Paragraph 39), when its successor and the successor assumes in writing the obligations to be performed by Landlord on and after the effective date of the transfer (including the obligations of Landlord under Paragraph 39), whereupon Tenant shall attorn to such successor.

24. RIGHT OF LANDLORD TO PERFORM. All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any abatement of Monthly Base Rent or Additional Charges. If Tenant shall default in the payment of any sum of money, other than Monthly Base Rent or Additional Charges, required to be paid by it hereunder or shall fail to perform any other act on its part to be performed hereunder (including, without limitation, Tenant's obligation to maintain and repair the Premises pursuant to Paragraph 8(b)), and either (i) such failure continues, and Tenant does not commence cure of such failure during the cure period as provided in Paragraph 20(a) (except in the event of emergency, when no cure period shall be required), or (ii) having commenced such cure Tenant does not diligently prosecute the curing thereof, (iii) if Landlord is, in Landlord's reasonable business judgment, in a better position to accomplish such cure or can accomplish such cure in a more efficient or cost-effective manner than Tenant, or (iv) if a default under any Mortgage, ground lease, underlying lease, or other Encumbrance is, in Landlord's reasonable judgment, likely to occur due to Tenant's failure to cure such failure in a timely manner, then in any such situation Landlord may, but shall not be obligated so to do, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such act on Tenant's part to be made or performed as provided in this Lease. All sums so paid and costs so incurred by Landlord, together with interest thereon at the Default Rate from the date Landlord makes such payment or incurs such cost, shall be payable as Additional Charges to Landlord on demand.

25. SURRENDER OF PREMISES.

(a) At the end of the Term or any renewal thereof or other sooner termination of this Lease, Tenant will peaceably deliver to Landlord possession of the Premises, together with all improvements or additions upon or belonging to Landlord, by whomsoever made, in the same condition as received, or first installed, subject to (i) the terms of this Paragraph 25, (ii) the terms of Paragraphs 21, 22 and 39, and (iii) damage by fire, earthquake, Act of God, ordinary wear and tear, Hazardous Substances (other than those for which Tenant is indemnifying Landlord pursuant to Paragraph 39) or the elements alone excepted. Tenant may, upon the termination of this Lease, remove all movable furniture and equipment belonging to Tenant, at Tenant's sole cost, provided that Tenant repairs any damage caused by such removal. Property not so removed shall be deemed abandoned by Tenant, and title to the same shall thereupon pass to Landlord. Upon such expiration or sooner termination of the Term, Tenant shall upon demand by Landlord, at Tenant's sole cost and expense, forthwith and with all due diligence remove any Tenant Improvements or Alterations made by or for the account of Tenant that are designated by Landlord to be removed (provided, however, that upon the written request of Tenant prior to installation of such Tenant Improvements or Alterations, Landlord shall advise Tenant at that time whether or not such Tenant Improvements or Alterations must be removed upon the expiration or sooner termination of this Lease), and restore the Premises to its original condition as of the Commencement Date, subject to the foregoing.

(b) The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of 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.

26. WAIVER. If either Landlord or Tenant waives the performance of any term, covenant or condition contained in this Lease, such waiver shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein. Furthermore, the acceptance of Monthly Base Rent or Additional Charges by Landlord shall not constitute a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, regardless of Landlord's knowledge of such preceding breach at the time Landlord accepted such Monthly Base Rent or Additional Charges. Failure by Landlord to enforce any of the terms, covenants or conditions of this Lease for any length of time shall not be deemed to waive or to decrease the right of

Landlord to insist thereafter upon strict performance by Tenant. Waiver by Landlord of any term, covenant or condition contained in this Lease may only be made by a written document signed by Landlord.

27. NOTICES. Except as otherwise expressly provided in this Lease, any bills, statements, notices, demands, requests or other communications given or required to be given under this Lease shall be effective only if rendered or given in writing, sent by certified mail, return receipt requested, reputable overnight carrier, or delivered personally. (i) to Tenant (A) at Tenant's address set forth in the Basic Lease Information, if sent prior to Tenant's taking possession of the Premises, or (B) at the Premises if sent subsequent to Tenant's taking possession of the Premises, or (C) at any place where Tenant may be found if sent subsequent to Tenant's vacating, deserting, abandoning or surrendering the Premises; or (ii) to Landlord at Landlord's address set forth in the Basic Lease Information; or (iii) to such other address as either Landlord or Tenant may designate as its new address for such purpose by notice given to the other in accordance with the provisions of this Paragraph 27. Any such bill, statement, notice, demand, request or other communication shall be deemed to have been rendered or given on the date the return receipt indicates delivery of or refusal of delivery if sent by certified mail, the day upon which recipient accepts and signs for delivery from a reputable overnight carrier, or on the date a reputable overnight carrier indicates refusal of delivery, or upon the date personal delivery is made. If Tenant is notified in writing of the identity and address of any Mortgagee or ground or underlying lessor, Tenant shall give to such Mortgagee or ground or underlying lessor notice of any default by Landlord under the terms of this Lease in writing, sent by registered or certified mail, and such Mortgagee or ground or underlying lessor shall be given the opportunity to cure such default (as defined in Paragraph 20(b)) prior to Tenant exercising any remedy available to it.

