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FILED
Superior Court of California
County of Los Angeles
MAR 10 2017
Sherri R. Carter, Executive Officer/Clerk
By *[Signature]* Deputy
Donita Fowler
CASE MANAGEMENT CONFERENCE
7/10/17 Date *DEPT N*
Craig Karlan *8:30 AM*

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF LOS ANGELES

14 THE MACERICH PARTNERSHIP, L.P., a
15 Delaware limited partnership,

16 Plaintiff,

17 vs.

18 DOUGLAS EMMETT 1995, LLC, a
19 Delaware limited liability company; and
20 DOES 1-10,

21 Defendants.

22 Case No.: **SC127215**

23 **COMPLAINT FOR:**

24 **1. BREACH OF THE IMPLIED
25 COVENANT OF GOOD FAITH AND
26 FAIR DEALING**

27 **2. DECLARATORY RELIEF**

1 Plaintiff THE MACERICH PARTNERSHIP, L.P. ("Tenant") alleges, for its
2 complaint (the "Complaint"):

3 **THE PARTIES**

4 1. At all times herein mentioned, Tenant was and is a Delaware limited
5 partnership with its principal place of business in Santa Monica, California.

6 2. Tenant is informed and believes, and thereupon alleges, that at all times
7 herein mentioned, defendant DOUGLAS EMMETT 1995, LLC ("Landlord" and, with
8 Tenant, the "Parties") was and is a Delaware limited liability company with its principal
9 place of business in Santa Monica, California.

10 3. The true names and capacities, whether individual, associate, corporate or
11 otherwise, of defendants named herein as DOES 1 through 10 (collectively with
12 Landlord, "Defendants"), inclusive, are unknown to Tenant, and, therefore, it sues those
13 defendants, and each of them, by such fictitious names. Tenant will seek leave of court to
14 amend this complaint to state their true names and capacities when ascertained. Tenant is
15 informed and believes, and based thereon alleges, that each of the defendants designated
16 herein as a Doe defendant is responsible in some manner for the events and occurrences
17 herein described.

18 4. Tenant is informed and believes, and on that basis alleges, that Defendants,
19 and each of them (including those designated as Does 1 through 10), is an officer,
20 director, agent, employee, representative, alter-ego and/or co-conspirator of the other
21 defendants in this action, and in doing the things alleged, were acting with the permission
22 and consent of the co-defendants.

23 **JURISDICTION AND VENUE**

24 5. This Court has jurisdiction over the subject matter of this case pursuant to
25 California Code of Civil Procedure ("C.C.P.") section 410.10. Venue is proper in this
26 Court pursuant to C.C.P. section 392.

1 **GENERAL ALLEGATIONS**

2 **The Lease**

3 6. Tenant and Landlord are parties to an Amended and Restated Office Lease
4 dated March 31, 2006 (collectively, as amended, the "Lease") providing for the lease by
5 Tenant, from Landlord, of certain premises (the "Premises") within the office building
6 commonly known as 401 Wilshire Boulevard, Santa Monica, California (the "Building").
7 A copy of the Lease, exclusive of amendments, is attached hereto as Exhibit "A."

8 7. The term of the Lease commenced on April 1, 2008 and runs for a period of
9 ten years, or until March 31, 2018.

10 **The Option to Extend the Term of the Lease**

11 8. Article 23 ("Options to Extend the Term") of the Lease affords Tenant the
12 option (the "Option"), at certain specified times during the term of the Lease and subject
13 to certain conditions, to twice extend the term of the Lease, each time for an additional
14 five years.

15 9. Should Tenant exercise its Option, the Lease provides a mechanism by
16 which to determine the monthly rent payable by Tenant during the extended term.

17 10. The Lease provides that the monthly rent to be paid by Tenant shall be
18 equal to the "Fair Market Value" of the leased Premises as of the commencement date of
19 the extended term.

20 11. The Lease defines "Fair Market Value" as the "annual amount per rentable
21 square foot that Landlord has accepted in current transactions between non-affiliated
22 parties from new, non-expansion, non-renewal and non-equity tenants of comparable
23 credit-worthiness, for comparable space, for a comparable use for a comparable period of
24 time ("Comparable Transactions") in the Building, or if there are not a sufficient number
25 of Comparable Transactions in the Building, what a comparable landlord of a comparable
26 building in the downtown Santa Monica area of the Building with comparable vacancy
27 factors would accept and grant in Comparable Transactions."
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1 12. The Lease further provides that in “any determination of Comparable
2 Transactions appropriate consideration shall be given to the annual rental rates per
3 rentable square foot, the standard of measurement by which the rentable square footage is
4 measured, the ratio of rentable square feet to usable square feet, the type of escalation
5 clause (e.g. whether increases in additional rent are determined on a net or gross basis,
6 and if gross, whether such increases are determined according to a base year or a base
7 dollar amount expense stop), brokerage commissions, if any, which would be payable by
8 Landlord in similar transactions, length of the lease term, size and location of premises
9 being leased, building standard work letter and/or tenant improvement allowances, if any,
10 all other economic concessions and other generally applicable conditions of tenancy for
11 such Comparable Transactions.”

12 13. The intent of the foregoing valuation protocol, as stated in the Lease, is to
13 ensure that “Tenant will obtain the same rent and other economic benefits that Landlord
14 would otherwise give in Comparable Transactions and that Landlord will make, and
15 receive the same economic payments and concessions that Landlord would otherwise
16 make, and receive in Comparable Transactions.”

17 **The Negotiation Period**

18 14. After Tenant’s exercise of the Option the Parties have thirty days to agree
19 on the Fair Market Value of the rent to be paid during the extended term (the
20 “Negotiation Period”).

21 15. Should the Parties be unable to agree as to Fair Market Value before the
22 expiration of the Negotiation Period, the Lease directs each to select its own qualified real
23 estate broker. These independent brokers then have an additional thirty days to reach
24 agreement as to Fair Market Value (the “Review Period”).

25 16. If these appointed brokers are unable to come to agreement during the
26 Review Period, the Lease directs the brokers to select a third, independent broker. The
27 Fair Market Value is then to be established by a majority of these three brokers within
28 thirty days of the appointment of the third broker.

1 17. If a majority of the brokers are unable to determine Fair Market Value
2 within the allotted period, the Fair Market Value determination of the third, independent
3 broker becomes the accepted Fair Market Value for the extended five-year term.

4 **Tenant Exercises the Option**

5 18. By written correspondence dated February 21, 2017, and pursuant to the
6 terms of the Lease, Tenant timely exercised its option to extend the term of the Lease for
7 an additional five-year period for Tenant's lease of the entire fourth, fifth, sixth, and
8 seventh floors and a portion of the eighth floor, all of which are part of the leased
9 Premises. A copy of Tenant's correspondence is attached hereto as Exhibit "B."

10 19. As noted above at paragraphs 11 and 12, the Lease provides that the Fair
11 Market Value for the fixed monthly rent to be paid by Tenant during the extended term of
12 the Lease *shall* be determined by reference to "Comparable Transactions" in the Building
13 or, if there are insufficient Comparable Transactions in the Building, such Comparable
14 Transactions between comparable landlords and tenants in comparable Santa Monica
15 office buildings.

16 20. Because Landlord is in possession of all relevant information related to
17 Comparable Transactions in the Building, in its written notice Tenant requested that
18 Landlord provide such information, and the information noted in paragraphs 11 and 12,
19 above, to enable the Parties' negotiations to proceed.

20 21. Tenant further requested that the Parties agree that the thirty-day
21 Negotiation Period not begin until Tenant received such information as would permit it to
22 participate in the Fair Market Value negotiations.

23 22. By written correspondence dated March 3, 2017, Landlord responded to
24 Tenant's Option exercise notice. In its response, Landlord refused Tenant's request that it
25 provide the information necessary for Tenant to participate in the Fair Market Value
26 negotiations. Landlord further rejected Tenant's proposal that the Negotiation Period not
27 commence until both Parties were in possession of the information necessary to permit
28 them to negotiate the Fair Market Value of the rent for the extended term.

1 SECOND CAUSE OF ACTION

2 (Declaratory Relief)

3 30. Tenant hereby incorporates by reference each and every allegation of
4 paragraphs 1 through 24 as though fully set forth herein.

5 31. An actual controversy has arisen and now exists between Tenant and
6 Landlord concerning their respective rights and duties under the Lease. On the one hand,
7 Tenant contends that:

8 a. Pursuant to Article 23.2 of the Lease, upon exercise of the Option by
9 Tenant, and for purposes of enabling the negotiation ordered in the Lease, Landlord is
10 required to provide to Tenant that information concerning Comparable Transactions in the
11 Building set forth in the Lease and re-stated at paragraphs 11 and 12 of this Complaint;

12 b. The Lease, by its plain language, requires that the Parties use such
13 information concerning Comparable Transactions in the Building in negotiating the Fair
14 Market Value rent for the extended term of the Lease; and

15 c. Because the Lease requires that the Parties use that information
16 concerning Comparable Transactions in the Building in negotiating the Fair Market Value
17 rent for the extended term of the Lease, and such information is in the possession or
18 control of Landlord, the Negotiation Period, as that term is defined in the Lease, does not
19 commence until such materials are provided to Tenant.

20 32. On the other hand, Tenant is informed and believes and based thereon
21 alleges that Landlord has taken a contrary position with respect to each of the foregoing
22 issues.

23 33. A justiciable controversy exists warranting a judicial declaration setting forth
24 the Parties' respective rights and obligations under the Lease.

25 WHEREFORE, Tenant prays for entry of judgment against Landlord as follows:

- 26 1. Consequential damages in an amount subject to proof.
27 2. For a judicial declaration, as follows:
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a. That Article 23.2 of the Lease requires Landlord to provide to Tenant that information concerning Comparable Transactions in the Building set forth in the Lease, and re-stated at paragraphs 11 and 12 of this Complaint, for purposes of negotiating Fair Market Value;

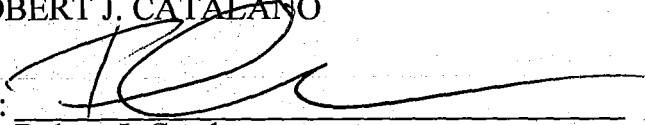
b. The Lease requires the Parties to rely on such information concerning Comparable Transactions in the Building in negotiating the Fair Market Value rent for the extended term of the Lease; and

c. The Negotiation Period does not commence until Landlord has provided Tenant with the information concerning Comparable Transactions in the Building set forth in the Lease and re-stated at paragraphs 11 and 12 of this Complaint.

- 3. For costs of suit, including reasonable attorneys' fees, incurred herein; and
- 4. For such other and further relief as the Court may deem just and proper.

Dated: March 10, 2017

LOEB & LOEB LLP
ANDREW S. CLARE
ROBERT J. CATALANO

By: 
Robert J. Catalano
Attorneys for The Macerich Partnership, L.P.

ORIGINAL

AMENDED AND RESTATED OFFICE LEASE

Between

DOUGLAS EMMETT 1995, LLC,
a Delaware limited liability company

as Landlord

and

THE MACERICH PARTNERSHIP, L.P.,
a Delaware limited partnership

as Tenant

Dated

March 31, 2006

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ORIGINAL

AMENDED AND RESTATED OFFICE LEASE
BASIC LEASE INFORMATION

Date: March 31, 2006
 Landlord: DOUGLAS EMMETT 1995, LLC,
 a Delaware limited liability company
 Tenant: THE MACERICH PARTNERSHIP, L.P.,
 a Delaware limited partnership

SECTION

1.1 Initial Premises: Suites 101E, 101E Mezz, 600, 700, 820, 890, and 1000, at 401 Wilshire Boulevard, Santa Monica, California 90401

Building: The Building and underlying land located at: 401 Wilshire Boulevard Santa Monica, California 90401

1.1.1 Suite 500: Suite 500 at 401 Wilshire Boulevard, Santa Monica, California 90401
 Rentable Area: approximately 16,893 square feet
 Usable Area: approximately 15,277 square feet
 Suite 500 Expansion Date: April 1, 2009.
 Suite 500 Expiration Date: March 31, 2018
 Initial Fixed Monthly Rent: an amount based upon: (i) the Rentable Area of Suite 500 times (ii) the then rental rate per rentable square foot per month, in effect for the Initial Premises, subject to annual increases.
 Tenant Share: 7.70%
 Suite 500 Base Year: 2009
 Parking permits for sixty (60) spaces, consisting of:
 (0) up to twelve (12) reserved parking spaces, and
 (0) up to forty-eight (48) unreserved parking spaces

1.4 Rentable Area of Initial Premises: Suite 500 Contribution (TI): As of April 1, 2009, \$15.00 per square feet of Usable Area contained in Suite 500, which amount is approximately the sum of \$229,153 (based on \$15.00 times approximately 15,277 usf)
 Approximately 51,453 square feet consisting of approximately:
 Suite 101E: stipulated to be 3,732 square feet
 Suite 101E Mezz: stipulated to be 1,722 square feet
 Suite 600: stipulated to be 16,893 square feet
 Suite 700: stipulated to be 16,893 square feet
 Suite 820: stipulated to be 4,526 square feet
 Suite 890: stipulated to be 3,551 square feet
 Suite 1000: stipulated to be 4,136 square feet

1.4 Usable Area of Initial Premises: Approximately 45,954 square feet consisting of approximately:
 Suite 101E: stipulated to be 3,393 square feet
 Suite 101E Mezz: stipulated to be 1,722 square feet
 Suite 600: stipulated to be 15,277 square feet
 Suite 700: stipulated to be 15,277 square feet
 Suite 820: stipulated to be 3,818 square feet
 Suite 890: stipulated to be 2,996 square feet
 Suite 1000: stipulated to be 3,471 square feet

2.1 Initial Premises Term: Ten (10) years
 Initial Premises Commencement: April 1, 2008

First Federal Square/Macerich Partnership/LG/March 31, 2006

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Date:
Initial Premises Expiration Date: March 31, 2018
3.1 **Initial Premises Fixed Monthly Rent:** \$209,130.75
3.3 **Initial Premises Fixed Monthly Rent Increase:** An amount based on the year-to-year increase in the Los Angeles/Long Beach Consumer Price Index (CPI), which shall be multiplied by 2, but shall not exceed a total increase of three percent (3%) in any given year
Initial Premises-Date of First Increase: April 1, 2009
Initial Premises-Frequency of Increase: Annually
3.7 **Initial Premises Security Deposit:** [Intentionally Omitted]
4.1 **Initial Premises Tenant's Share:** Stipulated to be 23.17%, consisting of a stipulated:
Suite 101E: 1.71%;
Suite 101E Mezz: 0.87%;
Suite 600: 7.70%;
Suite 700: 7.70%;
Suite 820: 1.93%;
Suite 890: 1.51%;
Suite 1000: 1.75%.
4.2 **Initial Premises Base Year for Operating Expenses:** 2008
6.1 **Use of Premises:** General office use consistent with the operation of a first-class office building in the Santa Monica geographic area
16.1 **Tenant's Address for Notices:**
Before and after the Commencement Date: The Macerich Partnership, L.P.
401 Wilshire Boulevard, Suite 700
Santa Monica, California 90401
Attn: Mr. Tom O'Hern
and
The Macerich Partnership, L.P.
401 Wilshire Boulevard, Suite 700
Santa Monica, California 90401
Attn: Legal Department
Copies: Copies of all notices regarding Default and SNDAA shall be concurrently sent to:
DLA Piper Rudnick Gray Cary US LLP
550 South Hope Street, Suite 2300
Los Angeles, CA 90071
Attn: Michael E. Meyer, Esq.
Landlord's Address for Notices: Douglas Emmett 1995, LLC
c/o Douglas, Emmett and Company
Director of Property Management
808 Wilshire Boulevard, Suite 200
Santa Monica, California 90401
20.5 **Brokers:** Douglas, Emmett and Company
808 Wilshire Boulevard, Suite 200
Santa Monica, California 90401
and
Mr. E. Michael DeSantis
Cushman & Wakefield of California, Inc.
10280 Constellation Boulevard, Suite 2200
Los Angeles, California 90067
20.23 and **Signage** Limited Right to Parapet Signage
Exhibit G

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21.1 Initial Premises-Parking Permits:

Parking permits for one hundred and sixty-five (165) spaces:

(1) Tenant shall have the right but not the obligation to purchase reserved parking permits for up to forty-five (45) reserved spaces, and for up to one hundred five (105) unreserved spaces of which eighteen (18) can be tandem (for 18 vehicles); and

(2) Tenant shall have the right to purchase unreserved permits on a must-take basis for an additional fifteen (15) unreserved spaces.

Except as noted hereinbelow, the foregoing Basic Lease Information is hereby incorporated into and made a part of the Lease. The Section reference in the left margin of the Basic Lease Information exists solely to indicate where such reference initially appears in the Lease document. Except as specified hereinbelow, each such reference in the Lease document shall incorporate the applicable Basic Lease Information. However, in the event of any conflict between any reference contained in the Basic Lease Information and the specific wording of the Lease, the wording of the Lease shall control.

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**AMENDED AND RESTATED OFFICE LEASE
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Exhibits

- A-1 -- Initial Premises Plan
- A-2 -- Suite 500 Expansion Space Plan
- B -- Improvement Construction Agreement-Tenant Build
- B-1 -- Construction by Tenant During Term
- C -- Rules and Regulations
- D -- *Intentionally Omitted*
- E -- *Intentionally Omitted*
- F -- Asbestos Rider

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(Exhibits Continued)

- G -- Signage Criteria
- H -- Form of Subordination, Non-Disturbance and Attornment Agreement
- I -- Reserved Parking Location
- J -- License Agreement- Tiered Roof Area(s)

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AMENDED AND RESTATED OFFICE LEASE

This Amended and Restated Office Lease, dated March 31, 2006, is by and between DOUGLAS EMMETT 1995, LLC, a Delaware limited liability company ("Landlord"), with an office at 808 Wilshire Boulevard, Suite 200, Santa Monica, California 90401, and THE MACERICH PARTNERSHIP, L.P., a Delaware limited partnership ("Tenant"), with an office at 401 Wilshire Boulevard, Suite 700, Santa Monica, California 90401.

RECITALS

A. Tenant, as assignee of Richard E. Hodge, Inc., a California corporation, occupies Suite 820 at 401 Wilshire Boulevard, Santa Monica, California 90401 (the "Building") and certain storage space on the P-4 level of the Building pursuant to that certain Lease dated April 22, 1999, as amended by that certain First Amendment to Office Lease, dated November 1, 1999, that certain Second Amendment to Office Lease, dated March 1, 2004, and that certain Assignment, Assumption and Consent effective April 1, 2005 (collectively the "Suite 820 Lease");

B. The term for the Suite 820 Lease shall expire on May 31, 2007, and concurrently herewith Landlord and Tenant are entering into a Third Amendment to Office Lease dated of even date herewith to extend the Suite 820 Lease on a short term basis from June 1, 2007 through March 31, 2008 (the "Suite 820 Extension Amendment");

C. Landlord, pursuant to the provisions of that certain written Office Lease, dated September 11, 1997, as amended by that certain First Amendment to Office Lease, dated April 27, 1998 ("First Amendment"), that certain Second Amendment to Office Lease, dated October 12, 1999 ("Second Amendment"), that certain Third Amendment to Office Lease, dated July 27, 2001 ("Third Amendment"), that certain Fourth Amendment to Office Lease, dated August 7, 2001 for Tenant to install and maintain a proprietary emergency generator ("Fourth Amendment"), and that certain Fifth Amendment to Office Lease, dated May 22, 2004 ("Fifth Amendment") (collectively the "1997 Lease"), leased to Tenant and Tenant leased from Landlord space in the property located at 401 Wilshire Boulevard, Santa Monica, California 90401, commonly known Suites 101E, 101E Mezz, 600, 700, 890, and 1000 (collectively the "Existing Premises");

D. The Term of the Lease for the Existing Premises shall expire on March 31, 2008, which lease term Tenant desires to renew with respect to Suites 101E, 101E Mezz, 600, 700, 820, 890 and 1000 as shown on *Exhibit A-1* (collectively herein the "Initial Premises" or the "Premises") pursuant to this Amended and Restated Office Lease for an additional ten (10) year period commencing on April 1, 2008;

E. Tenant occupies Suite 500 in the Building, pursuant to a Sublease dated February 27, 2003 between Jackson National Life, a Insurance Company, a Michigan corporation ("JNL") and Tenant due to expire on March 31, 2009 (the "Suite 500 Sublease"), subject to a master lease dated April 9, 1998, as amended between Landlord and JNL due to expire on March 31, 2009 (the "JNL Master Lease");

F. Pursuant to that certain Consent to Sublease Agreement among Landlord, JNL and Tenant, as a subtenant dated February 27, 2003, Tenant and JNL waived any right to extend the term of either the JNL Master Lease or the Sublease beyond the period allowed under the JNL Master Lease, or the Suite 500 Sublease; and

G. Upon the expiration of the Suite 500 Sublease, Landlord and Tenant desire to wish to have Tenant's continuing occupancy of Suite 500, as shown on *Exhibit A-2*, governed by this Amended and Restated Lease effective April 1, 2009 (the "Suite 500 Expansion"), so that it is co-terminus with term of this Amended and Restated Lease for the Initial Premises.

H. Tenant desires a license to use each tiered-roof area adjacent to the second (2nd) floor, third (3rd) floor and the fourth (4th) floor during the Lease Term, subject to the terms herein.

NOW, THEREFORE, in consideration of the covenants and provisions contained herein, and other good and valuable consideration, the sufficiency of which Landlord and Tenant hereby acknowledge, Landlord and Tenant agree, as set forth below.

ARTICLE 1 DEMISE OF PREMISES

Section 1.1. Demise. Subject to the covenants and agreements contained in this Lease, Landlord leases to Tenant and Tenant hires from Landlord, the Initial Premises on a portion of the first (1st) floor commonly known as Suite 101E and 101E Mezz, the entire sixth (6th) floor, the entire seventh (7th) floor, a portion of the eighth (8th) floor and a portion of the tenth (10th) floor, in the building located at 401 Wilshire Boulevard, Santa Monica, California 90401 (the "Building"). The configuration of the Initial Premises is shown on *Exhibit A-1*, attached hereto and made a part hereof by reference.

Tenant and Landlord acknowledge that (i) as a direct Tenant, it has been in possession of Suites 600, 700 and 890 for over seven (7) years; Suites 101E and 101E Mezz for over four (4) years; Suite 820 for over six (6) years; and Suite 1000 over nineteen (19) months; (ii) as a subtenant, Tenant has been in possession of Suite 500 for over two (2) years, and (iii) to the best of Landlord's and Tenant's knowledge as of the date hereof, neither has any claim against the other in connection with the Suites 101E, 101E Mezz, 500, 600, 700, 820, 890 and 1000 or the Lease, but Tenant does not waive any right to contest Operating Expense overcharges. Tenant acknowledges that it has made its own inspection of and inquiries regarding the Initial Premises and Suite 500, which are already improved. Therefore, Tenant accepts the Initial Premises and Suite 500 in their "as-is" condition, subject to certain obligations imposed on Landlord in this Lease and the *Exhibit B (Construction Agreement)*. Tenant further

First Federal Square/Macerich Partnership/LQM/March 31, 2006



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acknowledges that Landlord has made no representation or warranty, express or implied, except as are contained in this Lease and its Exhibits, regarding the condition, suitability or usability of the Initial Premises and Suite 500 or the Building for the purposes intended by Tenant.

The Building, the Building's parking facilities, any outside plaza areas, land and other improvements surrounding the Building which are designated from time to time by Landlord as common areas appurtenant to or servicing the Building, and the land upon which any of the foregoing are situated, are herein sometimes collectively referred to as the "Real Property."

Section 1.1.1. Suite 500 Expansion Space

(1) **Suite 500 Expansion Date and Term.** As of April 1, 2009 (the "Suite 500 Expansion Date") and continuing through March 31, 2018, unless sooner terminated, the definition of the Initial Premises shall be revised to include Suite 500, and wherever in the Lease the word "Premises" or "Initial Premises" is found, it shall thereafter refer to the Initial Premises (i.e. Suites 101E, 101E Mezz, 600, 700, 820, 890 and 1000), and Suite 500 together, as if the same had been originally included in this Lease.

(2) **Area.** As of the Suite 500 Expansion Date, the Usable Area of the Initial Premises shall increase by approximately 15,277 square feet from approximately 45,954 square feet to approximately 61,231 square feet and the Rentable Area of the Initial Premises shall increase by approximately 16,893 square feet from approximately 51,453 square feet to approximately 68,346 square feet.

(3) **Fixed Monthly Rent.** Commencing on the Suite 500 Expansion Date and continuing through March 31, 2010, the Fixed Monthly Rent payable by Tenant for Suite 500 shall be an amount based upon: (i) the Rentable Area of Suite 500 times (ii) the then rental rate per rentable square foot per month, in effect for Suites 600, 700, 820, 890 and 1000 only. Thereafter, and continuing on a co-terminus basis through March 31, 2018, unless sooner terminated, the Fixed Monthly Rent payable by Tenant for Suite 500 shall be increased on each anniversary of the Suite 500 Expansion Date during the Lease Term by an amount based on the year-to-year increase in the Los Angeles/Long Beach Consumer Price Index (CPI), which shall be multiplied by two (2), but shall not exceed a total increase of three percent (3%) in any given year.

(4) **Tenant Share and Base Year.** As of the Suite 500 Expansion Date: (i) Tenant's Share, solely as it relates to Suite 500 shall be 7.70%; and (ii) the Base Year for Tenant's payment of increases in Operating Expenses, solely as it relates to Suite 500, shall be calendar year 2009 (the "Suite 500 Base Year").

(5) **Parking Permits.** As of the Suite 500 Expansion Date, Tenant shall have the right, but not the obligation, to purchase up to twelve (12) reserved parking permits and up to forty-eight (48) unreserved parking permits (the "Suite 500 Expansion Permits"), pursuant to Article 21 of this Amended and Restated Lease. The rates chargeable to Tenant for the Suite 500 Expansion Permits shall be at the prevailing monthly Building parking rates then in effect in the area, which monthly rates may change from time to time, in Landlord's sole discretion.

Section 1.2. Tenant's Non-Exclusive Use. Subject to the contingencies contained herein, Tenant is granted the nonexclusive use of the common corridors and hallways, stairwells, elevators, restrooms, parking facilities, lobbies and other public or common areas located on the Real Property. However, the manner in which such public and common areas are maintained and operated shall be at the sole discretion of Landlord, and Tenant's use thereof shall be subject to such rules, regulations and restrictions as Landlord may make from time to time. Tenant may use the base building stairwells to go from floor to floor in between the portions of its Premises and may install card key access to its doors in such stairwell in compliance with Applicable Laws (as defined in Section 10.1) and Landlord shall allow Tenant to interface with Landlord's security system, provided that Tenant shall not install any cameras in common areas on multi tenant floors.

Section 1.3. Landlord's Reservation of Rights. Landlord specifically reserves to itself use, control and repair of the structural portions of all perimeter walls of the Premises, any balconies, or terraces or tiered-roofs (subject to Article 30) or roofs (subject to Articles 25 and 26) adjacent to the Premises (including any flagpoles or other installations on said walls, balconies, terraces or roofs) and any space in and/or adjacent to the Premises used for shafts, stairways, pipes, conduits, ducts, mail chutes, conveyors, pneumatic tubes, electric or other utilities, sinks, fan rooms or other Building facilities, and the use thereof, as well as access thereto through the Premises. Landlord also specifically reserves to itself the following rights:

- a) To designate all sources furnishing sign painting or lettering;
- b) To constantly have pass keys to the Premises except the Secured Areas as defined in Section 12.15;
- c) To grant to anyone the exclusive right to conduct any particular business or undertaking in the Building, so long as Landlord's granting of the same does not prohibit Tenant's use of the Premises for Tenant's Specified Use, as defined in Article 6;
- d) To enter the Premises at any reasonable time with reasonable notice (except for emergencies) to inspect, repair, alter, improve, update or make additions to the Premises or the Building;
- e) During the last six (6) months of the Term, to exhibit the Premises to prospective future tenants;
- f) Subject to the provisions of Article 12, to, at any time, and from time to time, whether at Tenant's request or pursuant to governmental requirement, repair, alter, make additions to, improve, or decorate all or any portion of the Real Property, Building or Premises. In connection therewith, and without limiting the generality of the foregoing rights, Landlord shall specifically have the right to

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remove, alter, improve or rebuild all or any part of the lobby of the Building as the same is presently or shall hereafter be constituted;

- g) Subject to the provisions of Article 12, Landlord reserves the right to make alterations or additions to or change the location of elements of the Real Property and any common areas appurtenant thereto; and/or
- h) To take such other actions as may reasonably be necessary when the same are required to preserve, protect or improve the Premises, the Building, or Landlord's interest therein.

Section 1.4. Area. The Usable Area of Suite 101E shall be a stipulated 3,393 square feet and the Rentable Area of Suite 101E shall be a stipulated 3,732 square feet. The Usable Area and Rentable Area of Suite 101E Mezz shall be a stipulated 1,722 square feet. The Usable Area of Suite 500 shall be a stipulated 15, 277 square feet and the Rentable Area of Suite 500 shall be a stipulated 16,893 square feet. The Usable Area of Suite 600 shall be a stipulated 15, 277 square feet and the Rentable Area of Suite 600 shall be a stipulated 16,893 square feet. The Usable Area of Suite 700 shall be a stipulated 15, 277 square feet and the Rentable Area of Suite 700 shall be a stipulated 16,893 square feet. The Usable Area of Suite 820 shall be a stipulated 3,818 square feet and the Rentable Area of Suite 820 shall be a stipulated 4,526 square feet. The Usable Area of Suite 890 shall be a stipulated 2,996 square feet and the Rentable Area of Suite 890 shall be a stipulated 3,551 square feet. The Usable Area of Suite 1000 is corrected from 3,477 square feet to approximately 3,471 square feet and the Rentable Area of Suite 1000 be a stipulated 4,136 square feet.

Landlord and Tenant agree that the usable area (the "Usable Area") of the Initial Premises and Suite 500 have been measured using the June, 1996 standards published by the Building Owners' and Managers' Association ("BOMA"), as a guideline, Landlord is utilizing a deemed add-on factor of: (i) 10.00% to compute the rentable area (the "Rentable Area") of Suite 101E and 0.00% to compute the rentable area of Suite 101E Mezz; (ii) 10.58% to compute the Rentable Area of Suites 500, 600, and 700; (iii) 18.54% to compute the Rentable Area of Suites 820 and 890; and (iv) 19.15% to compute the Rentable Area of Suite 1000. Rentable Area herein is calculated as 1.1000 times the estimated Usable Area of Suite 101E, 1.000 times the estimated Usable Area of Suite 101E Mezz, 1.1058 times the estimated Usable Area of Suites 500, 600, and 700, 1.1854 times the estimated Usable Area of Suites 820 and 890, and 1.1915 times the estimated Usable Area of Suite 1000 respectively regardless of what the actual square footage of the common areas of the Building may be, and whether or not they are more or less than 10.00%, 0.00%, 10.58%, 18.54% and 19.15%, respectively of the total estimated Usable Area of the Building. The purpose of this calculation is solely to provide a general basis for comparison and pricing of this space in relation to other spaces in the market area.

Landlord and Tenant further agree that even if the Rentable or Usable Area of the Premises and/or the total Building Area are later determined to be more or less than the figures stated herein, for all purposes of the Lease, the figures stated herein shall nevertheless be conclusively deemed to be the actual Rentable or Usable Area of the Initial Premises and Suite 500, as the case may be.

Section 1.5. Quiet Enjoyment. Contingent upon Tenant not being in Default under this Lease, and subject to the limitations imposed under Article 14 of this Lease, Tenant shall lawfully and quietly hold, occupy and enjoy the Premises during the Term.

Section 1.6. No Light, Air or View Easement. Any diminution or shutting off of light, air or view by any structure which is now or may hereafter be erected on lands adjacent to the Building shall in no way affect this Lease or impose any liability on Landlord. Noise, dust or vibration or other ordinary incidents to new construction of improvements on lands adjacent to the Building, whether or not by Landlord, shall in no way affect this Lease or impose any liability on Landlord.

Section 1.7. Relocation.

Section 1.7.1. Landlord shall have the right with respect to any portions of the Premises consisting of less than one-half of an individual floor in the Building (the "Identified Portion(s)"), at any time, except during the last six (6) months of the Term, and after giving Tenant a minimum of sixty (60) days' prior written notice (the "Relocation Notice"), to:

- a) provide and furnish Tenant with space elsewhere in the Building within a two (2) floor range of the Identified Portion(s), and of approximately the same size as the Identified Portion(s) (the "Substitute Portion(s)"), and
- b) relocate Tenant to such Substitute Portion(s).

Landlord shall pay all reasonable costs and expenses incurred as a result of such relocation (including but not limited to comparable tenant improvements, phone and computer cabling costs, a reasonable amount of business stationery, and moving costs). If Landlord moves Tenant to the Substitute Portion(s), each and every term, covenant and condition of this Lease shall remain in full force and effect and be deemed applicable to the Substitute Portion(s), as though Landlord and Tenant had entered into an express written amendment of this Lease with respect thereto, except that if the approximate Rentable Area of the Substitute Portion(s) is less than the Rentable Area of the Identified Portion(s), the Fixed Monthly Rent and Tenant's Share of Operating Expense increases shall be appropriately reduced.

If Tenant refuses to permit Landlord to relocate Tenant as specified above, Landlord shall have the right to terminate this Lease as the Identified Portion(s) effective ninety (90) days after the date of Tenant's receipt of the Relocation Notice.

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**ARTICLE 2
COMMENCEMENT DATE AND TERM**

Section 2.1. Commencement Date and Term. Subject to the contingencies to the effectiveness of this Lease as set forth in Article 28 herein, the Term of this Lease for the Initial Premises shall commence on April 1, 2008 (the "Commencement Date"); and shall end, unless sooner terminated as otherwise provided herein, at midnight on March 31, 2018 (the "Termination Date"). Concurrent with Tenant's occupancy of the Initial Premises as of the Commencement Date, and concurrent with Tenant's direct lease and occupancy of Suite 500 as of the Suite 500 Expansion Date, neither of which shall entitle Tenant to any rent offset or rent abatement) Tenant intends to cause Tenant's contractor to perform certain Improvements in the Initial Premises and Suite 500 as set forth in Exhibit B attached hereto and incorporated herein.

Section 2.1.1 Termination of Suite 820 Lease and the 1997 Lease. The Suite 820 Lease, as amended and the 1997 Lease shall each expire on its terms and be deemed terminated on March 31, 2008, which is the day immediately preceding the Commencement Date of this Lease; provided however Tenant shall remain fully liable for all rents due under the Suite 820 Lease, as amended and the 1997 Lease up to said date of termination accruing up to March 31, 2008 even though such amounts may be determined at a later date.

The terms of this Lease shall govern: (1) Tenant's occupancy of the Initial Premises (Suite Numbers 101E, 101E Mezz, 600, 700, 820, 890 and 1000) from and after the Commencement Date and for the duration of the Term, as extended; and (2) Tenant's occupancy of Suite 500 from and after the Suite 500 Expansion Date and for the duration of the Term, as extended.

Section 2.2. Holding Over. If Tenant fails to deliver possession of the Premises on the Termination Date, but holds over after the expiration or earlier termination of this Lease without the express prior written consent of Landlord, such tenancy shall be construed as a tenancy from month-to-month (terminable by either Landlord or Tenant upon thirty (30) days' prior written notice to the other) on the same terms and conditions as are contained herein, except that the Fixed Monthly Rent payable by Tenant during the first sixty (60) days of holding over shall automatically increase as of the Termination Date to an amount equal to one hundred and twenty-five percent (125%) of the Fixed Monthly Rent payable by Tenant the calendar month immediately prior to the date when Tenant commences such holding over (the "Last Month") and shall thereafter increase to an amount equal to one hundred and fifty percent (150%) of the Fixed Monthly Rent payable by Tenant for the Last Month (the "Holdover Rent"). Tenant's payment of such Holdover Rent, and Landlord's acceptance thereof, shall not constitute a waiver by Landlord of any of Landlord's rights or remedies with respect to such holding over, nor shall it be deemed to be a consent by Landlord to Tenant's continued occupancy or possession of the Premises past the time period covered by Tenant's payment of the Holdover Rent.

Furthermore, if Tenant fails to deliver possession of the Premises to Landlord upon the expiration or earlier termination of this Lease and Landlord has notified Tenant in writing, not less than thirty (30) days prior to the Termination Date, that Landlord requires possession of the Premises for a succeeding Tenant, then, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees and expenses) and liability resulting from such failure, including without limiting the foregoing, any claims made by any succeeding tenant arising out of Tenant's failure to so surrender, and any lost profits to Landlord resulting therefrom.

**ARTICLE 3
PAYMENT OF RENT, LATE CHARGE**

Section 3.1. Payment of Fixed Monthly Rent and Additional Rent. "Rent" shall mean: all payments of monies in any form whatsoever required under the terms and provisions of this Lease, and shall consist of:

- a) "Fixed Monthly Rent," which shall be payable in equal monthly installments of \$209,130.75 for the Initial Premises; plus
- b) Additional Rent as provided in Article 4 and elsewhere in this Lease.

Section 3.2. Manner of Payment. Tenant shall pay Fixed Monthly Rent and Additional Rent immediately upon the same becoming due and payable, without demand therefor, and without any abatement, set off or deduction whatsoever, except as may be expressly provided in this Lease. Landlord's failure to submit statements to Tenant stating the amount of Fixed Monthly Rent or Additional Rent then due, including Landlord's failure to provide to Tenant a calculation of the adjustment as required in Section 3.3 or the Escalation Statement referred to in Article 4, shall not constitute Landlord's waiver of Tenant's requirement to pay the Rent called for herein. Tenant's failure to pay Additional Rent as provided herein shall constitute a material default equal to Tenant's failure to pay Fixed Monthly Rent when due, subject to prior notice to Tenant and Tenant's opportunity to cure per Section 17.1 (a) herein.

Rent shall be payable in advance on the first day of each and every calendar month throughout the Term, in lawful money of the United States of America, to Landlord at 401 Wilshire Boulevard, Suite 1045, Santa Monica, California 90401, or at such other place(s) as Landlord designates in writing to Tenant. Tenant's obligation to pay Rent shall begin on the Commencement Date and continue throughout the Term, without abatement, setoff or deduction, except as otherwise specified hereinbelow.