28. TAXES PAYABLE BY TENANT. At least ten (10) days prior to delinquency Tenant shall pay all taxes levied or assessed upon Tenant's equipment, furniture, fixtures and other personal property located in or about the Premises. If the assessed value of Landlord's property is increased by the inclusion therein of a value placed upon Tenant's equipment, furniture, fixtures or other personal property, Tenant shall pay to Landlord, upon written demand, the taxes so levied against Landlord, or the proportion thereof resulting from said increase in assessment.

29. ABANDONMENT. Tenant shall not abandon the Premises or cease performing its financial, insurance, and maintenance obligations under this Lease at any time during the Term, and shall at all times during the Term provide adequate security for the Premises. If Tenant shall abandon and cease performing its financial, insurance and maintenance obligations under this Lease, or surrender the Premises or be dispossessed by process of law, or otherwise, any personal property belonging to Tenant and left on the Premises shall, at the option of Landlord, be deemed to be abandoned and title thereto shall thereupon pass to Landlord. Notwithstanding anything to the contrary contained herein, Tenant shall not be allowed to vacate the Premises for any period of time unless either (a) such vacation would not result in a termination of, limitation on, or other adverse effect on, Landlord's insurance policies, or (b) Tenant pays the incremental premium costs, and assumes responsibility for any increased deductible amounts, to the extent required to cause Landlord's insurance policies to not be terminated, limited or adversely affected as a result of such vacation. For purposes of this Paragraph 29, the Tenant shall not be deemed to have abandoned the Premises solely because the Tenant is not occupying the Premises.

30. SUCCESSORS AND ASSIGNS. Subject to the provisions of Paragraph 10, the terms, covenants and conditions contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective legal and personal representatives, successors and assigns.

31. ATTORNEY'S FEES. If Tenant or Landlord brings any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of Monthly Base Rent or Additional Charges or possession of the Premises, the losing party shall pay to the prevailing party a reasonable sum for attorney's fees and disbursements, which shall be deemed to have accrued on the commencement of such action and shall be paid whether or not the action is prosecuted to judgment.

32. LIGHT AND AIR. Tenant covenants and agrees that no diminution of light, air or view by any structure which may hereafter be erected (whether or not by Landlord) shall entitle Tenant to any reduction of rent under this Lease, result in any liability of Landlord to Tenant, or in any other way affect this Lease or Tenant's obligations hereunder.

33. CORPORATE AUTHORITY; FINANCIAL INFORMATION. If Tenant signs as a corporation each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing corporation, that Tenant has and is qualified to do business in California, that the corporation

has full right and authority to enter into this Lease, and that each and both of the persons signing on behalf of the corporation were authorized to do so and by their signatures bind Tenant. If Tenant signs as a partnership or limited liability company, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing partnership or limited liability company, as applicable, that Tenant has and is qualified to do business in California, that Tenant has full right and authority to enter into this Lease, and that each and both of the persons signing on behalf of the Tenant were authorized to do so and by their signatures bind the Tenant. Upon Landlord's request, Tenant shall provide Landlord with evidence reasonably satisfactory to Landlord confirming the foregoing covenants and warranties. Tenant hereby further covenants and warrants to Landlord that all financial information and other descriptive information regarding Tenant's business, which has been or shall be furnished to Landlord, is accurate and complete at the time of delivery to Landlord. Tenant will furnish to Landlord within ninety (90) days following Landlord's request therefore, copies of audited, consolidated financial statements of Tenant, including balance sheets and statements of income and expenses for the next recent fiscal year, certified and audited by independent public accounts of recognized standing; provided, however, that so long as Tenant is a publicly traded corporation, in lieu of the foregoing Tenant shall provide Landlord with copies of Tenant's annual report and 10K Filing promptly after request therefor. Each of the persons executing this Lease on behalf of Landlord does hereby covenant and warrant that Landlord is a duly authorized and existing partnership, that Landlord has and is qualified to do business in California, that Landlord has full right and authority to enter into this Lease, and that the person(s) signing on behalf of Landlord was authorized to do so and by its signature binds Landlord.

34. PARKING. Tenant shall have the right to use the Building's parking spaces in common with other tenants or occupants of the Building, if any, subject to the Encumbrances and the rules and regulations of Landlord for such parking facilities which may be established or altered by Landlord at any time or from time to time during the term.