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Section 3.3. Initial Premises-Fixed Monthly Rent Increase. Commencing on each anniversary of the Commencement Date during the Term, the Fixed Monthly Rent payable by Tenant for the Initial Premises shall be increased by an amount based on the year-to-year increase in the Los Angeles/Long Beach Consumer Price Index (CPI), which shall be multiplied by two (2), but shall not exceed a total increase of three percent (3%) in any given year.

Section 3.4. Tenant's Payment of Certain Taxes. Tenant shall, concurrent with Tenant's next scheduled payment of Fixed Monthly Rent, and provided that Landlord has provided Tenant with substantiating documentation from the applicable taxing authority, reimburse Landlord, as Additional Rent, for any and all taxes, surcharges, levies, assessments, fees and charges payable by Landlord when:

- a) assessed on, measured by, or reasonably attributable to:
- i) the cost or value of Tenant's equipment, furniture, fixtures and other personal property located in the Premises; or
 - ii) the cost or value of any leasehold improvements in or to the Premises in excess of \$35.00 per square foot, provided the same have been made in connection with Tenant's execution of this Lease, and without regard to whether title to or payment for such improvements vests with Tenant or Landlord, and Landlord shall exclude from Operating Expenses and Taxes the taxes attributable to all other tenants and occupants of the Building as if (i) and (ii) were in leases for all such tenants and occupants;
- b) on or measured by any rent payable hereunder, including, without limitation, any gross income tax, gross receipts tax, or excise tax levied by the City of Santa Monica or County of Los Angeles or any other governmental body with respect to the receipt of such rent (computed as if such rent were the only income of Landlord), but solely when levied by the appropriate City of Santa Monica or County agency in lieu of, or as an adjunct to, such business license(s), fees or taxes as would otherwise have been payable by Tenant directly to such taxing authority;
- c) upon or with respect to the possession, leasing, operating, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion thereof; or
- d) solely because Landlord and Tenant entered into this transaction or executed any document transferring an interest in the Premises to Tenant. If it becomes unlawful for Tenant so to reimburse Landlord, the rent payable to Landlord under this Lease shall be revised to net Landlord the same rent after imposition of any such tax as would have been payable to Landlord prior to the imposition of any such tax.

Said taxes shall be due and payable whether or not now customary or within the contemplation of Landlord and Tenant. Notwithstanding the above, in no event shall the provisions of this Section 3.4 serve to entitle Landlord to reimbursement from Tenant for any federal, state, county or city income or gross receipts tax payable by Landlord or the managing agent of Landlord.

Section 3.5. Certain Adjustments. If:

- a) the Commencement Date occurs on other than January 1st of a calendar year, or the Lease expires or terminates on other than December 31st of a calendar year;
 - b) the size of the Premises changes during a calendar year; or
 - c) any abatement of Fixed Monthly Rent or Additional Rent occurs during a calendar year,
- then the amount payable by Tenant or reimbursable by Landlord during such year shall be adjusted proportionately on a daily basis, and the obligation to pay such amount shall survive the expiration or earlier termination of this Lease.

If the Commencement Date occurs on other than the first day of a calendar month, or the Lease expires on a day other than the last day of a calendar month, then the Fixed Monthly Rent and Additional Rent payable by Tenant shall be appropriately apportioned on a prorata basis for the number of days remaining in the month of the Term for which such proration is calculated.

If the amount of Fixed Monthly Rent or Additional Rent due is modified pursuant to the terms of this Lease, such modification shall take effect the first day of the calendar month immediately following the date such modification would have been scheduled.

Section 3.6. Late Charge and Interest. Tenant acknowledges that late payment by Tenant to Landlord of Fixed Monthly Rent or Additional Rent will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which are extremely difficult and impracticable to fix. Such costs include, without limitation, processing and accounting charges and late charges that may be imposed on Landlord by the terms of any encumbrance and note secured by any encumbrance covering the Premises. Therefore, if any installment of Fixed Monthly Rent or Additional Rent and other payment due from Tenant hereunder is not received by Landlord within five (5) days of Tenant's receipt of notice from the Landlord that such amount was not paid when due, Tenant shall pay to Landlord on demand an additional sum equal to five percent (5%) of the overdue amount as a late charge. The parties agree that this late charge represents a fair and reasonable settlement against the costs that Landlord will incur by reason of Tenant's late payment. Acceptance of any late charge shall not constitute a waiver of Tenant's default with respect to the overdue amount, or prevent Landlord from exercising any of the other rights and remedies available to Landlord.

Every installment of Fixed Monthly Rent and Additional Rent and any other payment due hereunder from Tenant to Landlord which is not paid within twelve (12) days after the same becomes due and payable shall, in addition to any Late Charge already paid by Tenant, bear interest at the rate of ten percent (10%) per annum from the date that the same originally became due and

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payable until the date it is paid. Landlord shall bill Tenant for said interest, and Tenant shall pay the same within five (5) days of receipt of Landlord's billing.

No interest charge or late charge may be assessed against Tenant unless they are billed to Tenant within thirty (30) days of such amount first becoming due and payable.

Section 3.7. Security Deposit. Landlord acknowledges that it currently holds the sum of \$15,605.31 as a security deposit under the Suite 820 Lease. Concurrent with Tenant's simultaneous execution and delivery to Landlord of the Suite 820 Amendment (and this Lease), Landlord shall return the Security Deposit to Tenant.

ARTICLE 4
ADDITIONAL RENT

Section 4.1. Certain Definitions. As used in this Lease:

- a) "Escalation Statement" means a statement by Landlord, setting forth the amount payable by Tenant or by Landlord, as the case may be, for a specified calendar year pursuant to this Article 4.
b) "Operating Expenses" means the following in a referenced calendar year, including the Suite 500 Base Year (as defined in Section 1.1.1(c) or the Initial Premises Base Year (as defined in Section 4.2.1), calculated assuming the Building is at least ninety-five percent (95%) occupied as if all occupants were paying full rent as contrasted with free rent, half-rent and the like; all costs of management, operation, maintenance, and repair of the Building.

By way of illustration only, Operating Expenses shall include, but not be limited to: management fees paid by Landlord to any third-party, which shall not exceed the percentage used during the applicable Suite 500 Base Year or the Initial Premises Base Year; water and sewer charges; any and all insurance premiums not otherwise directly payable by Tenant; license, permit and inspection fees; air conditioning (including repair of same); heat; light; power and other utilities; steam; labor; cleaning and janitorial services; guard services; supplies; materials; equipment and tools.

Operating Expenses shall also include the cost or portion thereof of those capital improvements made to the Building by Landlord during the Term:

- i) to the extent that such capital improvements reduce other direct expenses, when the same were made to the Building by Landlord after the Commencement Date, or
ii) that are required under any governmental law or regulation that was not applicable to the Building as of the Commencement Date.

Said capital improvement costs, or the allocable portion thereof (as referred to in clauses (i) and (ii) above), shall be amortized over the useful life of such improvement, as reasonably determined by Landlord, together with interest on the amortized balance at the rate of ten percent (10%) per annum.

Operating Expenses shall also include all general and special real estate taxes, increases in assessments or special assessments and any other ad valorem taxes, rates, levies and assessments paid during a calendar year (or portion thereof) upon or with respect to the Building and the personal property used by Landlord to operate the Building, whether paid to any governmental or quasi-governmental authority, and all taxes specifically imposed in lieu of any such taxes (but excluding taxes referred to in Section 3.4 for which Tenant or other tenants in the Building are liable) including fees of counsel and experts, reasonably incurred by, or reimbursable by Landlord in connection with any application for a reduction in the assessed valuation of the Building and/or the land thereunder or for a judicial review thereof, (collectively "Appeal Fees"), but solely to the extent that the Appeal Fees result directly in a reduction of taxes otherwise payable by Tenant.

Operating Expenses shall also include, but not be limited to, the premiums for the following insurance coverage: all-risk, structural, fire, boiler and machinery, liability, earthquake and for replacement of tenant improvements to a maximum of \$35.00 per usable square foot, and for such other coverage(s), and at such policy limit(s) as Landlord deems reasonably prudent and/or are required by any lender or ground lessor, which coverage and limits Landlord may, in Landlord's reasonable discretion, change from time to time.

If, in any calendar year following the Suite 500 Base Year or the Initial Premises Base Year, as defined hereinbelow (a "Subsequent Year"), a new expense item (e.g., earthquake insurance, concierge services, entry card systems, the addition of a new holiday observed by the Building" (as defined in Section 8.1 herein)), is included in Operating Expenses which was not included in the Operating Expenses for the Suite 500 Base Year or for the Initial Premises Base Year, then the cost of such new item shall be added to the Operating Expenses for the Suite 500 Base Year or for the Initial Premises Base Year for purposes of determining the Additional Rent payable under this Article 4 for such Subsequent Year. During each Subsequent Year, the same amount shall continue to be included in the computation of Operating Expenses for the Suite 500 Base Year or the Initial Premises Base Year, resulting in each such Subsequent Year Operating Expenses only including the increase in the cost of such new item over the Suite 500 Base Year or the Initial Premises Base Year, as so adjusted. However, if in any Subsequent Year thereafter, such new item is not included in Operating Expenses, no such addition shall be made to Operating Expenses for the Suite 500 Base Year or for the Initial Premises Base Year.





Conversely, as reasonably determined by Landlord, when an expense item that was originally included in the Operating Expenses for the Suite 500 Base Year or the Initial Premises Base Year is, in any Subsequent Year, no longer included in Operating Expenses, then the cost of such item shall

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



be deleted from the Operating Expenses for the Suite 500 Base Year or the Initial Premises Base Year for purposes of determining the Additional Rent payable under this Article 4 for such Subsequent Year. The same amount shall continue to be deleted from the Operating Expenses for the Suite 500 Base Year or the Initial Premises Base Year for each Subsequent Year thereafter that the item is not included. However, if such expense item is again included in the Operating Expenses for any Subsequent Year, then the amount of said expense item originally included in the Operating Expenses for the Suite 500 Base Year or the Initial Premises Base Year shall again be added back to the Operating Expenses for the Suite 500 Base Year or the Initial Premises Base Year.

c) Exclusions to Operating Expenses. Notwithstanding anything contained in the definition of Operating Expenses as set forth in Subsection 4.1.(b) of the Lease, Operating Expenses shall not include the following:

- i) Any ground lease rental;
- ii) The cost of repairs to the Building, if the cost of such repairs is reimbursed by the insurance carried by Landlord or subject to award under any eminent domain proceeding;
- iii) Costs, including permit, license and inspection costs, incurred with respect to the installation of Tenant's or other occupants improvements or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for Tenant or other occupants of the Building;
- iv) Depreciation, amortization and interest payments, except as specifically permitted herein, except that Landlord shall be permitted to deduct the cost of depreciation, amortization and interest payments made for materials, tools, supplies and vendor-type equipment purchased by Landlord to enable Landlord to supply services Landlord might otherwise contract for with a third party, so long as the cost of such purchases or service provided by Landlord is no more than the charge for such third party's services. In such a circumstance, the inclusion of all depreciation, amortization and interest payments shall be determined pursuant to generally accepted accounting principles, consistently applied, amortized over the reasonably anticipated useful life of the capital item for which such amortization, depreciation or interest allocation was calculated.
- v) Marketing costs including leasing commissions, attorneys' fees in connection with the negotiation and preparation of letters, deal memos, letters of intent, leases, subleases and/or assignments, space planning costs, and other costs and expenses incurred in connection with lease, sublease and/or assignment negotiations and transactions with present or prospective tenants or other occupants of the Building, and any advertising or promotional expenses, including tenant newsletters, promotional gifts, decorations, events or parties for existing or future occupants of the Building or for the celebration or acknowledgment of holidays;
- vi) Expenses for services not offered to Tenant or for which Tenant is charged directly, whether or not such services or other benefits are provided to another tenant or occupant of the Building, including the costs of furnishing or installing non-Building standard replacement bulbs and ballasts in premises occupied by Tenant or other tenants of the Building;
- vii) Costs incurred due to Landlord's or any tenant of the Building's violation, other than Tenant, of the terms and conditions of any lease or rental agreement in the Building;
- viii) That portion of any billing by Landlord, its subsidiaries or affiliates, for goods and/or services in the Building, to the extent that such billing exceeds the costs of such goods and/or services if rendered by an unaffiliated third parties on a competitive basis;
- ix) Costs incurred by Landlord for structural earthquake repairs necessitated by any earthquake occurring in the vicinity of the Building;
- x) Interest, principal, points and fees on debts or amortization on any mortgage or mortgages or any other debt instrument encumbering the Building or the land thereunder;
- xi) Costs associated with operating the entity which constitutes Landlord, as the same are distinguished from the costs of operation of the Building, including partnership accounting and legal matters, costs of defending any lawsuits with any mortgagee (except as the actions of Tenant may be in issue), costs of selling, syndicating, financing, mortgaging or hypothecating any of Landlord's interest in the Building, cost (including attorneys' fees and costs of settlement judgments and payments in lieu thereof) arising from claims, disputes or potential disputes in connection with potential or actual claims, litigation or arbitrations pertaining to Landlord's ownership of the Building;
- xii) Costs of signs in or on the Building identifying the owner of the Building, or other tenants' signs;
- xiii) Electric, gas or other power costs for which Landlord has been directly reimbursed by another tenant or occupant of the Building, or for which any tenant directly contracts with the local public service company,
- xiv) Penalties, fines, fees, expenses and interest incurred as a result of Landlord's negligence or willful failure to make any payment and/or to file any income tax or informational return(s)





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- when due, unless such non-payment is due to Tenant's nonpayment of Rent;
- xv) Costs incurred by Landlord to comply with notices of violation of the Americans With Disabilities Act, as amended, when such notices are for conditions existing prior to respective effective dates of Tenant's initial occupancy of Suites 101E, 101E Mezz, 500, 600, 700, 820, 890 and 1000 in the Building pursuant to the applicable Suite 500 Sublease, Suite 820 Lease and the 1997 Lease in effect prior to this Lease;
- xvi) Any charitable or political contributions;
- xvii) The purchase or rental price of any sculpture, paintings or other object of art, whether or not installed in, on or upon the Building;
- xviii) Any compensation or expenses reimbursed to clerks, attendants or other persons working in any commercial concession(s), or any other expense arising out of Landlord's operation thereof, including the parking facilities, and any services provided, taxes attributable to and costs incurred in connection with the operation of any retail or restaurant operations in the Building, or for the installation or operation of any specialty service, observatory, broadcasting facilities, luncheon club, museum, athletic, sports or recreational facility or club, or for a child care facility;
- xix) Any accelerated payment(s) made at Landlord's election on obligations undertaken by Landlord as installment obligations, or which would not otherwise become due, to the extent that such accelerated payment(s) exceed the amount otherwise payable had Landlord not elected to accelerate payment thereof. Notwithstanding such exclusion, the balance of such accelerated payment shall be included by Landlord in Operating Expenses calculations for succeeding years, as if the payment had been made when originally due prior to such acceleration;
- xx) Costs, including attorneys' fees and settlement judgments and/or payments in lieu thereof, arising from actual or potential claims, disputes, litigation or arbitration pertaining to Landlord and/or the Building;
- xxi) costs of any items to the extent Landlord receives reimbursement from insurance proceeds (such proceeds to be excluded from Operating Expenses in the year in which received, except that any deductible amount under any insurance policy shall be included within Operating Expenses) or from a third party;
- xxii) Costs of repairs which would have been covered by casualty insurance but for Landlord's failure to maintain casualty insurance to cover the replacement value of the Building as required by the Lease;
- xxiii) Capital expenditures not otherwise permitted hereunder;
- xxiv) Reserves of any kind, including but not limited to replacement reserves, and/or reserves for bad debt or lost rent or any similar charge not involving the payment of money to third parties;
- xxv) Rent (or imputed rent) for an on-site building management in excess of 1,000 rentable square feet, or for a rental rate in excess of the rent being charged for comparable premises in the Building; and
- xxiv) The assessment or billing of Operating Expenses that results in Landlord being reimbursed more than one hundred percent (100%) of the total expenses for the calendar year in question.
- d) "Tenant's Share" for the Initial Premises means 23.17% (based on the Usable Area of the Initial Premises (approx. 44,232 usable square feet) divided by the Usable Area of the Building (approx. 198,274 usable square feet) multiplied by 100). Tenant's Share for Suite 500 shall be as set forth in Section 1.1.1 above.
- e) Proposition 8 Protection. In the event that Landlord receives a Proposition 8 reduction in taxes attributable to the Suite 500 Base Year or the Initial Premises Base Year, then taxes for the Suite 500 Base Year or the Initial Premises Base Year and any subsequent year shall be computed as if no Proposition 8 tax reduction was obtained during the Suite 500 Base Year or the Initial Premises Base Year and any subsequent year.
- f) Adjustments to Operating Expenses. In the event any portion of the Real Property is covered by a warranty or service agreement at any time during the Suite 500 Base Year or Initial Premises Base Year and to the extent the Real Property is not covered by such warranty or service agreement during a subsequent Lease year, Operating Expenses for the Suite 500 Base Year or Initial Premises Base Year shall be deemed increased by such amount as Landlord would have incurred during the Suite 500 Base Year or Initial Premises Base Year with respect to the items or matters covered by the subject warranty, had such warranty or service agreement not been in effect at the time during the Suite 500 Base Year or Initial Premises Base Year.
- g) Proposition 13 Event of Sale Increase in Taxes. In the event of a reassessment of the Building or Real Property for real estate tax purposes by the appropriate government authority under the terms of Article XIII-A of the California Constitution and implementing legislation as the same may be from time to time amended, resulting from a sale or transfer of the Building or Real Property or any interest therein, any change in ownership whatsoever (a "Proposition 13 Reassessment") during the

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period commencing on April 1, 2009 throughout the remainder of the initial Term of the Lease only (the "Protection Period") (not including any renewal option or other extension of the Lease), Tenant's obligation for Tenant's Share of the increase in real estate taxes over the then-current Suite 500 Base Year or Initial Premises Base Year, shall be as follows, subject to Landlord's right to purchase the "Proposition 13 Protection Amount" per sub-section 4.1.1 below:

(i) for any tax increase due to a Proposition 13 Reassessment that occurs during April 1, 2008 to March 31, 2013, Tenant shall have no obligation to pay any of the Tax Increase (defined in sub-section 4.1.1(1) below);

(ii) for any tax increase due to a Proposition 13 Reassessment that occurs from April 1, 2013 and throughout the remainder of the Lease Term, as extended, Tenant shall be obligated to pay one hundred percent (100%) of the Tax Increase.

4.1.1 Landlord's Right to Purchase the Proposition 13 Protection Amount. Notwithstanding any other provision of the Lease, in the event of a Proposition 13 Reassessment at any time during the Protection Period, the terms of this clause 4.1.1 shall apply.