35. MISCELLANEOUS.

(a) The term "Premises" wherever it appears herein includes and shall be deemed or taken to include (except where such meaning would be clearly repugnant to the context) the space demised and improvements now or at any time hereafter comprising or built in the space hereby demised. The paragraph headings herein are for convenience of reference and shall in no way define, increase, limit or describe the scope or intent of any provision of this Lease. The term "Landlord" shall include Landlord and its successors and assigns. In any case where this Lease is signed by more than one person, the obligations hereunder shall be joint and several. The term "Tenant" or any pronoun used in place thereof shall indicate and include the masculine or feminine, the singular or plural number, individuals, firms or corporations, and their and each of their respective successors, executors, administrators, and permitted assigns, according to the context hereof.

(b) Time is of the essence of this Lease and all of its provisions. This Lease shall in all respects be governed by the laws of the State of California. This Lease, together with its exhibits, contains all the agreements of the parties hereto and supersedes any previous negotiations. There have been no representations made by the Landlord or understandings made between the parties other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument by the parties hereto.

(c) If for any reason whatsoever any of the provisions hereof shall be unenforceable or ineffective, all of the other provisions shall be and remain in full force and effect.

(d) Upon Tenant paying the Monthly Base Rent and Additional Charges and performing all of Tenant's obligations under this Lease, Tenant shall peacefully and quietly enjoy the Premises during the Term as against all persons or entities lawfully claiming by or through Landlord; subject, however, to the provisions of this Lease.

36. TENANT'S REMEDIES. If any default hereunder by Landlord is not cured within the applicable cure period provided in Paragraph 20(b), Tenant's exclusive remedies shall be an action for specific performance or an action for actual damages. Tenant hereby waives the benefit of any laws granting it (A) the right to perform Landlord's obligation, or (B) the right to terminate this Lease or withhold Rent on account of any Landlord default. Tenant shall look solely to Landlord's interest in the Project for the recovery of any judgment from Landlord. Landlord, or if Landlord is a partnership, its partners whether general or limited, or if Landlord is a corporation, its directors, officers or shareholders, or if Landlord is a limited liability company, its members or managers, shall

never be personally liable for any such judgment. Any lien obtained to enforce such judgment and any levy of execution thereon shall be subject and subordinate to any recorded Mortgage (excluding any Mortgage which was created as part of an effort to defraud creditors, i.e., a fraudulent conveyance or any Mortgage to an affiliate of Landlord); provided, however that any such judgement and any such levy of execution thereon shall not be subject or subordinated to any Mortgage that shall have been created or recorded in the official records of Santa Clara County after the date of the judgement giving rise to such lien.

37. REAL ESTATE BROKERS. Each party represents that it has not had dealings with any real estate brokers, finder or other person with respect to this Lease in any manner, except for any broker named in the Basic Lease Information, whose fees or commission, if earned, shall be paid as provided in the Basic Lease Information. Each party shall hold harmless the other party from all damages resulting from any claims that may be asserted against the other party by any other broker, finder or other person with whom the other party has or purportedly has dealt.

38. LEASE EFFECTIVE DATE. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for lease, and it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant.

39. HAZARDOUS SUBSTANCE LIABILITY. Tenant has received from Landlord a copy of the following reports (the "Environmental Reports"): "Phase I and II Environmental Assessment Report, Circle Star Theater Property, 1717 Industrial Way, San Carlos, California, January 31, 1997" prepared by McLaren/Hart Environmental Engineering Corporation.

(a) Definition of Hazardous Substances. For the purpose of this Lease, "Hazardous Substances" shall be defined, collectively, as oil, flammable explosives, asbestos, radioactive materials, hazardous wastes, toxic or contaminated substances or similar materials, including, without limitation, any substances which are "hazardous substances," "hazardous wastes," "hazardous materials" or "toxic substances" under applicable environmental laws, ordinance or regulation.

(b) Tenant Indemnity. Tenant releases Landlord from any liability for, waives all claims against Landlord and shall indemnify, defend and hold harmless Landlord, its employees, partners, agents, subsidiaries and affiliate organizations against any and all claims, suits, losses, costs (including costs of investigation, clean up, monitoring, restoration and reasonable attorneys' fees), damage or liability, whether foreseeable or unforeseeable, by reason of property damage (including diminution in the value of the property of Landlord), personal injury or death directly arising from or related to Hazardous Substances released, manufactured, discharged, disposed, used or stored by Tenant or its employees, agents, sublessees, assignees or contractors on, in, or under the Project or Premises during the initial Term and any extensions of this Lease. The provisions of this Tenant Indemnity regarding Hazardous Substances shall survive the termination of the Lease.

(c) Landlord Indemnity. Landlord releases Tenant from any liability for, waives all claims against Tenant and shall indemnify, defend and hold harmless Tenant, its officers, employees, subsidiaries, partners, affiliate organizations and agents to the extent of Landlord's interest in the Project, against any and all actions by any governmental agency for clean up of Hazardous Substances on or under the Project, including costs of legal proceedings, investigation, clean up, monitoring, and restoration, including reasonable attorney fees, if, and to the extent, arising from the presence of Hazardous Substances on, in or under the Project or Premises, except to the extent caused by the release, disposal, use or storage of Hazardous Substances in, on or about the Premises by Tenant, its employees, agents, sublessees, assignees, or contractors. The provisions of this Landlord Indemnity regarding Hazardous Substances shall survive the termination of the Lease.

(d) De Minimis Amount. Tenant has informed Landlord, that except for very immaterial amounts of toxic materials incidental to its Permitted Use, Tenant will not use any Hazardous Substances in material amounts within the Building and shall comply with any applicable laws to the extent that it does.

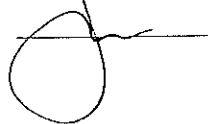
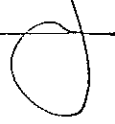
40. ARBITRATION. ANY CONTROVERSY OR CLAIM ARISING OUT OF THE MATTERS EXPRESSLY MADE SUBJECT TO ARBITRATION PURSUANT TO THIS LEASE OR THE WORK LETTER, INCLUDING WITHOUT LIMITATION THE MATTERS DESCRIBED IN PARAGRAPHS 8(a), 16 (REGARDING FUTURE CC&RS) AND 24 OF THIS LEASE, SHALL BE SETTLED BY ARBITRATION CONDUCTED IN SAN MATEO COUNTY, CALIFORNIA, IN ACCORDANCE WITH THE COMMERCIAL

RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AND JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION. THE PREVAILING PARTY IN SUCH ARBITRATION SHALL BE ENTITLED TO ATTORNEYS' FEES AND COSTS.

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Consent to neutral arbitration by:

 (Landlord):  (Tenant).

41. OPTION TO RENEW. Upon condition that no default is continuing under this Lease at the time of exercise or at the commencement of the option term, then Tenant shall have the right to extend the Term for two (2) periods of ten (10) years each (each, an "Extension Term") following the initial Expiration Date or the Expiration Date as extended by the first Extension Term, as applicable, by giving written notice ("Exercise Notice") to Landlord at least twelve (12) months prior to the Expiration of the immediately preceding Term.

42. RENT DURING EXTENSION TERM. The initial Monthly Base Rent (subject to Paragraph 4(b)) during each ten (10) year Extension Term shall be the greater of the Monthly Base Rent paid during the last month of the immediately preceding Term or the Fair Market Rental Value for the Premises as of the commencement of the option term, as determined below:

(a) Within thirty (30) days after receipt of Tenant's Exercise Notice, Landlord shall notify Tenant of Landlord's estimate of the Fair Market Rental Value for the Premises, as determined below, for determining Monthly Base Rent during the ensuing Extension Term; provided, however, if Tenant's Exercise Notice is given more than twelve (12) months before the Expiration Date, Landlord's estimate of Fair Market Rental Value may, but need not be given more than twelve (12) months before the Expiration Date. Within fifteen (15) days after receipt of such notice from Landlord, Tenant shall notify Landlord in writing that it (i) agrees with such rental rate or (ii) disagrees with such rental rate. No response shall constitute agreement. In the event that Tenant disagrees with Landlord's estimate of Fair Market Rental Value for the Premises, then the parties shall meet and endeavor to agree within fifteen (15) days after Landlord receives Tenant's notice described in the immediately preceding sentence. If the parties cannot agree upon the Fair Market Rental Value within said fifteen (15) day period, then the parties shall submit the matter to binding appraisal in accordance with the following procedure except that in any event neither party shall be obligated to start such procedure sooner than twelve (12) months before the expiration of the Lease Term. Within fifteen (15) days of the conclusion of the period during which the two parties fail to agree (but not sooner than twelve (12) months before the expiration of the Lease Term), the parties shall either (i) jointly appoint an appraiser for this purpose or (ii) failing this joint action, each separately designate a disinterested appraiser. No person shall be appointed or designated an appraiser unless such person has at least five (5) years experience in appraising major commercial property in San Mateo County and is a member of a recognized society of real estate appraisers. If within thirty (30) days after the appointment, the two appraisers reach agreement on the Fair Market Rental Value for the Premises, that value shall be binding and conclusive upon the parties. If the two appraisers thus

appointed cannot reach agreement on the Fair Market Rental Value for the Premises within thirty (30) days after their appointment, then the appraisers thus appointed shall appoint a third disinterested appraiser having like qualifications within five (5) days. If within thirty (30) days after the appointment of the third appraiser a majority of the appraisers agree on the Fair Market Rental Value of the Premises, that value shall be binding and conclusive upon the parties. If within thirty (30) days after the appointment of the third appraiser a majority of the appraisers cannot reach agreement on the Fair Market Rental Value for the Premises, then the three appraisers shall each simultaneously submit their independent appraisal to the parties, the appraisal farthest from the median of the three appraisals shall be disregarded, and the mean average of the remaining two appraisals shall be deemed to be the Fair Market Rental Value for the Premises and shall be binding and conclusive upon the parties. Each party shall pay the fees and expenses of the appraiser appointed by it and shall share equally the fees and expenses of the third appraiser. If the two appraisers appointed by the parties cannot agree on the appointment of the third appraiser, they or either of them shall give notice of such failure to agree to the parties and if the parties fail to agree upon the selection of such third appraiser within ten (10) days after the appraisers appointed by the parties give such notice, then either of the parties, upon notice to the other party, may request such appointment by the American Arbitration Association or, on its failure, refusal or inability to act, may apply for such appointment to the presiding judge of the Superior Court of San Mateo County, California.