4.1.1(1) For purposes of this clause 4.1(g), any tax increase due to a Proposition 13 Reassessment (a "Tax Increase") shall mean that portion of Operating Expenses, as calculated immediately following any such Proposition 13 Reassessment, that is attributable solely to the Proposition 13 Reassessment. Accordingly, a Tax Increase shall not include any portion of the Operating Expenses, as calculated immediately following the Proposition 13 Reassessment that is attributable to:

- (A) the assessment immediately prior to the Proposition 13 Reassessment of the value of the Building, the base Building, or the tenant improvements constructed by Tenant to its Premises;
- (B) assessments pending immediately before the Proposition 13 Reassessment that were conducted during, and included in, that Proposition 13 Reassessment or that were otherwise rendered unnecessary following the Proposition 13 Reassessment; or
- (C) the annual increase, up to 2%, of real estate assessed value permitted by Proposition 13.

4.1.1 (2) *Intentionally Omitted.*

4.1.1 (3) The amount of real property taxes and assessments which Tenant is not obligated to pay or will not be obligated to pay in connection with a particular Proposition 13 Reassessment pursuant to the terms of this clause 4.1.1, shall be referred to hereafter as a "Proposition 13 Protection Amount". If, in connection with a pending or anticipated sale of the Building by Landlord, the occurrence of a Proposition 13 Reassessment is reasonably foreseeable by Landlord and the Proposition 13 Protection Amount attributable to such Proposition 13 Reassessment can be reasonably quantified or estimated for each year of the Protection Period commencing with the year in which the Proposition 13 Reassessment will occur, the terms of this Paragraph 4.1.1(3) shall apply to each such Proposition 13 Reassessment.

Upon notice to Tenant, Landlord shall have the right to purchase the Proposition 13 Protection Amount relating to the applicable Proposition 13 Reassessment (the "Applicable Reassessment"), within a reasonable period of time (but no earlier than 45 days) prior to the pending or anticipated sale of the Building by Landlord, by paying to Tenant an amount equal to the "Proposition 13 Purchase Price", as that term is defined below, provided that the right of any successor of Landlord to exercise its right of repurchase hereunder shall not apply to any Proposition 13 Reassessment which results from the sale of the Building pursuant to which such successor of Landlord became the Landlord under the Lease, as hereby amended.

As used herein, "Proposition 13 Purchase Price" shall mean the present value of the Proposition 13 Protection Amount remaining during the Protection Period, as of the date of payment of the Proposition 13 Purchase Price by Landlord. Such present value shall be calculated (i) by using the portion of the Proposition 13 Protection Amount attributable to each remaining year of the Protection Period of the Lease (as though the portion of such Proposition 13 Protection Amount benefited Tenant at the end of each such year), as the amounts to be discounted, and (ii) by using an eight percent (8%) discount rate for each monthly amount to be discounted. Upon such payment of the Proposition 13 Purchase Price, the provisions of Sub-section 4.1(g) "Proposition 13 Event of Sale Increase in Taxes", above, of this Lease shall not apply to any Tax Increase attributable to the Applicable Reassessment.

Since Landlord, if Landlord exercises its repurchase right hereunder, will be estimating the Proposition 13 Purchase Price because a Proposition 13 Reassessment has not yet occurred, then when such Reassessment occurs, if Landlord has underestimated the Proposition 13 Purchase Price, then upon notice by Landlord to Tenant, Tenant's Rent next due shall be credited with the amount of such understatement, and if Landlord overestimates the Proposition 13 Purchase Price, then upon notice by Landlord (to be given promptly following Landlord's receipt of notice of a Proposition 13 Reassessment) to Tenant, Rent next due shall be increased by the amount of the overestimation.

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Section 4.2. Calculation of Tenant's Share of Increases in Operating Expenses.

Section 4.2.1 Initial Premises. If, commencing with the calendar year 2009 with respect to the Initial Premises, the Operating Expenses for any calendar year during the Term, or portion thereof, (including the last calendar year of the Term), have increased over the Operating Expenses for the calendar year 2008 with respect to the Initial Premises (the "Initial Premises Base Year"), then within thirty (30) days after Tenant's receipt of Landlord's computation of such increase (an "Escalation Statement"), Tenant shall pay to Landlord, as Additional Rent, an amount equal to the product obtained by multiplying such increase by Tenant's Share for the Initial Premises.

Section 4.2.2. Suite 500. The Base Year with respect to Suite 500 shall be as set forth in Section 1.1.1 above.

Section 4.2.3 Tenant's Payment of Tenant Share. Landlord shall, at or after the start of any calendar year subsequent to the Suite 500 Base Year (as defined in Section 1.1.1(e)) or the Initial Premises Base Year (as defined in Section 4.2.1), notify Tenant of the amount which Landlord estimates will be Tenant's monthly share of any such increase in Operating Expenses for such calendar year over the Suite 500 Base Year or the Initial Premises Base Year and the amount thereof shall be added to the Fixed Monthly Rent payments required to be made by Tenant in such year. If Tenant's Share of any such increase in rent payable hereunder as shown on the Escalation Statement is greater or less than the total amounts actually billed to and paid by Tenant during the year covered by such statement, then within thirty (30) days thereafter, Tenant shall pay in cash any sums owed Landlord or, if applicable, Tenant shall either receive a credit against any Fixed Monthly Rent and/or Additional Rent next accruing for any sum owed Tenant, or if Landlord's Escalation Statement is rendered after the expiration or earlier termination of this Lease and indicates that Tenant's estimated payments have exceeded the total amount to which Tenant was obligated, Landlord shall issue a cash refund to Tenant within thirty (30) days after Landlord's completion of such Escalation Statement.

Section 4.2.4 Audit Right. In the event Tenant disputes the amount of Additional Rent set forth in the Escalation Statement, then Tenant may, within two (2) years after Tenant receives the subject Escalation Statement, engage a person or company ("Reviewer") designated and paid for by Tenant, to inspect Landlord's records with respect to such Escalation Statement at the offices of Landlord where such records are customarily maintained or at such other location reasonably selected by Landlord, provided that:

- a) Tenant is not then in Default under this Lease;
- b) *Intentionally Omitted.*
- c) Tenant has paid all amounts that are required to be paid under the applicable Escalation Statement;
- d) Such inspection is conducted during Landlord's customary business hours at time(s) reasonably designated by Landlord;
- e) Tenant and Tenant's agents shall, in a writing delivered to Landlord, agree in advance of such inspection to follow Landlord's reasonable rules and procedures regarding inspections of Landlord's records;
- f) Prior to any inspection of Landlord's records, Tenant and Tenant's agents execute a commercially reasonable confidentiality agreement regarding such inspection and deliver an original of the same to Landlord; and
- g) Tenant's failure to provide written notice to Landlord in accordance with clause (b), above, within two (2) years after Tenant's receipt of the applicable Escalation Statement shall be deemed to be Tenant's approval of such statement and, in case of such failure, Tenant, after the expiration of such two (2) year period, shall have waived its right to dispute the amounts set forth in such statement.

If, after such inspection, if any, Tenant still disputes such Additional Rent, a determination as to the proper amount shall be made, at Tenant's expense, by an independent certified public accountant (the "Accountant") selected by Landlord and subject to Tenant's reasonable approval; provided that if such determination by the Accountant proves that the increase in Operating Expenses was overstated in the applicable Escalation Statement by more than five percent (5%), then the fees and expenses of the Accountant and all other costs of such determination shall be paid for by Landlord but if increase in Operating Expenses was overstated in the applicable Escalation Statement by five percent (5%) or less, or was in fact understated, the Tenant shall promptly pay the fees and expenses of the Accountant and all other costs of such determination (including, without limitation, the amount of Operating Expenses owed to Landlord as evidenced by the inspection). Any reconciliation of charges set forth in the Escalation Statement, which is necessitated by the inspection, shall be paid or credited by Tenant or Landlord, as applicable, in accordance with this Section 4.2. Tenant hereby acknowledges that Tenant's sole right to inspect Landlord's books and records and to contest the amount of Operating Expenses payable by Tenant shall be as set forth in this Section 4.2 and Tenant hereby waives any and all other rights pursuant to applicable law to inspect such books and records and/or to contest the amount of Operating Expenses payable by Tenant.

Section 4.3. Tenant's Payment of Direct Charges as Additional Rent. Tenant shall promptly and duly pay all costs and expenses incurred for or in connection with any Tenant Change (as defined in Section 12.12) or Tenant Service (as defined in Section 8.10), and discharge any mechanic's or other lien created against the Premises, Building or the Real Property arising as a result of or in connection with

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any Tenant Change or Tenant Service as Additional Rent by paying the same, bonding or manner otherwise provided by law.

Any other cost, expense, charge, amount or sum (other than Fixed Monthly Rent) payable by Tenant as provided in this Lease shall also be considered Additional Rent.

Certain individual items of cost or expense may, in the reasonable determination of Landlord, be separately charged and billed to Tenant by Landlord, either alone or in conjunction with another party or parties, if they are deemed in good faith by Landlord to apply solely to Tenant and/or such other party or parties and are not otherwise normally recaptured by Landlord as part of normal operating expenses. Insofar as is reasonable, Landlord shall attempt to give Tenant prior notice and the opportunity to cure any circumstance that would give rise to such separate and direct billing.

Said separate billing shall be paid as Additional Rent, regardless of Tenant's Share. Such allocations by Landlord shall be binding on Tenant unless patently unreasonable, and shall be payable within ten (10) days after receipt of Landlord's billing therefor.

ARTICLE 5 ETHICS

Section 5.1. Ethics. Landlord and Tenant agree to conduct their business or practice in compliance with any appropriate and applicable codes of professional or business practice.

ARTICLE 6 USE OF PREMISES

Section 6.1. Use. The Premises shall only be used for general office use consistent with the operation of a first-class office building in the Santa Monica geographic area (the "Specified Use") and for no other purposes, without Landlord's prior written consent, which consent shall be in Landlord's sole discretion. Any proposed revision of the Specified Use by Tenant shall be for a use consistent with those customarily found in first-class office buildings in the Santa Monica geographic area. Reasonable grounds for Landlord withholding its consent shall include, but not be limited to:

- a) the proposed use will place a disproportionate burden on the Building systems;
- b) the proposed use is for governmental or medical purposes or for a company whose primary business is that of conducting boiler-room type transactions or sales unless Landlord has leased space in the Building to such users;
- c) the proposed use would generate excessive foot traffic to the Premises and/or Building.

So long as Tenant is in control of the Premises, Tenant covenants and agrees that it shall not use, suffer or permit any person(s) to use all or any portion of the Premises for any purpose in violation of the laws of the United States of America, the State of California, or the ordinances, regulations or requirements of the City of Santa Monica or County of Los Angeles, or other lawful authorities having jurisdiction over the Building.

Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or unreasonably interfere with the rights of other tenants or occupants of the Building, or injure or annoy them. Tenant shall not use or allow the Premises to be used for any pornographic or violent purposes, nor shall Tenant cause, commit, maintain or permit the continuance of any nuisance or waste in, on or about the Premises. Tenant shall not use the Premises in any manner that in Landlord's reasonable judgment would adversely affect or interfere with any services Landlord is required to furnish to Tenant or to any other tenant or occupant of the Building, or that would interfere with or obstruct the proper and economical rendition of any such service.

Section 6.2. Exclusive Use. Landlord represents that Tenant's Specified Use of the Premises does not conflict with exclusive use provisions granted by Landlord in other leases for the Building. Landlord further agrees that it shall, in the future, not grant an exclusive use privilege to any other tenant in the Building that will prevent Tenant from continuing to use the Premises for its Specified Use.

Tenant acknowledges and agrees that it shall not engage in any of the uses specified hereinbelow, for which Landlord has already granted exclusive rights:

- a) as a retail banking institution; and
- b) as a primary business, the retail or wholesale production of loans, loan servicing, lending or credit transactions of any sort.

Provided that Tenant has received written notice of the same from Landlord, and further provided that Landlord does not grant a future exclusive use right that prohibits Tenant from engaging in the Specified Use, then Tenant agrees that it shall not violate any exclusive use provision(s) granted by Landlord to other tenants in the Building.

Section 6.3. Rules and Regulations. Tenant shall observe and comply with the rules and regulations set forth in Exhibit C, and such other and further reasonable and non-discriminatory rules and regulations as Landlord may make or adopt and communicate to Tenant at any time or from time to time, when said rules, in the reasonable judgment of Landlord, may be necessary or desirable to ensure the first-class operation, maintenance, reputation or appearance of the Building. However, if any conflict arises between the provisions of this Lease and any such rule or regulation, the provisions of this Lease shall control.

Provided Landlord makes commercially reasonable efforts to seek compliance by all occupants of the Building with the rules and regulations adopted by Landlord, Landlord shall not be responsible to


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Tenant for the failure of any other tenants or occupants of the Building to comply with said rules and regulations.

Section 6.4. Landlord's Operating Covenant. Landlord shall operate the Building and the Real Property in a first class manner and at all times shall keep the Real Property and Building in first class condition and repair. Landlord shall have the responsibility for maintenance and operation of the Building Structure and Building Systems (as such terms are defined in Section 12.1).

ARTICLE 7 CONDITION UPON VACATING & REMOVAL OF PROPERTY

Section 7.1. Condition upon Vacating. At the expiration or earlier termination of this Lease, Tenant shall:

- a) terminate its occupancy of, quit and surrender to Landlord, all or such portion of the Premises upon which this Lease has so terminated, broom-clean and in the same condition as received except for:
 - i) ordinary wear and tear, or
 - ii) loss or damage by fire or other casualty which shall not have been caused by the gross negligence or willful misconduct of Tenant or its agents, clients, contractors, employees, invitees, licensees, officers, partners or shareholders; and
- b) surrender the Premises free of any and all debris and trash and any of Tenant's personal property, furniture, fixtures and equipment that do not otherwise become a part of the Real Property, pursuant to the provisions contained in Section 7.2 hereinafter; and
- c) at Tenant's sole expense, forthwith and with all due diligence remove any Tenant Change made by Tenant and restore the Premises to their original condition, reasonable wear and tear excepted. However, Tenant shall only be obligated to remove said Tenant Change if it was made without Landlord's approval and/or if Landlord notified Tenant of its obligation to do so at the time Landlord approved Tenant's request for a Tenant Change. If Tenant fails to complete such removal and/or to repair any damage caused by the removal of any Tenant Change, Landlord may do so and may charge the cost thereof to Tenant.

Section 7.2. Tenant's Property. All fixtures, equipment, improvements and installations attached or built into the Premises at any time during the Term shall, at the expiration or earlier termination of this Lease, be deemed the property of Landlord; become a permanent part of the Premises and remain therein. However, if said equipment, improvements and/or installations can be removed without causing any structural damage to the Premises, then, provided after such removal Tenant restores the Premises to the condition existing prior to installation of Tenant's trade fixtures or equipment, Tenant shall be permitted, at Tenant's sole expense, to remove said trade fixtures and equipment.

ARTICLE 8 UTILITIES AND SERVICES

Section 8.1. Normal Building Hours / Holidays. The "Normal Business Hours" of the Building, during which Landlord shall furnish the services specified in this Article 8 are defined as 8:00 A.M. to 6:00 P.M., Monday through Friday, and 9:00 A.M. to 1:00 P.M. on Saturday, any one or more Holiday(s) excepted.

The "Holidays" which shall be observed by Landlord in the Building are defined as any federally-recognized holiday and any other day observed by the Building staff wherein the Office of the Building is closed, as specified herein, which are: New Year's Day, Presidents' Day, Memorial Day, the 4th of July, Labor Day, Thanksgiving Day, the day after Thanksgiving (which while not a federally-recognized holiday is a day where the Office of the Building closed) and Christmas Day (each individually a "Holiday"). Tenant acknowledges that the Building shall be closed on each and every such Holiday, and Tenant shall not be guaranteed access to Landlord or Landlord's managing agent(s) on each such Holiday. Tenant acknowledges that the office of the Building is closed on the day after Thanksgiving, and on such day, similar to a federally-recognized holiday, by way of example, HVAC is provided on an "after-hours" basis and charged as Excess HVAC, and Tenant's access to Landlord or Landlord's managing agent shall be by way of the uniformed guard service to the Building on duty twenty-four (24) hours per day, seven (7) days per week.

Section 8.2. Access to the Building and General Services. Subject to Force Majeure and any power outage(s) which may occur in the Building when the same are out of Landlord's reasonable control, Landlord shall provide Tenant access to the Building and Premises and furnish the following services to the Premises twenty-four (24) hours per day, seven days per week:

- a) during Normal Business Hours, bulb replacement for building standard lights;
- b) access to and use of the parking facilities for persons holding valid parking permits;
- c) access to and use of the elevators and Premises;
- d) use of electrical lighting on an as-needed basis within the Premises; and
- e) use of a reasonable level of water for kitchen and toilet facilities in the Premises and common area bathrooms.

Section 8.3. Janitorial Services. Landlord shall furnish the Premises with reasonable and customary janitorial services five (5) days per business week, except when the Building is closed on any Holiday. Landlord shall retain the sole discretion to choose and/or revise the janitorial company providing said services to the Premises and/or Building.

Section 8.4. Security Services. Tenant acknowledges that Landlord currently provides and Landlord agrees to continue to provide uniformed guard service to the Building twenty-four (24) hours per day, seven (7) days per week solely for the purposes of providing surveillance of, and information and directional assistance to persons entering the Building.

Tenant acknowledges that such guard service shall not provide any measure of security or safety to the Building or the Premises, and that Tenant shall take such actions as it may deem necessary and reasonable to ensure the safety and security of Tenant's property or person or the property or persons of Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders. Tenant agrees and acknowledges that, except in the case of the gross negligence or willful misconduct of Landlord or its directors, employees, officers, partners or shareholders, Landlord shall not be liable to Tenant in any manner whatsoever arising out of the failure of Landlord's guard service to secure any person or property from harm.

Tenant agrees and acknowledges that Landlord, in Landlord's sole discretion, shall have the option, but not the obligation to add, revise (but not decrease) the hours of and/or change (but not decrease) the level of services being provided by any guard company serving the Building. Tenant further agrees that Tenant shall not engage or hire any outside guard or security company without Landlord's prior written consent, which shall be in Landlord's sole discretion.

Subject to Landlord's reasonable approval, Tenant shall be entitled, at its sole cost, to install, operate and maintain its own security systems for the Premises, which shall be located within the Premises and which: (i) is independent of and which does not affect Landlord's security system, and (ii) which does not create a "Design Problem," as that term is defined in Section 12.12 of this Lease, or otherwise adversely affect Landlord's ability to operate the Building.

Section 8.5. Utilities. During Normal Business Hours Landlord shall furnish a reasonable level of water, heat, ventilation and air conditioning ("HVAC"), and a sufficient amount of electric current (i.e., not less than five (5) Watts per rentable square foot) to provide customary business lighting and to operate ordinary office business machines, such as a single personal computer and ancillary printer per one hundred and twenty (120) rentable square feet contained in the Premises, facsimile machines, small copiers customarily used for general office purposes, and such other equipment and office machines as do not result in above-standard use of the existing electrical system. So long as the same remain reasonably cost competitive, Landlord shall retain the sole discretion to choose the utility vendor(s) to supply such services to the Premises and the Building.

Except with the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned and/or delayed, Tenant shall not install or use any equipment, apparatus or device in the Premises that requires the installation of a 220 voltage circuit; consumes more than five (5) kilowatts per hour per item; or the aggregate use of which will in any way increase the connected load to more than 5 Watts per square foot, or cause the amount of electricity to be furnished or supplied for use in the Premises to more than 1.2 kWh per usable square foot, per month.