(b) Wherever used throughout this Paragraph (Rent during Extension Term) the term "Fair Market Rental Value" shall mean the fair market rental value of the Premises, using as a guide the rate of monthly base rent which would be charged during the Extension Term in the Mid-Peninsula area for comparable space in comparable condition, of comparable quality, as of the time that the Extension Term commences, with appropriate adjustments regarding taxes, insurance and operating expenses as necessary to insure comparability to this Lease, as the case may be, and also taking into consideration amount and type of parking, location, the existence of any leasehold improvements (regardless of who paid for them and with the assumption, for purposes of determining the Fair Market Value, that they are fully usable by Tenant), proposed term of lease, amount of space leased, extent of service provided or to be provided, and any other relevant terms or conditions (including consideration of whether or not the monthly base rent is fixed), provided, however, that the Fair Market Rental Value shall not reflect, or provide any discount for, the fact that otherwise comparable leases vary with this Lease with respect to tenant improvement allowances, phase-ins or early occupancy agreements, moving costs, rebates, signing bonuses, early lease terminations, lease buy-outs, free rent and other rent concessions, leasing commissions, and other related costs.

(c) In the event of a failure, refusal or inability of any appraiser to act, his successor shall be appointed by the party who originally appointed him, but in the case of the third appraiser, his successor shall be appointed in the same manner as provided for appointment of the third appraiser.

(d) The appraisers shall render their appraisals in writing with counterpart copies to Landlord and Tenant. The appraisers shall have no power to modify the provisions of this Lease.

(e) To the extent that binding appraisal has not been completed prior to the expiration of any preceding period for which Monthly Base Rent has been determined, Tenant shall pay Monthly Base Rent at the greater of the Monthly Base Rent paid during the last month of the preceding period or the Fair Market Rental Value estimated by Landlord, with an adjustment to be made once Fair Market Rental Value is ultimately determined by binding appraisal. In no event shall any such adjustment result in a decrease of the Monthly Base Rent for the Premises below the amount payable by Tenant as of the period immediately preceding the ensuing Extension Term.

(f) From and after the commencement of the Extension Term, all of the other terms, covenants and conditions of the Lease shall also apply: provided, however, that Tenant shall have no further rights to extend the Term.

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

LANDLORD:

CIRCLE STAR CENTER ASSOCIATES, L.P.,  
a California limited partnership

By: M-D Ventures, Inc.,  
a California corporation  
Its: General Partner

By: \_\_\_\_\_  
Its: \_\_\_\_\_  


TENANT:

2500 W.L.B., INC.,  
a California corporation

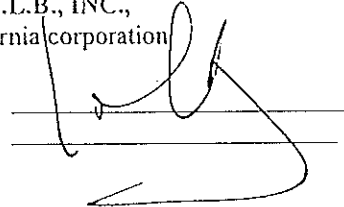
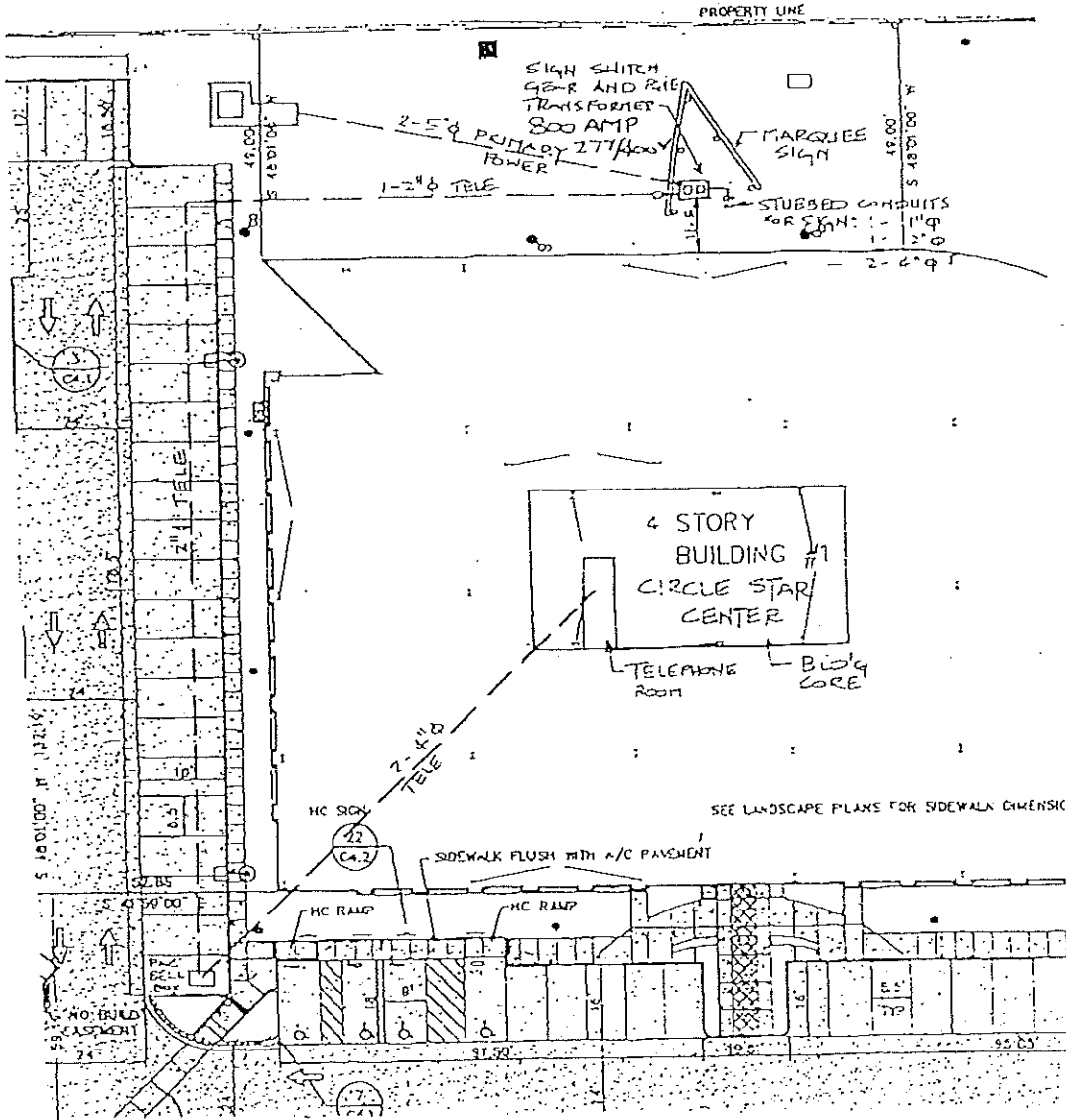
By: \_\_\_\_\_  
Its: \_\_\_\_\_  




EXHIBIT "A"

FLOOR PLAN OF PREMISES

EXHIBIT "B"



SCALE: 1" = 40'

## EXHIBIT "C"

### RULES AND REGULATIONS

1. Sidewalks, halls, passages, exits, entrances, elevators, escalators and stairways shall not be obstructed by Tenant or used by Tenant for any purpose other than for ingress to and egress from the Premises. The halls, passages, exits, entrances, elevators and stairways are not for the use of the general public and Landlord shall in all cases retain the right to control and prevent access thereto by all persons whose presence, in the judgment of Landlord, shall be prejudicial to the safety, character, reputation and interests of the Building and its tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom Tenant normally deals in the ordinary course of Tenant's business unless such persons are engaged in illegal activities. Tenant, and Tenant's employees or invitees, shall not go upon the roof of the Building, except as authorized by Landlord.

2. No sign, placard, picture, name, advertisement or notice visible from the exterior of the Premises shall be inscribed, painted, affixed, installed or otherwise displayed by Tenant either on the Premises or any part of the Building without the prior written consent of Landlord, and Landlord shall have the right to remove any such sign, placard, picture, name, advertisement or notice without notice to and at the expense of Tenant. Tenant may place its name and logo on one wall in Reception Area of Premises.

If Landlord shall have given such consent to Tenant at any time, whether before or after the execution of the Lease, such consent shall not in any way operate as a waiver or release of any of the provisions hereof or of the Lease, and shall be deemed to relate only to the particular sign, placard, picture, name, advertisement or notice so consented to by Landlord and shall not be construed as dispensing with the necessity of obtaining the specific written consent of Landlord with respect to any other such sign, placard, picture, name, advertisement or notice. All approved signs or lettering on doors and walls shall be printed, painted, affixed or inscribed at the expense of Tenant by a person approved by Landlord.

3. The bulletin board or directory of the Building will be provided exclusively for the display of the name and location of tenants only and Landlord reserves the right to exclude any other names therefrom.

4. No curtains, draperies, blinds, shutters, shades, screens or other coverings, awnings, hangings or decorations shall be attached to, hung or placed in, or used in connection with, any window, door or patio on the Premises without the prior written consent of Landlord. In any event with the prior written consent of Landlord, all such items shall be installed inboard of Landlord's window coverings and shall not in any way be visible from the exterior of the Building. No articles shall be placed or kept on the window sills so as to be visible from the exterior of the Building. No articles shall be placed against glass partitions or doors which might appear unsightly from outside the Building.

5. Landlord reserves the right to exclude from the Building between the hours of 6:00 p.m. and 8:00 a.m. and at all hours on Saturdays, Sundays and holidays all persons who do not possess a building access card provided by Landlord or who are not accompanied by Tenant's employees. Landlord will furnish access cards to persons for whom Tenant requests the same in writing. Tenant shall be responsible for all persons from who it requests access cards and shall be liable to Landlord for all acts of such persons. Landlord shall in no case be liable for damages for error with regard to the admission to or exclusion from the Building of any person.

During the continuance of any invasion, mob, riot, public excitement or other circumstance rendering such action advisable in Landlord's opinion, Landlord reserves the right to prevent access to the Building by closing the doors, or otherwise, for the safety of tenants and protection of the Building and property in the Building.

6. Tenant shall not employ any person or persons other than the janitor of Landlord for the purpose of cleaning the Premises unless otherwise agreed to by Landlord in writing. Except with the written consent of 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. Tenant shall not cause any unnecessary labor by reason of Tenant's carelessness or indifference in the preservation of good order and cleanliness of the Premises. Landlord shall not in any way be

responsible to Tenant for any loss of property on the Premises, however occurring, or for any damage done to the effects of Tenant by the janitor or any other employee or any other person.

7. Tenant shall not obtain for use upon the Premises ice, drinking water, food, beverage, towel or other similar services except through facilities approved in writing by Landlord and under regulations fixed by Landlord, or accept barbering or bootblackening services in the Premises except from persons authorized by Landlord. Tenant may have a Lunchroom/Break room in the Premises that has a refrigerator and microwave.

8. Tenant shall see that the doors of the Premises are closed and securely locked and must observe strict care and caution that all water faucets or water apparatus are entirely shut off before Tenant or its employees leave such Premises, and that all utilities shall likewise be carefully shut off, so as to prevent waste or damage, and for any default or carelessness the 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 door or doors to the Building corridors closed at all times except for ingress and egress.

9. As more specifically provided in the Lease, Tenant shall not waste electricity, water or air conditioning and agrees to cooperate fully with Landlord to assure the most effective operation of the Building's heating and air conditioning, and shall refrain from attempting to adjust any controls other than room thermostats installed for Tenant's use.

10. Tenant shall leave the blinds in a down position so as to minimize excess heat load in the building from the sun.

11. Tenant shall not alter any lock or access device or install a new or additional lock or access device or any bolt on any door of the Premises without the prior written consent of Landlord. If Landlord shall give its consent, Tenant shall in each case furnish Landlord with a key for any such lock.

12. Tenant shall not make or have made additional copies of any keys or access devices provided by Landlord. Tenant, upon the termination of the tenancy, shall deliver to Landlord all the keys or access devices for the Building, offices, rooms and toilet rooms which shall have been furnished to Tenant or which Tenant shall have had made. In the event of the loss of any keys or access devices so furnished by Landlord, Tenant shall pay Landlord therefor.

13. 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 and 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 by Tenant or Tenant's employees or invitees shall be borne by Tenant.

14. Tenant shall not use or keep in the Premises or the Building any kerosene, gasoline or inflammable or combustible fluid or material other than limited quantities necessary for the operation or maintenance of office or office equipment. Tenant shall not use any method of heating or air conditioning other than supplied by Landlord.

15. Tenant shall not use, keep or permit to be used or kept in the Premises any foul or noxious gas or substance or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building by reason of noise, odors and/or vibrations or interfere in any way with other tenants or those having business therein, nor shall any animals or birds be brought or kept in or about the Premises or the Building.

16. No cooking shall be done or permitted by Tenant on the Premises (except that use by the Tenant of Underwriter's Laboratory approved equipment for the preparation of coffee, tea, hot chocolate and similar beverages for Tenant and its employees shall be permitted, provided that such equipment and use are in accordance with all applicable federal, state and city laws, codes, ordinances, rules and regulations), nor shall Premises be used for lodging. See Paragraph 7.

17. Except with the prior written consent of Landlord, Tenant shall not sell, or permit the sale, at retail, of newspapers, magazines, periodicals, theater tickets or any other goods or merchandise in or on the Premises, nor shall Tenant carry on, or permit or allow any employee or other person to carry on, the business of

stenography, typewriting or any similar business in or from the Premises for the service or accommodation of occupants of any other portion of the Building, nor shall the Premises be used for the storage of merchandise or for manufacturing of any kind, or the business of a public barber shop or beauty parlor, nor shall the Premises be used for any improper, immoral or objectionable purpose, or any business or activity other than that specifically provided for in Tenant's Lease.

18. If Tenant requires telegraphic, telephonic, burglar alarm or similar services, it shall first obtain and comply with Landlord's reasonable instructions in their installation.