Except with the prior written consent of Landlord, Tenant shall not connect any electrical equipment to the electrical system of the Building, except through electrical outlets already existing in the Premises, nor shall Tenant pierce, revise, delete or add to the electrical, plumbing, mechanical or HVAC systems in the Premises.

Section 8.6. After Hours HVAC and/or Excess Utility Usage. If Tenant requires HVAC service during other than Normal Business Hours ("Excess HVAC"), Tenant shall make its request in writing at least three (3) hours before the close of the normal business day. Otherwise, Landlord shall have no obligation to provide Excess HVAC. Tenant's request shall be deemed conclusive evidence of its willingness to pay Landlord's "Actual Costs", including reasonable administration thereof, which as of the reference date of this Lease is \$50.00 per hour per floor, which Landlord agrees will not be increased except to the extent of Landlord's Actual Costs (defined below) in providing such Excess HVAC increase. As used herein "Actual Costs" are defined as the incremental actual costs incurred by Landlord in providing Excess HVAC including depreciation and administrative costs (but excluding any administration fees) and without a markup for profit, or overhead.

Notwithstanding the foregoing, during the initial Term only, to the extent Tenant's written requests for Excess HVAC for a given floor is for more than one hundred (100) hours per month per the given floor, then Tenant shall be entitled to receive a thirty percent (30%) discount on Landlord's then standard hourly rate per floor in effect for Excess HVAC. If more than one (1) tenant per multi-tenant floor orders Excess HVAC for the same time period, and such usage is not already separately charged and pro-rated amongst multiple tenants on the same floor, then the Landlord's hourly charge for Excess HVAC shall be pro-rated between each such tenant ordering Excess HVAC.

If Tenant requires electric current in excess of the amounts specified hereinabove, water or gas in excess of that customarily furnished to the Premises as office space ("Excess Utility Use"), Tenant shall first procure Landlord's prior written consent to such Excess Utility Use, which Landlord may not reasonably refuse unless a Design Problem (as defined in Section 12.12 of this Lease) exists.

In lieu of Landlord's refusal, Landlord may cause a meter or sub-meter to be installed to measure the amount of water, gas and/or electric current consumed by Tenant in the Premises. The cost of any such meter(s), and the installation, maintenance, and repair thereof, shall be paid by Tenant as Additional Rent.

After completing installation of said meter(s), and/or if Tenant requests Excess HVAC, then Tenant shall pay, as Additional Rent, within thirty (30) calendar days after Tenant's receipt of Landlord's billing, for the actual amounts of all water, steam, compressed air, electric current and/or Excess HVAC

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consumed beyond the normal levels Landlord is required herein to provide. Said billing shall be calculated on the usage indicated by such meter(s), sub-meter(s), or Tenant's written request therefor, and shall be issued by Landlord at the rates charged for such services by the local public utility furnishing the same, plus any additional expense reasonably incurred by Landlord in providing said Excess Utility Use and/or in keeping account of the water, steam, compressed air and electric current so consumed.

Section 8.6.1 Pre-Existing Units/Additional Suite Units/ Rooftop Supplemental A/C System.

As of the date of this Lease, Tenant at its sole cost and expense, operates and maintains: (i) one (1) supplemental self-contained HVAC unit for Suite 101E and 101E-Mezz separately metered with an "E-mon D-mon" meter for electrical usage; (ii) one (1) supplemental self-contained HVAC unit located on the seventh (7th) floor separately metered with an "E-mon D-mon" meter for electrical usage; and (iii) two (2) supplemental HVAC units on the seventh (7th) floor of the Building, which are not self-contained units but instead utilize chilled water from Landlord's chiller and Landlord's electricity (collectively the "Pre-Existing Units"). During the Lease Term, Tenant shall be permitted, at Tenant's sole expense, but at no Fixed Monthly Rent, to continue to operate and maintain the Pre-Existing Units, all of which units shall be running twenty-four (24) hours per day, seven (7) days per week, provided Tenant shall have in effect a maintenance contract with a Landlord approved HVAC vendor for the Pre-Existing Units, and Tenant shall deliver to Landlord a true, complete and correct copy of such current contract(s) as they are updated. If Tenant's installation, operation and maintenance of the Pre-Existing Units give rise to any cost to Landlord (e.g. electrical usage, etc.), such cost shall be deemed Additional Rent payable by Tenant to Landlord. At the request of Landlord, Tenant, at Tenant's sole expense, at the expiration or earlier termination of the Term of the Lease, shall forthwith and with all due diligence remove the Pre-Existing Units and restore any area of the Premises affected thereby to their original condition, reasonable wear and tear excepted.

Notwithstanding the above, if Tenant so desires, and the structural and mechanical conditions of the Building can accommodate such a request and a Design Problem (as defined in Section 12.12 of this Lease) is not otherwise created, Tenant shall be permitted, at Tenant's sole expense, but at no Fixed Monthly Rent, to install, operate and maintain additional self-contained supplemental HVAC units for specific suites separate and apart from the Pre-Existing Units, which units shall be on separate electrical meters and running twenty-four (24) hours per day, seven (7) days per week (the "Additional Suite Units"). If Tenant's installation, operation and maintenance of the Additional Suite Units give rise to any cost to Landlord (e.g. electrical usage, etc.), such cost shall be deemed Additional Rent hereunder payable by Tenant to Landlord.

Further, Tenant, at Tenant's sole expense shall have the right to install, operate and maintain separate rooftop HVAC units (the "Rooftop Supplemental A/C System"): for the benefit of the Premises; at no incremental cost to Landlord; pursuant to plans and specifications reviewed and approved by Landlord; provided said installation, operation and maintenance of the Rooftop Supplemental A/C System does not create a "Design Problem," as that term is defined in Section 12.12 of this Lease; and subject to municipal approval. Tenant shall be obligated to pay for any and all costs related to the Rooftop Supplemental A/C System, including without limitation, maintenance and repair, utility consumption, meter installation, and chilled water usage (to the extent such is available for Tenant's use). If Tenant installs, operates or maintains any Additional Suite Units, and/or the Rooftop Supplemental A/C System subject to this Lease, then prior to the operation of any of the same, Tenant shall enter into a maintenance contract with a Landlord approved HVAC vendor not later than five (5) business days prior to the installation of the Additional Suite Units, and/or the Rooftop Supplemental A/C System, and Tenant shall deliver to Landlord a true, complete and correct copy of such contract within five (5) business days after Tenant's execution of the same.

Section 8.7. Changes Affecting HVAC. Tenant shall also pay as Additional Rent for any additional costs Landlord incurs to repair any failure of the HVAC equipment and systems to perform their function when said failure arises out of or in connection with any change in, or alterations to, the arrangement of partitioning in the Premises after the Commencement Date, or from occupancy by, on average, more than one person for every one hundred and twenty-five (125) usable square feet of the Premises, or from Tenant's failure to keep all HVAC vents within the Premises free of obstruction.

Section 8.8. Damaged or Defective Systems. Tenant shall give written notice to Landlord within twenty-four (24) hours of any alleged damage to, or defective condition in any part or appurtenance of the Building's sanitary, electrical, HVAC or other systems serving, located in, or passing through, the Premises. Provided that the repair or remedy of said damage or defective condition is within the reasonable control of Landlord, it shall be remedied by Landlord with reasonable diligence. Otherwise, Landlord shall make such commercially reasonable efforts as may be available to Landlord to effect such remedy or repair, but except in the case of Landlord's gross negligence and/or willful misconduct or the gross negligence and/or willful misconduct of Landlord's agents, contractors, directors, employees, officers, partners, and/or shareholders, Landlord shall not be liable to Tenant for any failure thereof, but Tenant shall nevertheless be entitled to rent abatement to the extent provided in this Lease.

Section 8.9. Limitation on Landlord's Liability for Failure to Provide Utilities and/or Services. Except in the case of Landlord's gross negligence or willful misconduct or the gross negligence or willful misconduct of Landlord's agents, contractors, directors, employees, licensees, officers, partners or shareholders, Tenant hereby releases Landlord from any liability for damages, by abatement of rent or otherwise, for any failure or delay in furnishing any of the services or utilities specified in this Article 8 (including, but not limited to telephone and telecommunication services), or for any diminution in the quality or quantity thereof.

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Tenant's release of Landlord's liability shall be applicable when such failure, delay or diminution is occasioned, in whole or in part, by repairs, replacements, or improvements, by any strike, lockout or other labor trouble, by Landlord's inability to secure electricity, gas, water or other fuel at the Building after Landlord's reasonable effort to do so, by accident or casualty whatsoever, by act or default of Tenant or parties other than Landlord, or by any other cause beyond Landlord's reasonable control. Such failures, delays or diminution shall never be deemed to constitute a constructive eviction or disturbance of Tenant's use and possession of the Premises, or serve to relieve Tenant from paying Rent or performing any of its obligations under the Lease.

Furthermore, Landlord shall not be liable under any circumstances for a loss of, injury to, or interference with, Tenant's business, including, without limitation, any loss of profits occurring or arising through or in connection with or incidental to Landlord's failure to furnish any of the services or utilities required by this Article 8.

Notwithstanding the foregoing, if Tenant is prevented from using and does not use, the Premises or any portion thereof, as a result of a failure in utilities being provided to the Building or Landlord's failure to provide services as required by this Lease (an "Abatement Event"), then Tenant shall give Landlord Notice of such Abatement Event and if such Abatement Event continues for four (4) consecutive business days or ten (10) days in a twelve (12) month period after Landlord's receipt of any such Notice (the "Eligibility Period"), and unless, and to the extent Landlord is entitled to proceeds of rental interruption insurance as part of Operating Expenses, such failure is in no way attributable to, or caused by, the acts of Tenant, then the Fixed Monthly Rent and Additional Rent shall be abated or reduced, as the case may be, after expiration of the Eligibility Period for such time that Tenant continues to be so prevented from using, and does not use, the Premises, or a portion thereof, in the proportion that the rentable area of the portion of the Premises that Tenant is prevented from using, and does not use ("Unusable Area"), bears to the total rentable area of the Premises; provided, however, in the event that Tenant is prevented from using, and does not use, the Unusable Area for a period of time in excess of the Eligibility Period and the remaining portion of the Premises is not sufficient to allow Tenant to effectively conduct its business therein and if Tenant does not conduct its business from such remaining portion, then for such time after expiration of the Eligibility Period during which Tenant is so prevented from effectively conducting its business therein, the Fixed Monthly Rent and Additional Rent for the entire Premises shall be abated for such time as Tenant continues to be so prevented from using, and does not use, the Premises. If, however, Tenant reoccupies any portion of the Premises during such period, the Rent allocable to such reoccupied portion, based on the proportion that the rentable area of such reoccupied portion of the Premises bears to the total rentable area of the Premises, shall be payable by Tenant from the date Tenant reoccupies such portion of the Premises. Such right to abate Fixed Monthly Rent and Additional Rent and Tenant's termination rights provided elsewhere in this Lease shall be Tenant's sole and exclusive remedy at law or in equity for an Abatement Event.

Section 8.10. Tenant Provided Services. Tenant shall make no contract or employ any labor in connection with the maintenance, cleaning or other servicing of the physical structures of the Premises or for installation of any computer, telephone or other cabling, equipment or materials provided in or to the Premises (collectively and individually a "Tenant Service") without the prior consent of Landlord, which consent shall not be unreasonably withheld. Tenant shall not permit the use of any labor, material or equipment in the performance of any Tenant Service if the use thereof, in Landlord's reasonable judgment, would violate the provisions of any agreement between Landlord and any union providing work, labor or services in or about the Premises, Building and/or create labor disharmony in the Building.

**ARTICLE 9
TENANT'S INDEMNIFICATION AND LIMITATION ON LANDLORD'S LIABILITY**

Section 9.1. Tenant's Indemnification and Hold Harmless. For the purposes of this Section 9.1, "Indemnitee(s)" shall jointly and severally refer to Landlord and Landlord's agents, clients, contractors, directors, employees, officers, partners, and/or shareholders.

Tenant shall indemnify and hold Indemnitees harmless from and against all claims, suits, demands, damages, judgments, costs, interest and expenses (including attorneys fees and costs incurred in the defense thereof) to which any Indemnitee may be subject or suffer when the same arise out of the negligence or willful misconduct of Tenant or the negligence or willful misconduct of Tenant's agents, contractors, directors, employees, licensees, officers, partners or shareholders in connection with the use of, work in, construction to, or actions in, on, upon or about the Premises, including any actions relating to the installation, placement, removal or financing of any Tenant Change, improvements, fixtures and/or equipment in, on, upon or about the Premises. Provided, however, no such indemnity shall arise as a result of Hazardous Materials (to the extent not put in the Building by Tenant).

Except as qualified in the preceding paragraph, Tenant's indemnification shall extend to any and all claims and occurrences, whether for injury to or death of any person or persons, or for damage to property (including any loss of use thereof), or otherwise, occurring during the Term or prior to the Commencement Date (if Tenant has been given early access to the Premises for whatever purpose), and to all claims arising from any condition of the Premises due to or resulting from any Default by Tenant in the keeping, observance or performance of any covenant or provision of this Lease, or from the

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negligence or willful misconduct of Tenant or the negligence or willful misconduct of Tenant's agents, contractors, directors, employees, licensees, officers, partners or shareholders.

Section 9.2. Nullity of Tenant's Indemnification in Event of Gross Negligence. Notwithstanding anything to the contrary contained in this Lease, Tenant's indemnification shall not extend to the gross negligence or willful misconduct of Landlord or the gross negligence or willful misconduct of Landlord's agents, contractors, directors, employees, officers, partners or shareholders, nor to such events and occurrences for which Landlord otherwise carries insurance coverage.

Section 9.3. Tenant's Waiver of Liability. Provided that any injury or damage suffered by Tenant or Tenant's agents, clients, contractors, directors, employees, invitees, officers, partners, and/or shareholders did not arise out of the gross negligence or willful misconduct of Landlord or the gross negligence or willful misconduct of Landlord's agents, contractors, employees, officers, partners or shareholders, Tenant shall make no claim against Landlord and Landlord shall not be liable or responsible in any way for, and Tenant hereby waives all claims against Landlord with respect to or arising out of injury or damage to any person or property in or about the Premises by or from any cause whatsoever under the reasonable control or management of Tenant.

Section 9.4. Limitation of Landlord's Liability. Tenant expressly agrees that, notwithstanding anything in this Lease and/or any applicable law to the contrary, the liability of Landlord and Landlord's agents, contractors, directors, employees, licensees, officers, partners or shareholders, including any successor in interest thereto (collectively and individually the "Landlord Parties"), and any recourse by Tenant against Landlord or the Landlord Parties shall be limited solely and exclusively to an amount which is equal to the lesser of:

- a) The interest of Landlord in the Building and any insurance proceeds received by Landlord; or
- b) The equity interest Landlord would have in the Building if the Building were encumbered by third-party debt in an amount equal to eighty percent (80%) of the value of the Building (as such value is determined by Landlord).

Tenant specifically agrees that neither Landlord nor any of the Landlord Parties shall have any personal liability therefor. Further, Tenant hereby expressly waives and releases such personal liability on behalf of itself and all persons claiming by, through or under Tenant.

Section 9.5. Transfer of Landlord's Liability. Tenant expressly agrees that, to the extent that any transferee assumes the obligations of Landlord hereunder, and provided Landlord has either transferred the complete Security Deposit held pursuant to this Lease or refunded the same to Tenant as of the date of such transfer, then the covenants and agreements on the part of Landlord to be performed under this Lease which arise and/or accrue after the date of such transfer shall not be binding upon Landlord herein named from and after the date of transfer of its interest in the Building.

ARTICLE 10 COMPLIANCE WITH LAWS

Section 10.1. Tenant's Compliance with Laws. Tenant shall not use, permit to be used, or permit anything to be done in or about all or any portion of the Premises which will in any way violate any laws, statutes, ordinances, rules, orders or regulations duly issued by any governmental authority having jurisdiction over the Premises or the provisions of this Lease, or by the Board of Fire Underwriters (or any successor thereto) (collectively "Codes" or "Applicable Laws").

Section 10.2. Tenant to Comply at Sole Expense. Tenant shall, at its sole expense, promptly remedy any violation of such Codes, provided, however, that nothing contained in this Section 10.2 shall require Tenant to make any structural changes to the Premises, unless such changes are required due to either Tenant or Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders use of the Premises for purposes other than general office purposes consistent with a Class A office building.

Section 10.3. Conclusive Evidence of Violation. *Intentionally Omitted.*

Section 10.4. Landlord's Operation of Building. Landlord shall operate, lease, manage and maintain the Building, common areas, parking facilities and Real Property at all times during the Term in a first class manner similar to other Class A office buildings located in the Santa Monica, California area of the Building.

ARTICLE 11 ASSIGNMENT AND SUBLETTING

Section 11.1. Permission Required for Assignment or Sublet. Unless Landlord's prior written consent has been given, which consent shall not be unreasonably withheld, conditioned and/or delayed (subject to the express provisions of this Article 11), this Lease shall not, nor shall any interest herein, be assignable as to the interest of Tenant by operation of law; nor shall Tenant:

- a) assign Tenant's interest in this Lease; or
- b) sublet the Premises or any part thereof or permit the Premises or any part thereof to be utilized by anyone other than Tenant, whether as by a concessionaire, franchisee, licensee, permittee or otherwise (collectively, a "sublease").

In addition, except for Transfers under clauses (a) or (b), Tenant shall not mortgage, pledge, encumber or otherwise transfer this Lease, the Term and/or estate hereby granted or any interest herein without Landlord's prior written consent, which consent may be granted or withheld in Landlord's sole and absolute discretion.


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Any assignment, mortgage, pledge, encumbrance, transfer or sublease (collectively, any "Transfer") without Landlord's prior written consent shall be voidable.

Section 11.2. Voluntary Assignment due to Changes in Structure of Tenant. Any dissolution, merger, consolidation, or other reorganization of Tenant, or the single sale or other transfer of a controlling percentage of the capital stock of Tenant (other than the sale of such stock pursuant to a public offering that results in a majority of the same members of the Board and executive officers remaining in control of said corporation) and or the single sale of fifty percent (50%) or more of the value of the assets of Tenant, shall be deemed a voluntary assignment. The phrase "controlling percentage" means the ownership of, and the right to vote stock possessing fifty percent (50%) or more of the total combined voting power of all classes of Tenant's capital stock issued, outstanding, and entitled to vote for the election of directors. Notwithstanding anything to the contrary contained herein, the preceding paragraph shall not apply to corporations whose stock is traded through a recognized United States exchange or over the counter.

Any withdrawal or change (whether voluntary, involuntary, or by operation of law) in the partnership by one or more partners who own, in the aggregate fifty percent (50%) or more of the partnership, or the dissolution of the partnership, shall be deemed a voluntary assignment.

If Tenant is comprised of more than one individual, a purported assignment (whether voluntary, involuntary, or by operation of law), by any one of the persons executing this Lease shall be deemed a voluntary assignment.

Section 11.2.1. Tenant Affiliated Companies/Restructuring of Business Organization. Any contrary provision of this Article 11 notwithstanding and provided Tenant is not in Default, the assignment or subletting by Tenant of all or any portion of this Lease or the Premises to (i) a parent or subsidiary of (x) Tenant or (y) any person or entity which controls Tenant, or (ii) any person or entity which controls, is controlled by or under common control with Tenant or a person or entity which controls Tenant, or (iii) any entity which purchases all or substantially all of the assets of Tenant, or (iv) any entity into which Tenant or a person or entity which controls Tenant is merged or consolidated (all such persons or entities described in (i), (ii), (iii) and (iv) being sometimes hereinafter referred to as "Tenant Affiliates") shall not be deemed a Transfer under this Article 11 and thus shall not be subject to Landlord's prior consent, and Landlord shall not be entitled to any Net Rental Profit resulting therefrom, provided that:

- a) any such Tenant Affiliate was not formed as a subterfuge to avoid the obligations of this Article 11;
- b) Tenant gives Landlord written notice of any such assignment or sublease to a Tenant Affiliate;
- c) the successor of Tenant and Tenant have as of the effective date of any such assignment or sublease a tangible net worth, in the aggregate, computed in accordance with generally accepted accounting principles (but excluding good will as an asset), which is sufficient to meet the obligations of Tenant under this Lease;
- d) if said transfer of Tenant's interest is accomplished through an assignment, assignee shall assume, in a written document reasonably satisfactory to Landlord and delivered to Landlord upon or prior to the effective date of such assignment, all the obligations of Tenant under this Lease with respect to that portion of the Premises which is the subject of such Transfer; and
- e) Tenant and any guarantor shall remain fully liable for all obligations to be performed by Tenant under this Lease.

If Tenant fails to comply with the requirements of Section 11.2.1 (a) through (e), then any purported assignment or sublease which was made, shall at the sole option of Landlord be made null, void and of no effect whatsoever.

Section 11.3. Request to Assign or Sublease. If at any time during the Term, Tenant wishes to assign this Lease or any interest therein, or to sublet all or any portion of the Premises, then at least twenty (20) days prior to the date when Tenant desires the assignment or sublease to be effective, Tenant shall give written notice to Landlord setting forth the name, address, and business of the proposed assignee or sublessee, business and personal credit applications completed on Landlord's standard application forms, and information (including references and such financial documentation as Landlord shall reasonably prescribe) concerning the character and financial condition of the proposed assignee or sublessee, the effective date of the assignment or sublease, and all the material terms and conditions of the proposed assignment, and with reference solely to a sublease: a detailed description of the space proposed to be sublet, together with any rights of the proposed sublessee to use Tenant's improvements and/or ancillary services with the Premises.

Section 11.4. Landlord's Consent. Landlord shall have thirty (30) days after Tenant's notice of assignment and/or sublease is received with the financial information reasonably requested by Landlord (the "Section 11.3 Notice") to advise Tenant of Landlord's (i) consent to such proposed assignment or sublease, or (ii) withholding of consent for reasonable reasons to such proposed assignment or sublease, in which event Landlord's notice shall be accompanied by an explanation of the reason for such disapproval, or (iii) election to terminate this Lease as to all of the space proposed to be sublet or as to the entire premises in the event of an assignment, such termination to be effective as of the date of the commencement of the proposed assignment or subletting (the "Effective Date"). If Landlord shall exercise its termination right hereunder, Landlord shall have the right to enter into a lease or other occupancy agreement directly with the proposed assignee or subtenant, and Tenant shall have no right to any of the rents or other consideration payable by such proposed assignee or subtenant under such other lease or occupancy agreement, even if such rents and other consideration exceed the rent payable under

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this Lease by Tenant. Landlord shall have the right to lease the Premises to any other tenant, or not lease the Premises, in its sole and absolute discretion. Landlord and Tenant specifically agree that Landlord's right to terminate this Lease under clause (iii) above is a material consideration for Landlord's agreement to enter into this Lease and such right may be exercised in Landlord's sole and absolute discretion and no test of reasonableness shall be applicable thereto.

11.4.1. Recapture Right Notice. In as much as Landlord has the right per Section 11.4(iii) above to elect to terminate the Lease as to all of the space proposed to be sublet or as to the entire premises in the event of an assignment, prior to giving Landlord a Section 11.3 Notice, Tenant may give Landlord an advance written notice prior to Tenant actually selecting a broker to go to the marketplace to procure any specific transferee (in which case such advance notice from Tenant shall specify, with particularity whether Tenant intends to assign this Lease or sublease all or a specified portion of the Premises, and if a sublease, such advance notice shall also specify the term of the intended sublease (the "Recapture Right Notice").

11.4.2. Retraction of Transfer Notice or Recapture Right Notice. Tenant shall have the right to retract Tenant's Section 11.3 Notice, or Recapture Right Notice upon written notification given to Landlord within five (5) business days of the date of Landlord's notice to Tenant electing to terminate the Lease. If Tenant does not timely provide Landlord with Tenant's notice retracting Tenant's Section 11.3 Notice or Recapture Right Notice and:

(1) Landlord terminates the Lease in whole, in the case of an assignment or a sublease of all of the Premises for a portion of the then Lease Term, then neither Landlord nor Tenant shall be liable to the other under the Lease from and after the Effective Date, except for matters, which shall have arisen prior to such date; or

(2) Landlord terminates the Lease in part in the case of a sublease of a portion of the Premises, then neither Landlord nor Tenant shall be liable to the other under the Lease with respect to said proposed subleased portion from and after the Effective Date, except for matters, which shall have arisen prior to such date.

11.4.3 Net Profit Split following a Recapture Right Notice. If upon Landlord's receipt of a Recapture Right Notice, Landlord elects not to terminate the Lease, then Tenant shall follow the procedure in Section 11.3 above to submit to Landlord the detailed supporting information required for a Section 11.3 Notice. If after the thirty-day period per Section 11.4 above, Landlord advises Tenant of Landlord's consent to such proposed sublease portion, then the definition of the "Subleasing Costs" which may be offset for purposes of the "Net Rental" below shall include the following two (2) additional items, namely, (1) any lease takeover incurred by Tenant in connection with the proposed sublease portion; and (2) the aggregate amount of Fixed Monthly Rent and Additional Rent paid by Tenant during the period prior to the commencement of the term of the proposed sublease portion during which Tenant does not occupy the proposed sublease portion, commencing on and after the "Downtime Start Date".

As used herein the "Downtime Start Date" shall mean the later of: (A) the date which Tenant vacates and does not reoccupy the proposed sublease portion and delivers notice of the same to Landlord, and (B) the date Tenant enters into a listing agreement for the proposed sublease portion with a reputable broker, and provides Landlord with written notice thereof.

11.4.4 Consent Criteria. Tenant acknowledges that Landlord's consent shall be based upon the criteria listed in Sections 11.4.4 (a) through (e) below, and subject to Landlord's right to unilaterally disapprove of any proposed assignment and/or sublease, based on the existence of any condition contained within Section 11.5 hereinbelow. If Landlord provides its consent within the time period specified, Tenant shall be free to complete the assignment and/or sublet such space to the party contained in Tenant's notice, subject to the following conditions:

- a) The assignment and/or sublease shall be on substantially the same terms as were set forth in the notice given to Landlord;
- b) The assignment and/or sublease shall be documented in a written format that is reasonably acceptable to Landlord, which form shall specifically include the assignee's and/or sublessee's acknowledgement and acceptance of the obligation contained in this Lease, in so far as applicable;
- c) The assignment and/or sublease shall not be valid, nor shall the assignee or sublessee take possession of the Premises, or subleased portion thereof, until an executed duplicate original of such sublease and/or assignment has been delivered to Landlord;
- d) The assignee and/or sublessee shall have no further right to assign this Lease and/or sublease the Premises;
- e) In the event of any Transfer, Landlord shall receive (and without affecting or reducing any other obligation of Tenant under this Lease) fifty percent (50%) of Tenant's "Net Rental Profit" derived from such Transfer. In the event of a Transfer which is a sublease, "Net Rental Profit" shall mean all rent, Additional Rent or other consideration actually received by Tenant during the term of such sublease from such subtenant and/or actually paid by such subtenant to Tenant in connection with the space covered by the sublease ("Transferred Space") less: (1) the gross revenue paid to Landlord by Tenant during the sublease term with respect to the Transferred Space; (2) any improvement allowance or other economic concession (planning allowance, moving expenses, etc.), paid by Tenant to sublessee; (3) reasonable brokers' commissions; (4) reasonable attorneys' fees; (5) costs of advertising the space for sublease; and (6) unamortized cost of initial improvements to the Premises by

Tenant (Items (1) through (6) referred to collectively as the "Subleasing Costs"). In the event of a Transfer other than a sublease, "Net Rental Profit" shall mean key money, bonus money or other consideration paid by the Transferee to Tenant in connection with such Transfer, and any payment in excess of fair market value for services rendered by Tenant to the Transferee for assets, fixtures, inventory, equipment, or furniture transferred by Tenant to the Transferee in connection with such Transfer. If part of the Net Rental Profit shall be payable by the Transferee other than in cash, then Landlord's share of such non-cash consideration shall be in such form as is reasonably satisfactory to Landlord.

If Landlord so requests because it reasonably believes a Net Rental Profit may exist and sends Tenant a notice requesting such information, Tenant shall deliver to Landlord a statement within thirty (30) days after the end of each calendar year and/or within thirty (30) days after the expiration or earlier termination of the Term of this Lease in which any Transfer has occurred, specifying for each such Transfer:

- i) the date of its execution and delivery, the number of square feet of the Rentable Area demised thereby, and the Term thereof, and
- ii) a computation in reasonable detail showing the amounts (if any) paid and payable by Tenant to Landlord pursuant to this Section 11.4.4 with respect to such Transfer for the period covered by such statement, and the amounts (if any) paid and payable by Tenant to Landlord pursuant to this Section 11.4.4 with respect to any payments received from a Transferee during such period but which relate to an earlier period.

Section 11.5. Reasonable Grounds for Denial of Assignment and/or Sublease. Landlord and Tenant agree that, in addition to such other reasonable grounds as Landlord may assert for withholding its consent, it shall be reasonable under this Lease and any applicable law for Landlord to withhold its consent to any proposed Transfer, where any one or more of the following conditions exists:

- a) The proposed sublessee or assignee (a "Transferee") is, in Landlord's reasonable judgment, of a character or reputation which is not consistent with those businesses customarily found in a Class A office building owned or operated by Landlord or "Landlord Affiliate" [meaning (A) an entity which is controlled by, controls or is under common control with Landlord, or (B) an entity which merges with or acquires or is acquired by Landlord or a parent, subsidiary or member of Landlord, or (C) a transferee of substantially all of the assets or stock of Landlord], in a comparable location, or by comparable landlords of comparable buildings in terms of size, quality of construction, appearance and quality of common area improvements with comparable vacancy factors in the downtown Santa Monica area of the Building (the "Comparable Buildings");
- b) The Transferee is engaged in a business or intends to use all or any portion of the Premises for purposes which are not consistent with those generally found in the Building or other Class A office buildings owned or operated by Landlord or an affiliate of Landlord in comparable locations, provided, however, that in no event shall Landlord be permitted to decline Tenant's request for a Transfer solely on the basis of said Transferee's intent to change the Specified Use from that of Tenant, unless such proposed change shall violate any Exclusive Use provision already granted by Landlord;
- c) The Transferee is either a governmental agency or instrumentality thereof;
- d) The Transfer will result in more than a reasonable and safe number of occupants within the Premises;
- e) The Transferee is not a party of reasonable financial worth and/or financial stability in light of the responsibilities involved under the sublease, if a sublessee, or the Lease, if an assignee, on the date consent is requested, or has demonstrated a prior history of credit instability or unworthiness, but in making such determination, consideration shall be given to credit enhancements in the form of letters of credit, security deposits and guarantees;
- f) The Transfer will cause Landlord to be in violation of another lease or agreement to which Landlord is a party, or would give another occupant of the Building a right to cancel its lease;
- g) The Transferee, other than a Rights Holder, will retain any right originally granted to Tenant to exercise a right of renewal, right of expansion, right of first offer or other similar right held by Tenant;
- h) Either the proposed Transferee, or any person or entity which directly or indirectly, controls, is controlled by, or is under common control with, the proposed Transferee (1) is a tenant in the Building at the time Tenant requests approval of the proposed Transfer and Landlord is able to provide comparable space in the Building to such tenant, or (2) is engaged in on-going negotiations with Landlord to lease space in the Building at the time Tenant requests approval of the proposed Transfer; or
- i) The Transferee intends to use all or a portion of the Premises for medical procedures or for a primary business which is as a boiler-room type sales or marketing organization.

If Landlord withholds or conditions its consent and Tenant believes that Landlord did so contrary to the terms of this Lease, Tenant may prosecute an action for declaratory relief and/or damages to determine if Landlord properly withheld or conditioned its consent.

Section 11.6. Tenant's Continued Obligation. Any consent by Landlord to an assignment of this Lease and/or sublease of the Premises shall not release Tenant from any of Tenant's obligations hereunder or be deemed to be a consent by Landlord to any subsequent hypothecation, assignment, subletting, occupation or use by another person, and Tenant shall remain liable to pay the Rent and/or

perform all other obligations to be performed by Tenant hereunder. Landlord's acceptance of Rent or Additional Rent from any other person shall not be deemed to be a waiver by Landlord of any provision of this Lease. Landlord's consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

If any assignee or sublessee of Tenant or any successor of Tenant defaults in the performance of any of the provisions of this Lease, whether or not Landlord has collected Rent directly from said assignee or sublessee, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such assignee, sublessee or other successor-in-interest.

Provided that in no event shall any further assignment, sublease, amendment or modification to this Lease serve to either increase Tenant's liability or expand Tenant's duties or obligations hereunder, or relieve Tenant of its liability under this Lease, then Landlord may consent to subsequent assignments or subletting of this Lease or amendments or modifications to this Lease with any assignee, without notifying Tenant or any successor of Tenant, and without obtaining their consent thereto.

Section 11.7. Tenant To Pay Landlord's Costs. If Tenant assigns or sublets the Premises or requests the consent of Landlord to any assignment, subletting or other modification of this Lease, or if Tenant requests the consent of Landlord for any act that Tenant proposes to do, whether or not Landlord shall grant consent thereto, then Tenant shall, concurrent with Tenant's submission of any written request therefor, pay to Landlord (a) the non-refundable sum of \$1,000 as reasonable consideration for Landlord's considering and processing the applicable request, plus (b) the amount of reasonably estimated by Landlord as its anticipated legal fees to be incurred by Landlord in connection therewith, not to exceed \$2,000.00.

Section 11.8. Successors and Assigns. Subject to the provisions contained herein, the covenants and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant, their respective successors and assigns and all persons claiming by, through or under them.

Section 11.9. Occupancy by Others. Notwithstanding anything to the contrary in this Article 11, Tenant may allow any person or company which is a bona fide client or customer of Tenant or which is providing service to Tenant or one of Tenant's clients (a "Permitted Occupant") to occupy certain portions of the Premises without such permitted occupancy being deemed a Transfer as long as: (i) such portions of the Premises occupied by any Permitted Occupants do not exceed more than ten percent (10%) in the aggregate of only one (1) given fully leased single floor of its Premises and for a period not to exceed more than three (3) consecutive months; (ii) no new demising walls are constructed to accomplish such occupancy; and (iii) such relationship was not created as a subterfuge to avoid the obligations set forth in this Article 11.

**ARTICLE 12
MAINTENANCE, REPAIRS, DAMAGE, DESTRUCTION, RENOVATION
AND/OR ALTERATION**

Section 12.1. Tenant's and Landlord's Obligation to Maintain. Tenant shall, at Tenant's sole expense, maintain the non-Building Structure and non-Building Systems (both as defined below) Premises in good order and repair, and shall also keep clean any portion of the Premises which Landlord is not obligated to clean. Such obligation shall include the clean-out; repair and/or replacement of Tenant's garbage disposal(s), Instant-Heat or other hot water producing equipment, if any, and the cleaning and removal of any dishes and/or food prior to the same becoming unsanitary. If Tenant becomes obligated to repair anything within the Premises, Tenant shall advise Landlord's managing agent of such need.

Further, Tenant shall pay the cost of any injury, damage or breakage in, upon or to the Premises created by Tenant's gross negligence or willful misconduct or the gross negligence or willful misconduct of Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders, but only to the extent such damage is not (i) covered by insurance carried by Landlord as part of Operating Expenses and (ii) is not covered by the waiver of subrogation.

Subject to Tenant's obligation for reimbursement to Landlord, as specified herein, Landlord shall operate the Building in a first-class manner, repair, maintain in good and tenable condition the Premises and the structural portions of the Building (including the exterior walls, foundation, roof, floor/ceiling slabs, columns, and beams), curtain walls, exterior glass and mullions, shafts (including elevator shafts), stairs, parking garage, stairwells, escalators, elevator cabs, plazas, artwork, sculptures, washrooms, mechanical, electrical and telephone closets and all Common Areas and public areas (collectively, the "Building Structure") and the mechanical, electrical, life safety, plumbing, sprinkler systems (connected to the core), HVAC systems (including primary and secondary loops connected to the core), and all meters, pipes, conduits, equipment, components and facilities that supply the Premises with utilities on a nonexclusive basis (except as the appropriate utility company has assumed these duties) (collectively, the "Building Systems"). However, if such repairs, maintenance or cleaning are required due to Tenant's gross negligence or willful misconduct or the gross negligence or willful misconduct of Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders, then, Tenant shall, within ten (10) days after receipt of Landlord's billing therefor, reimburse Landlord, as Additional Rent, for any expense of such repairs, cleaning and/or maintenance in excess of any insurance proceeds available for reimbursement thereof, including for any deductible anticipated in connection therewith.

Except as expressly provided otherwise in Section 12.14 below, Tenant hereby waives all right to make repairs at Landlord's expense under the provisions of Section 1932(1), 1941 and 1942 of the Civil Code of California.

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Section 12.2. Repair Period Notice. Tenant shall give prompt notice to Landlord of Tenant's actual knowledge of any damage or destruction to all or any part of the Premises or Building resulting from or arising out of any fire, earthquake, or other identifiable event of a sudden, unexpected or unusual nature (individually or collectively a "Casualty"). The time periods specified in this Section 12.2 shall commence from the earlier of the date Landlord receives said written notice from Tenant of the occurrence of a Casualty or Landlord independently, at its officer level, obtains actual knowledge that a Casualty has occurred. After receipt of Tenant's written notice that a Casualty has occurred, Landlord shall, within the later of:

- a) sixty (60) days after the date on which Landlord determines the full extent of the damage caused by the Casualty, or
- b) thirty (30) days after Landlord has determined the extent of the insurance proceeds available to effectuate repairs, but
- c) in no event more than ninety (90) days after the Casualty.

provide written notice to Tenant indicating the anticipated time period for repairing the Casualty (the "Repair Period Notice"). The Repair Period Notice shall also state, if applicable, Landlord's election either to repair the Premises, or to terminate this Lease, pursuant to the provisions of Section 12.3, and if Landlord elects to terminate this Lease, Landlord shall use commercially reasonable efforts to provide Tenant with a minimum period of ninety (90) days within which to fully vacate the Premises.