19. Landlord will direct electricians as to where and how telephone, telegraph and electrical wires are to be introduced or installed. No boring or cutting for wires will be allowed without the prior written consent of Landlord. The location of burglar alarms, telephones, call boxes and other office equipment affixed to the Premises shall be subject to the written approval of Landlord, which shall not be unreasonably withheld.

20. Tenant shall not install any radio or television antenna (not including the satellite antenna referred to in Paragraph 44 of the Lease), loudspeaker or any other device on the exterior walls or the roof of the Building. Tenant shall not interfere with radio or television broadcasting or reception from or in the Building or elsewhere.

21. Tenant shall not lay linoleum, tile, carpet or any other floor covering so that the same shall be affixed to the floor of the Premises in any manner except as approved in writing by Landlord. The expense of repairing any damage resulting from a violation of this rule by Tenant or Tenant's contractors, employees or invitees or the removal of any floor covering shall be borne by Tenant. Tenant shall use chair pads if needed to avoid excess wear and tear to the floor coverings.

22. The freight elevator shall be available for use by all tenants in the Building, subject to such reasonable scheduling as Landlord in its discretion shall deem appropriate. No furniture, freight, equipment, materials, supplies, packages, merchandise or other property will be received in the Building or carried up or down the elevators except between such hours and in such elevators as shall be designed by Landlord.

Landlord shall have the right to prescribe the weight, size, and position of all safes, furniture or other heavy equipment brought into the Building. Safes or other heavy objects shall, if considered necessary by Landlord, stand on wood strips of such thickness as determined by Landlord to be necessary to properly distribute the weight thereof. Landlord will not be responsible for loss of or damage to any such safe, equipment or property from any cause, and all damage done to the Building by moving or maintaining any such safe, equipment or other property shall be repaired at the expense of Tenant.

Business machines and mechanical 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 in 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. The persons employed to move such equipment in or out of the Building must be acceptable to Landlord.

23. Tenant shall not place a load upon any floor of the Premises which exceeds the load per square foot which such floor was designed to carry and which is allowed by law. Tenant shall not mark, use double-sided adhesive tape on, or drive nails, screw or drill into, the partitions, woodwork or plaster or in any way deface the Premises or any part thereof, without repairing any resulting damage. Tenant may hang pictures on walls in the Premises. Any damage to the walls caused by molly bolts, or like hanging materials, will be repaired by Tenant.

24. Tenant shall not install, maintain or operate upon the Premises any vending machine without the written consent of Landlord.

25. There shall not be used in any space, or in the public areas of the Building, either by 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. No other vehicles of any kind shall be brought by Tenant into or kept in or about the Premises.

26. Tenant shall store all trash and garbage within the interior of the Premises. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the

ordinary and customary manner of removing and disposing of trash and garbage in the jurisdiction in which the Premises is located, without violation of any law or ordinance governing such disposal. All trash, garbage and refuse disposal shall be made only through entryways and elevators provided for such purposes and at such times as Landlord shall designate.

27. Canvassing, soliciting, distribution of handbills or any other written material and peddling in the Building are prohibited, and Tenant shall cooperate to prevent the same. Tenant shall not make room-to-room solicitation of business from other tenants in the Building.

28. Landlord shall have the right, exercisable without notice and without liability to Tenant, to change the name and address of the Building.

29. Landlord reserves the right to exclude or expel from the Building any person who, in Landlord's judgment, is intoxicated or under the influence of liquor or drugs or who is in violation of any of the rules or regulations of the Building.

30. Without the prior written 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. Tenant may use Project's name on its stationery and business cards.

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

32. Tenant assumes any and all responsibility for protecting the Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Premises closed, unless caused by the gross negligence or willful misconduct of Landlord, its agents, servants, or employees ("Landlord Parties").

33. The requirements of Tenant will be attended to only upon application at the office of the Building by an authorized individual. Employees of Landlord shall not perform any work or do anything outside of their regular duties unless under special instructions from Landlord, and no employees will admit any person (Tenant or otherwise) to any office without specific instructions from Landlord.

34. 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 tenants of the Building.

35. 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 safety and security, for care and

cleanliness of the Building and for the preservation of good order therein. Tenant agrees to abide by all such Rules and Regulations hereinafter stated and any additional rules and regulations which are adopted. No new Rule or Regulation shall be designed to discriminate solely against Tenant.

36. Tenant shall be responsible for the observance of all of the foregoing Rules and Regulations by Tenant's employees, agents, clients, customers, invitees and guests.

37. Unless otherwise defined, terms used in these Rules and Regulations shall have the same meaning as in the Lease.

## EXHIBIT "D"

### ENCUMBRANCES

1. "Declaration of Covenants, Conditions and Restrictions" dated June 24, 1997 by and between Mozad, L.P. and Homestead Village Incorporated.
2. "Approved Conditional Use Permit – Office Complex, 171 Industrial Road, San Carlos, CA 94070" effective date June 12, 1997.