Section 12.3. Landlord's Option to Terminate or Repair. Notwithstanding anything to the contrary contained herein, Landlord shall have the option, but not the obligation to elect not to rebuild or restore the Premises and/or the Building if one or more of the following conditions is present:

- a) repairs to the Premises cannot reasonably be completed within one hundred and eighty (180) days after the date of the Casualty (when such repairs are made without the payment of overtime or other premiums);
- b) repairs required cannot be made pursuant to the then-existing laws or regulations affecting the Premises or Building, or the Building cannot be restored except in a substantially different structural or architectural form than existed before the Casualty;
- c) the holder of any mortgage on the Building or ground or underlying lessor with respect to the Real Property and/or the Building shall require that all or such large a portion of the insurance proceeds be used to retire the mortgage debt, so that the balance of insurance proceeds remaining available to Landlord for completion of repairs shall be insufficient to repair said damage or destruction;
- d) the holder of any mortgage on the Building with respect to the Real Property and/or the Building shall terminate the mortgage and Landlord elects not to commence repairs within one (1) year following the occurrence of the Casualty;
- e) provided Landlord has carried the coverage Landlord is required to obtain under Section 19.1 of this Lease, the damage is not fully covered, except for deductible amounts, by Landlord's insurance policies and Landlord elects not to commence repairs within one (1) year following the occurrence of the Casualty;
- f) more than thirty-three and one-third percent (33 1/3%) of the Building is damaged or destroyed, whether or not the Premises is affected, provided that Landlord elects to terminate all other leases in the Building for similarly affected premises.

If Landlord elects not to complete repairs to the Building or Premises, pursuant to this Section 12.3, Landlord's election to terminate this Lease shall be stated in the Repair Period Notice which must be factually correct, in which event this Lease shall cease and terminate as of the date contained in Landlord's Repair Period Notice.

If one hundred percent of the Building is damaged or destroyed, as certified by an independent building inspector, this Lease shall automatically terminate being required by either Landlord or Tenant.





Upon any termination of this Lease pursuant to this Section 12.3, Tenant shall pay its prorata share of Fixed Monthly Rent and Additional Rent, properly apportioned up to the date of such termination, reduced by any abatement of Rent to which Tenant is entitled under Section 12.5, after which both Landlord and Tenant shall thereafter be freed and discharged of all further obligations under the Lease, except for those obligations which by their provisions specifically survive the expiration or earlier termination of the Term. If Tenant has prepaid Fixed Monthly Rent, Additional Rent and/or parking charges, Landlord shall refund to Tenant the amount of the payment attributable to the period of time following the Casualty and as to which Tenant could not conduct business operations from the Premises or from any other space in the Building.

Section 12.4. Tenant's Option to Terminate. If

- a) the Repair Period Notice provided by Landlord indicates that the anticipated period for repairing the Casualty exceeds one hundred and eighty (180) days after the Casualty (the "Repair Period"), or
- b) the Casualty to the Premises occurs during the last twelve (12) months of the Term;

then Tenant shall have the option, but not the obligation, to terminate this Lease by providing written notice ("Tenant's Termination Notice") to Landlord within thirty (30) days after receiving the Repair Period Notice in the case of 12.4 (a); or within thirty (30) days after the Casualty, in the case of Section 12.4 (b). Furthermore, if:

- c) Landlord does not complete the repairs required hereinabove within the Repair Period, and





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- d) further provided Landlord has not diligently commenced and continued to prosecute to completion repair of the damage and/or destruction caused by the Casualty, and
- e) Landlord has not completed the repairs thereafter on or before thirty (30) days after the expiration of the Repair Period,

then Tenant shall also have the option, but not the obligation, to terminate this Lease by giving Landlord written notice of its intention to so terminate, which notice shall be given not more than forty-five (45) days after expiration of the Repair Period.

Tenant's failure to provide Landlord with Tenant's Termination Notice within the time periods specified hereinabove shall be deemed conclusive evidence that Tenant has waived its option to terminate this Lease.

Section 12.5. Temporary Space and/or Rent Abatement During Repairs or Renovation. During the Repair Period or during any such period that Landlord completes Work (as defined hereinbelow) or Renovations (as defined in Section 12.11 hereinbelow), if available, and if requested by Tenant, Landlord shall make available to Tenant other space in the Building which, in Tenant's reasonable opinion, is suitable for the temporary conduct of Tenant's business. However, if such temporary space is smaller than the Premises, Tenant shall pay Fixed Monthly Rent and Additional Rent for the temporary space based upon the calculated rate per Rentable square foot payable hereunder for the Premises, times the number of Rentable square feet available for Tenant's use in the temporary space.

If no temporary space is available that is reasonably satisfactory to Tenant, and any part of the Premises is rendered untenable by reason of such Casualty, Work or Renovation; then to the extent that all or said portion of the usable area of the Premises is so rendered untenable by reason of such Casualty, Work or Renovation, Tenant shall be provided with a proportionate abatement of Fixed Monthly Rent and Additional Rent. Said proportional abatement shall be based on the Usable Square Footage of the Premises that cannot and is not actually used by Tenant, divided by the total Usable square feet contained in the Premises but shall be one hundred percent (100%) if the amount of the damage is partial and the remaining of the usable portion of the Premises would preclude Tenant's utilization of the Premises for the Specified Use, and Tenant actually vacates the Premises. That proportional abatement, if any, shall be provided during the period beginning on the later of:

- a) the date of the Casualty; or
- b) the actual date on which Tenant ceases to conduct Tenant's normal business operations in all or any portion of the Premises,

and shall end on the date that both (i) Landlord achieves substantial completion of restoration of the Premises and a certificate of occupancy is issued by the governmental agency having authority therefor. Tenant's acceptance of said abatement of Rent shall be deemed conclusive evidence of Tenant's waiver of any further claim or right of future claim for any loss or damage asserted by Tenant arising out of the Casualty Repair, Work or Renovation, as the case may be.

Section 12.6. Tenant's Waiver of Consequential Damages. Subject to Section 12.4, the provisions contained in Section 12.5 are Tenant's sole remedy arising out of any Casualty. Landlord shall not be liable to Tenant or any other person or entity for any direct, indirect, or consequential damage (including but not limited to lost profits of Tenant or loss of or interference with Tenant's business), unless caused by the gross negligence or willful misconduct of Landlord or the gross negligence or willful misconduct of Landlord's agents, contractors, directors, employees, licensees, officers, partners or shareholders, due to, arising out of, or as a result of the Casualty (including but not limited to the termination of the Lease in connection with the Casualty).

Section 12.7. Repair of The Premises When Casualty Not Caused By Tenant. If the cost of repair of any Casualty is covered under one or more of the insurance policies Landlord is required herein to provide or has elected to provide and which cost was included in Operating Expenses, Landlord shall restore the base core and shell of the Premises to its condition prior to the Casualty and repair and/or replace the Improvements previously installed in the Premises, to a maximum of \$35.00 per usable square foot. Tenant shall have the option to either, at Tenant's sole expense, complete the balance of repairs needed to restore the Improvements contained in the Premises to their condition prior to the Casualty or to continue Tenant's normal business operations in the Premises in the condition to which Landlord has so restored the Improvements.

If Landlord has elected to complete repairs to the Premises, and has not elected to terminate this Lease, as specified in Section 12.3, then Landlord shall complete such repairs within the Repair Period, in a manner, and at times, which do not unreasonably interfere with Tenant's use of that portion of the Premises remaining unaffected by the Casualty. Provided Landlord has elected to make the repairs required hereunder, and Tenant did not terminate this Lease pursuant to Section 12.4, this Lease shall not be void or voidable during the Repair Period, nor shall Landlord be deemed to have constructively evicted Tenant thereby.

Section 12.8. Repair of the Premises and Tenant's Tenant Improvements, Furniture, Fixtures, Equipment and Personal Property When Casualty Caused by Tenant. If the Casualty to all or any portion of the Premises resulted from the gross negligence and/or willful misconduct of Tenant or the gross negligence and/or willful misconduct of Tenant's agents, contractors, directors, employees, licensees, officers, partners or shareholders, Tenant shall pay the cost any deductible payable by Landlord for repair of the Building. Furthermore, Tenant hereby waives the provisions of California Civil Code Sections 1932(2) and 1933(4) and the provisions of any successor or other law of like import, but not the provisions of Section 12.14.

If the Casualty to all or any portion of the tenant improvements, furniture, fixtures, equipment and/or personal property was caused by the gross negligence and/or willful misconduct of Landlord or the gross negligence and/or willful misconduct of Landlord's agents, contractors, directors, employees, officers, partners, and/or shareholders, then Landlord shall pay the cost of any deductible payable by Tenant for damage to its tenant improvements, furniture, fixtures, equipment, and personal property.

Section 12.9. Repair of the Building. Except as specified hereinabove, unless Landlord or Tenant terminates this Lease as permitted hereinabove, Landlord shall repair the Building, parking structure or other supporting structures and facilities within two hundred and seventy (270) days after Landlord becomes aware of such damage and/or destruction.

Section 12.10. Government-Required Repairs. If, during the Term, additional inspections other than those standard annual or biannual inspections to which the Building may generally be subject; testing, repairs and/or reconstruction (collectively the "Work") are required by any governmental authority, or if, upon the recommendation of its engineers, Landlord independently elects to undertake all or any portion of the Work prior to being required to do so by such governmental authority, Landlord shall give notice thereof to Tenant and shall use its best efforts not to unreasonably interfere with Tenant's use of the Premises while completing the Work. Tenant shall cooperate fully with Landlord in connection with the Work and, upon the prior written request of Landlord, shall make the Premises available for completion of the Work. Tenant and Landlord agree that Landlord shall only be able to allocate all costs associated with completion of the Work to the Building's Operating Expenses, when permitted to under the provisions of Section 4.1 of this Lease.

If Landlord elects to undertake the Work during the Term, then Tenant shall be entitled to an abatement of rent, pursuant to the provisions of Section 12.5 hereinabove, and Landlord shall be completely responsible for repair of any damage to the Premises and all costs associated with the removal, moving and/or storage of Tenant's furniture, artwork, office equipment and files. Landlord will restore any and all areas damaged by completion of the Work to their previous quality and pay all clean-up costs. Landlord further agrees that it shall use commercially reasonable efforts to see that all construction, such as coring or power nailing or work that makes excessive noise, dust or requires the displacement of tenant personnel or that could otherwise be disruptive to Tenant's normal business operations shall, in so far as is reasonably possible, be performed between the hours of 7:00 p.m. to 7:00 a.m. Monday through Friday; after 1:00 p.m. on Saturdays and/or at any time on Sundays (this sentence is referred to as the "Premises Work Restrictions").

Except in the case of Landlord's gross negligence and/or willful misconduct or the gross negligence and/or willful misconduct of Landlord's agents, contractors, directors, employees, officers, partners, and/or shareholders or except as otherwise provided in this Lease, Tenant shall not have the right to terminate this Lease as a result of Landlord undertaking the Work, nor shall Tenant or any third party claiming under Tenant be entitled to make any claim against Landlord for any interruption, interference or disruption of Tenant's business or loss of profits therefrom as a result of the Work, and except as otherwise provided in this Lease Tenant hereby releases Landlord from any claim which Tenant may have against Landlord arising from or relating to, directly or indirectly, the performance of the Work by Landlord.

Section 12.11. Optional Landlord Renovation. It is specifically understood and agreed that Landlord has no obligation and has made no promises to alter, remodel, improve, renovate or decorate the Premises, Building, or any part thereof and that, except as set forth herein, no representations respecting the condition of the Premises or the Building have been made by Landlord to Tenant.

However, at any time and from time to time during the Term, Landlord may elect, in Landlord's reasonable discretion, to otherwise renovate, improve, alter or modify elements of the Real Property, the Building and/or the Premises (collectively, "Renovations") including without limitation, the parking facilities, common areas, systems, equipment, roof, and structural portions of the same, which Renovations may include, without limitation:

- a) modifying the common areas and tenant spaces to comply with applicable laws and regulations, including regulations relating to the physically disabled, seismic conditions and building safety and security, and
- b) installing new carpeting, lighting and wall covering in the Building common areas.

In connection with such Renovations, Landlord may, among other things, erect scaffolding or other necessary structures in or about the Building, limit or eliminate access to portions of the Building, common areas or parking facilities serving the Building, or perform other work in or about the Building, which work may create noise, dust or debris that remains in the Building.

Landlord shall have the right to access through the Premises as well as the right to take into and upon and through all or any part of the Premises, or any other part of the Building, all materials that may reasonably be required to make such repairs, alterations, decorating, additions or improvements pursuant to the provisions of this Section 12.11. So long as Tenant shall maintain reasonable access to the Premises, the Building and the parking facilities, Landlord shall also have the right, in the course of the Renovations, to close entrances, doors, corridors, elevators, or other building facilities, or temporarily to abate the operation of such facilities.

So long as Tenant is not required to vacate the Premises for any reason arising out of the Renovations, and maintains reasonable access to and complies with the Premises Work Restrictions, the Premises and the parking facilities, Tenant shall permit all of the Renovations to be done, and except in the case of Landlord's gross negligence or willful misconduct or the gross negligence or willful

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misconduct of Landlord's contractors, directors, employees, officers, partners or shareholders, without claiming Landlord is guilty of the constructive eviction or disturbance of Tenant's use and possession.

Landlord shall not be liable to Tenant in any manner (except as expressly provided otherwise in this Lease), whether for abatement of any Rent or other charge, reimbursement of any expense, injury, loss or damage to Tenant's property, business, or any person claiming by or under Tenant, by reason of interference with the business of Tenant or inconvenience or annoyance to Tenant or the customers of Tenant resulting from any Renovations done in or about the Premises or the Building or to any adjacent or nearby building, land, street or alley. However, Landlord agrees that the Renovations shall be scheduled insofar as is commercially reasonable to permit Tenant to continue its normal business operations, with advance notice thereof, and in such commercially reasonable manner so as to minimize Tenant's inconvenience and in compliance with the Premises Work Restrictions.

Section 12.12. Optional Tenant Changes During the Term. After completion of the initial improvements contemplated hereunder, if any, Tenant shall make no alteration, change, addition, removal, demolition, improvement, repair or replacement in, on, upon, to or about the Premises, or at any time to any portion of the Building (collectively or individually a "Tenant Change"), without the prior written consent of Landlord, which consent shall not be withheld unless a Design Problem exists. A "Design Problem" is defined as such tenant improvement or tenant changes which (a) would have an adverse affect on the Building Structure and/or Building Systems, (b) does not comply with Applicable Laws, (c) interferes unreasonably with another occupant's normal and customary business or (d) affects (other than permitted signage) the exterior appearance of the Building. Except as otherwise specified in Article 7, any Tenant Change shall, at the termination of this Lease, become a part of the Building and belong to Landlord, pursuant to the provisions of Article 7. Any application for Landlord's consent to a Tenant Change, and the completion thereof, shall be in conformance with the provisions of Exhibit B-1, attached hereto and made a part hereof by reference.

Tenant shall not knowingly permit Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders to deface the walls, floors and/or ceilings of the Premises, nor mark, drive nails, screws or drill holes into, paint, or in any way mar any surface in the Building. Notwithstanding the above, Tenant is hereby permitted to install such pictures, certificates, licenses, artwork, bulletin boards and similar items as are normally used in Tenant's business, so long as such installation is carefully attached to the walls by Tenant in a manner reasonably prescribed by Landlord.

If Tenant desires, as a part of any Tenant Change, to make any revisions whatsoever to the electrical, HVAC, mechanical, plumbing, or structural systems of the Building or Premises, such revisions must be completed by subcontractors approved by Landlord, which approval will not be unreasonably withheld and in the manner and location(s) reasonably prescribed by Landlord. If Tenant desires to install any telephone outlets, the same shall be installed in the manner and location(s) reasonably prescribed by Landlord.

If Landlord consents to any requested Tenant Change, Tenant shall give Landlord a minimum of ten (10) business days written notice prior to commencement thereof. Landlord reserves the option, but not the obligation, to enter upon the Premises for the purpose of posting and maintaining such notices on the Premises as may be reasonably necessary to protect Landlord against mechanic's liens, material man's liens or other liens, and/or for posting any other notices that may be proper and necessary in connection with Tenant's completion of the Tenant Change.

If any alterations, additions or improvements made by Tenant result in Landlord being required to make any alterations to other portions of the Building in order to comply with any applicable statutes, ordinances or regulations (e.g., "handicap ordinances") then Tenant shall reimburse Landlord upon demand for all costs and expenses incurred by Landlord in making such alterations.

Section 12.13. Express Agreement. The provisions of this Lease, including those contained in this Article 12, constitute an express agreement between Landlord and Tenant that applies in the event of any Casualty to the Premises, Building or Real Property. Tenant and Landlord, therefore, fully waive the provisions of any statute or regulations, including California Civil Code Sections 1932(2) and 1933(4), and any other law or statute which purports to govern the rights or obligations of Landlord and Tenant concerning a Casualty in the absence of express agreement. Tenant and Landlord expressly agree and accept that any successor or other law of like import shall have no application hereunder.

Section 12.14. Tenant's Right to Repair.

Section 12.14.1 Applicability and Definitions. This Section 12.14 shall be applicable if and only if the Building has been sold by Douglas Emmett 1995, LLC or a Landlord Affiliate to a third party other than a Landlord Affiliate (as defined in Section 11.5 (a) above).

Section 12.14.2. Self Help Right. For the purpose of this Section 12.14.2 the term "Landlord" herein shall mean a third party other than a Landlord Affiliate (as defined in Section 11.5(a) above). If Tenant provides written notice [or oral notice in the event of an emergency such as damage or destruction to or of any portion of the Building Structure and/or the Building Systems (as such terms are defined in Section 12.1) and/or anything that could cause material disruption to Tenant's business] to Landlord of an event or circumstance which requires the action of Landlord with respect to repair and/or maintenance, and Landlord fails to provide such action within a commercially reasonable period of time, given the circumstances, after the receipt of such notice, then Tenant may proceed to take the required action if:

- (a) Tenant delivers to Landlord an additional written notice advising Landlord that Tenant intends to take the required action if Landlord does not begin the required repair or

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maintenance within ten (10) days (or such shorter time period as may be commercially reasonable, in the event of an emergency) after the written notice; and

- (b) Landlord fails to begin the required work within this ten-day (10-day) period (or such shorter time period as may be commercially reasonable, in the event of an emergency).

If such action was required under the terms of the Lease to be taken by Landlord and was not taken by Landlord within such ten (10) day period (or such shorter time period as provided above), then Tenant shall be entitled to prompt reimbursement by the then Landlord of Tenant's reasonable costs and expenses in taking such action. Landlord agrees that Tenant will have access to the Building, Building Systems, Building Structure and Building to the extent necessary to perform the work contemplated by this provision. In the event Tenant takes such action, and such work will affect the Building Structure and/or the Building Systems, Tenant shall use only those contractors used or approved by Landlord in the Building for work on such Building Structure or Building Systems unless such contractors are unwilling or unable to perform (and are able to immediately perform), or timely and competitively perform, such work, in which event Tenant may utilize the services of any other qualified contractor selected pursuant to a competitive bidding process with at least three (3) licensed and qualified contractors which normally and regularly performs similar work in Comparable Buildings (as defined in Section 11.5(a) above). Furthermore, if Landlord does not deliver a detailed written objection to Tenant within thirty (30) days after receipt of an invoice by Tenant of its costs of taking action which Tenant claims should have been taken by Landlord, and if such invoice from Tenant sets forth a reasonably particularized breakdown of its costs and expenses in connection with taking such action on behalf of Landlord, then Tenant shall be entitled to deduct from Rent payable by Tenant under the Lease, the amount set forth in such invoice. If, however, Landlord delivers to Tenant, within thirty (30) days after receipt of Tenant's invoice, a written objection to the payment of such invoice, setting forth with reasonable particularity Landlord's reasons for its claim that such action did not have to be taken by Landlord pursuant to the terms of the Lease or that the charges are excessive (in which case Landlord shall pay the amount it contends would not have been excessive), then Tenant shall not then be entitled to such deduction from Rent, but as Tenant's sole remedy, Tenant may proceed to institute legal proceedings against Landlord to collect the amount set forth in the subject invoice. If Tenant receives a non-appealable final judgment against Landlord in connection with such legal proceedings, Tenant may deduct the amount of the judgment, not to exceed the amount of the unpaid portion of the relevant invoice, from the Fixed Monthly Rent next due and owing under this Lease.

If, within thirty (30) days after receipt of Tenant's written demand for payment of Tenant's costs incurred in taking such action on Landlord's behalf (including a reasonably particularized statement), Landlord has not paid the invoice or delivered to Tenant a detailed written objection to it, Tenant may deduct from Rent payable by Tenant under this Lease the amount set forth in the invoice. Tenant shall not be entitled to this deduction from Rent, however, if, within thirty (30) days after receipt of Tenant's invoice, Landlord in good faith delivers to Tenant a written objection to its payment, setting forth with reasonable particularity Landlord's reasons for its claim that Landlord did not have to take this action under the terms of this Lease or that the charges are excessive (in which case Landlord shall pay the amount it contends would not have been excessive). If Landlord and Tenant are unable to resolve this disagreement, Tenant's sole remedy shall be to institute legal proceedings against Landlord to collect the amount set forth in Tenant's invoice.

Section 12.15. Secured Areas. Tenant on five (5) business days' notice to Landlord may designate one or more areas of its Premises which contain private or confidential information or valuable property as a "Secured Area", subject to the following conditions:

- (a) the Secured Area shall not exceed more than ten percent (10%) in the aggregate of only one (1) given fully leased single floor of its Premises and for a period not to exceed more than three (3) consecutive months;
- (b) such designation shall not occur more often than once in a twelve month period during the Lease Term; and
- (c) Landlord and its agents, security personnel, maintenance staff and janitorial crew may not enter such area except (i) in the event of an emergency where damage and injury to person or property exists or (ii) on five (5) business days' notice to Tenant and then accompanied by a representative of Tenant.

ARTICLE 13 CONDEMNATION

Section 13.1. Condemnation of the Premises. If more than twenty five percent (25%) of the Premises is lawfully condemned or taken in any manner for any public or quasi-public use, or if any portion of the Building is condemned or taken in such a manner that Tenant is reasonably prevented from obtaining access to the Building or the Premises, this Lease may, within ten (10) business days of such taking, be terminated at the option of either Landlord or Tenant by one party giving the other thirty (30) days written notice of its intent to do so. If either Landlord or Tenant provides the other party written notice of termination, the Term and estate hereby granted shall forthwith cease and terminate as of the earlier of the date of vesting of title in such condemnation or taking or the date of taking of possession by the condemning authority.

If less than twenty-five percent (25%) of the Premises is so condemned or taken, then the term and estate hereby granted with respect to such part shall forthwith cease and terminate as of the earlier of the date of vesting of title in such condemnation or taking or the date of taking of possession by the

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condemning authority, and the Fixed Monthly Rent payable hereunder (and Additional Rent payable pursuant to Articles 3 or 4) shall be abated on a prorated basis, by dividing the total number of Usable square feet so taken by the total number of Usable square feet contained in the Premises, then multiplying said percentage on a monthly basis, continuing from the date of such vesting of title to the date specified in this Lease for the expiration of the Term hereof.

Section 13.2. Condemnation of the Building. If less than twenty-five percent (25%) of the Building is so condemned or taken, then Landlord shall, to the extent of the proceeds of the condemnation payable to Landlord and with reasonable diligence, restore the remaining portion of the Building as nearly as practicable to its condition prior to such condemnation or taking; except that, if such proceeds constitute less than ninety percent (90%) of Landlord's estimate of the cost of rebuilding or restoration, then Landlord may terminate this Lease on thirty (30) days' prior written notice to Tenant.

If more than twenty-five percent (25%) of the Building is so condemned or taken, but the Premises are unaffected thereby, then Landlord shall have the option but not the obligation, which election shall be in Landlord's sole discretion, to terminate this Lease, effective the earlier of the date of vesting of title in such condemnation or the date Landlord delivers actual possession of the Building and Premises to the condemning authority, which election by Landlord shall be provided to Tenant in writing.

Section 13.3. Award. If any condemnation or taking of all or a part of the Building takes place, Tenant shall be entitled to join in any action claiming compensation therefor, and Landlord shall be entitled to receive that portion of the award made for the value of the Building, Premises, leasehold improvements made or reimbursed by Landlord, or bonus value of the Lease, and Tenant shall only be entitled to receive any award made for the value of the estate vested by this Lease in Tenant, including Tenant's proximate damages to Tenant's business and reasonable relocation expenses. Nothing shall preclude Tenant from intervening in any such condemnation proceeding to claim or receive from the condemning authority any compensation to which Tenant may otherwise lawfully be entitled in such case in respect of Tenant's property or for moving to a new location.

Section 13.4. Condemnation for a Limited Period. Notwithstanding the provisions of Section 13.1, 13.2 or 13.3, except during the final twelve (12) months of the Term, if all or any portion of the Premises are condemned or taken for governmental occupancy for a limited period (i.e., anticipated to be no longer than sixty (60) days), then this Lease shall not terminate; there shall be no abatement of Fixed Monthly Rent or Additional Rent payable hereunder; and Tenant shall be entitled to receive the entire award therefor (whether paid as damages, rent or otherwise).

If, during the final twelve (12) months of the Term, all or any portion of the Premises are condemned or taken for governmental occupancy for a limited period anticipated to be in excess of sixty (60) days, or for a period extended after the expiration of the initial Term, Tenant shall have the option, but not the obligation, to terminate this Lease, in which case, Landlord shall be entitled to such part of such award as shall be properly allocable to the cost of restoration of the Premises, and the balance of such award shall be apportioned between Landlord and Tenant as of the date of such termination.

If the termination of such governmental occupancy is prior to expiration of this Lease, and Tenant has not elected to terminate this Lease, Tenant shall, upon receipt thereof and to the extent an award has been made, restore the Premises as nearly as possible to the condition in which they were prior to the condemnation or taking.

ARTICLE 14 MORTGAGE SUBORDINATION; ATTORNMENT AND MODIFICATION OF LEASE

Section 14.1. Subordination. This Lease, the Term and estate hereby granted, are and shall be subject and subordinate to the lien of each mortgage which may now or at any time hereafter affect Landlord's interest in the real property, Building, parking facilities, common areas or portions thereof and/or the land thereunder (an "Underlying Mortgage"), regardless of the interest rate, the terms of repayment, the use of the proceeds or any other provision of any such mortgage, provided that Tenant receives, as a condition precedent to such subordination, a commercially reasonable subordination, non-disturbance and attornment agreement in sum and substance the equivalent of Exhibit F ("SNDA"). Tenant shall from time to time execute and deliver such instruments as Landlord or the holder of any such mortgage may reasonably request to confirm the subordination provided in this Section 14.1.

Section 14.2. Attornment. Tenant confirms that if by reason of a default under an Underlying Mortgage the interest of Landlord in the Premises is terminated, provided Tenant is granted in writing continued quiet enjoyment of the Premises pursuant to the terms and provisions of this Lease, Tenant shall attorn to the holder of the reversionary interest in the Premises and shall recognize such holder as Tenant's landlord under this Lease, but in no event shall such holder be bound by any payment of Rent paid more than one month in advance of the date due under this Lease. Tenant shall, within ten (10) calendar days after request therefor, execute and deliver, at any time and from time to time, upon the request of Landlord or of the holder of an Underlying Mortgage any instrument which may be necessary or appropriate to evidence such attornment.

Section 14.3. Modification of Lease; Notice of Default. If any current or prospective mortgagee or ground lessor for the Building requires a modification or modifications of this Lease, which modification or modifications will not cause an increased cost or expense to Tenant or in any other way materially and adversely change the rights and obligations of Tenant hereunder, then in such event, Tenant agrees that this Lease may be so modified. Tenant agrees to execute and deliver to Landlord within ten (10) calendar days following the request therefor whatever documents are required to effectuate said modification. Should Landlord or any such current or prospective mortgagee or ground lessor require


Initial


Initial


Initial

Initial

execution of a short form of Lease for recording, containing, among other customary provisions, the names of the parties, a description of the Premises and the Term, Tenant agrees to execute and deliver to Landlord such short form of Lease within ten (10) calendar days following the request therefor. Further, Tenant shall give written notice of any default by Landlord under this Lease to any mortgagee and ground lessor of the Building and shall afford such mortgagee and ground lessor a reasonable opportunity to cure such default prior to exercising any remedy under this Lease.

Section 14.4. Non Disturbance Agreement. Landlord agrees to obtain and deliver to Tenant, within sixty (60) days after mutual execution and delivery of this Lease, an SNDAA from the holder of the existing deed of trust affecting the Building SNDAA is in form and substance comparable to the SNDAA attached hereto as Exhibit H.

ARTICLE 15 ESTOPPEL CERTIFICATES

Section 15.1. Estoppel Certificates. Landlord (except as set forth in Section 15.1 below), and Tenant shall, as appropriate within fifteen (15) business days after receipt of the other party's written request therefor, execute, acknowledge and deliver to the other an Estoppel Certificate, which may be conclusively relied upon by any prospective purchaser, mortgagee or beneficiary under any deed of trust covering the Building or any part thereof. Said Estoppel Certificate shall certify the following:

- a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the date and nature of each modification);
b) the date, if any, to which rental and other sums payable hereunder have been paid;
c) that no notice has been received by Tenant of any default which has not been cured, except as to defaults specified in the certificate;
d) that Landlord is not in default under this Lease or, if so, specifying such default; and
e) such other factual matters as may be reasonably requested by Landlord.

Tenant's and Landlord's failure to deliver the Estoppel Certificate within three (3) days after the one party's receipt of the other party's second (2nd) request therefor shall constitute a breach of the Lease, and Landlord and Tenant shall have the option, but not the obligation, to enforce the remedies contained in Article 18 and/or file suit for specific performance.

Section 15.2. Limitation on Landlord Estoppel Certificates. Notwithstanding anything to the contrary in Section 15.1 above, Tenant shall not request Landlord execute, acknowledge and deliver to Tenant an Estoppel Certificate, more than once per calendar year during the Term, as extended if any.

ARTICLE 16 NOTICES

Section 16.1. Notices. Any notice, consent, approval, agreement, certification, request, bill, demand, statement, acceptance or other communication hereunder (a "notice") shall be in writing and shall be considered duly given or furnished when:

- a) delivered personally or by messenger or overnight delivery service, with signature evidencing such delivery; or
b) upon the date of delivery, after being mailed in a postpaid envelope, sent certified mail, return receipt requested.

In each case such notices must be addressed to Landlord as set forth in the Basic Lease Information and to Tenant at the Premises and any other address for Tenant specified in the Basic Lease Information; or to such other address or addressee as either party may designate by a written notice given pursuant hereto.

ARTICLE 17 DEFAULT AND LANDLORD'S OPTION TO CURE

Section 17.1. Tenant's Default. For the purposes of this Section 17.1, if this Lease has been assigned, the term "Tenant," as used in Sections 17.1 (a) through (h), inclusive, shall be deemed to include the assignee and assignor, jointly and severally, unless Landlord shall have, in connection with such assignment, previously released the assignor from any further liability under this Lease, in which event the term "Tenant," as used in said subparagraphs, shall not include the assignor that was previously released. All notices shall be in addition to, and not in lieu of, statutory notices.

The following shall, if committed by Tenant, shall constitute a "Default":

- a) if Tenant fails to make the payment of any Fixed Monthly Rent or Additional Rent on any date upon which the same becomes due and such failure continues for three (3) business days after Tenant receives notice of such failure from Landlord, or
b) if Tenant abandons the Premises, or
c) if Tenant fails in the keeping, observance or performance of any covenant or agreement set forth in Sections 6.1, 6.2, or 19.3, and if such default continues and is not cured by Tenant before the expiration of Landlord's written 3-Day Notice to Cure or Quit, or
d) if Tenant fails in the keeping, observance or performance of any covenant or agreement including any provisions of the rules and regulations established by Landlord (other than a failure of the character referred to in Sections 17.1 (a), (b) or (c)), and if such failure continues and is not cured by

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Tenant within fifteen (15) business days after Landlord has given to Tenant a notice specifying the same, or, in the case of such a failure which for causes beyond Tenant's reasonable control (including occupancy of a sublessee) cannot with due diligence be cured within such period of fifteen (15) business days, if Tenant:

- i) does not, promptly upon Tenant's receipt of such notice, advise Landlord of Tenant's intention duly to institute all steps necessary to cure such default, or
- ii) does not duly institute and thereafter diligently prosecute to completion all steps (including, if appropriate, legal proceedings against a defaulting sublessee) necessary to cure the same, or
- e) if Tenant fails to deliver the Bstopfel Certificate required under Article 15 hereof within three (3) business days after Tenant's receipt of Landlord's second (2nd) request therefor,
- f) *Intentionally omitted*
- g) *Intentionally omitted*
- h) *Intentionally omitted.*

then, in any or each such event, Tenant shall be deemed to have committed a material Default under this Lease.

Section 17.2. Landlord's Option to Cure Tenant's Default. If Tenant enters into a Default under this Lease, in lieu of Landlord's issuance of a written notice, as specified hereinbelow, Landlord may cure the same at the sole expense of Tenant:

- a) immediately and without notice in the case of emergency; if said default is specified in Sections 17.1 (a), (b) or (c), or if such default unreasonably interferes with the use by any other tenant of the Building; with the efficient operation of the Building; or will result in a violation of law or in a cancellation of any insurance policy maintained by Landlord, and
- b) after the expiration of Landlord's 3-Day Notice of Intent to Cure, in the case of any default other than those specified in Section 17.2 (a) hereinabove.

Section 17.3. Landlord's Option to Terminate this Lease. In addition to any other remedies Landlord may have at law or in equity, but subject to Tenant's receipt of the notices provided for above and Tenant's failure to timely cure, Landlord shall be entitled to give to Tenant a written notice of intention to terminate this Lease at the expiration of three (3) days from the date of the giving of such notice, and if such notice is given by Landlord, and Tenant fails to cure the defaults specified therein, then this Lease and the Term and estate hereby granted (whether or not the Commencement Date has already occurred) shall terminate upon the expiration of such three (3) day period (a "Default Termination"), with the same effect as if the last of such three (3) days were the Termination Date, except that Tenant shall remain liable for damages as provided hereinbelow or pursuant to law.

Section 17.4. Certain Payments. Bills for all reasonable costs and expenses incurred by Landlord in connection with any performance by it under Section 17.2 shall be payable, as Additional Rent, pursuant to the provisions of Section 4.3.

Section 17.5. Certain Waivers. Unless Tenant has submitted documentation that it validly disputes Landlord's billing for Fixed Monthly Rent hereunder, or is completing an audit of Landlord's Operating Expense Statement, if Tenant is in default in payment of Fixed Monthly Rent or Additional Rent hereunder, Tenant waives the right to designate the items against which any payments made by Tenant are to be credited. In lieu thereof, Landlord may apply any payments received from Tenant to the then-oldest billing remaining unpaid on Tenant's rental account or to any other payment due from Tenant, as Landlord sees fit.

Section 17.6. Landlord Default. Notwithstanding anything to the contrary set forth in this Lease, Landlord shall not be in default in the performance of any obligation required to be performed by Landlord pursuant to this Lease unless:

- a) in the event such default is with respect to the payment of money, Landlord fails to pay such unpaid amounts within five (5) business days of written notice from Tenant that the same was not paid when due, or
- b) in the event such default is other than the obligation to pay money, Landlord fails to perform such obligation within thirty (30) days after the receipt of notice from Tenant specifying in detail Landlord's failure to perform; provided, however, if the nature of Landlord's obligation is such that more than thirty (30) days are required for its performance, then Landlord shall not be in default under this Lease if it shall commence such performance within such thirty (30) days period and thereafter diligently pursue the same to completion within a reasonable time period.

Upon any such default by Landlord under this Lease, Tenant may, except as otherwise specifically provided in this Lease to the contrary, exercise any of its rights provided at law or in equity.

ARTICLE 18 DAMAGES; REMEDIES; RE-ENTRY BY LANDLORD; ETC.

Section 18.1. Damages. If Landlord terminates this Lease, pursuant to the provisions of Section 17.3 (a "Default Termination"), then Landlord may recover from Tenant the total of:

- a) the worth at the time of award of the unpaid Fixed Monthly Rent and Additional Rent earned to the date of such Default Termination; and
- b) the worth at the time of award of the amount by which the unpaid Fixed Monthly Rent and Additional Rent which would have been earned after the date of such Default Termination until the

time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; and

- c) the worth at the time of award of the amount by which the unpaid Fixed Monthly Rent and Additional Rent which would have been earned for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; and
- d) any other amount reasonably necessary to compensate Landlord for all of the detriment proximately caused by Tenant's failure to observe or perform any of its covenants and agreements under this Lease or which in the ordinary course of events would be likely to result therefrom, including, without limitation, the payment of the reasonable expenses incurred or paid by Landlord in re-entering and securing possession of the Premises and in the reletting thereof (including, without limitation, altering and preparing the Premises for new tenants and brokers' commission); and
- e) at Landlord's sole election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time under applicable California laws.

Section 18.2. Computations: The "worth at the time of award" is computed:

- a) in paragraphs (a) and (b) above, by allowing interest at the rate of ten percent (10%) per annum (but in no event in excess of the maximum rate permitted by law); and
- b) in paragraph (c) above, by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).
- c) For purposes of computing unpaid rental which would have accrued and become payable under this Lease, unpaid rental shall consist of the sum of:
 - i) the total Fixed Monthly Rent for the balance of the Term, plus
 - ii) a computation of Tenant's Share of Additional Rent due under the Lease including, without limitation, Tenant's Proportionate Share of any increase in Operating Expenses (including real estate taxes) for the balance of the Term. For purposes of computing any increases due Landlord hereunder, Additional Rent for the calendar year of the default and for each future calendar year in the Term shall be assumed to be equal to the Additional Rent for the calendar year prior to the year in which default occurs, compounded at a rate equal to the mean average rate of inflation for the preceding five calendar years as determined by the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index (All Urban Consumers, all items, 1982-84 equals 100) for the metropolitan area or region of which Los Angeles, California is a part. If such index is discontinued or revised, the average rate of inflation shall be determined by reference to the index designated as the successor or substitute index by the government of the United States.

Section 18.3. Re-Entry by Landlord.

- a) If a Default Termination occurs or any default specified in Sections 17.1 (a) through (e) occurs and continues beyond the period of grace (if any) therefor, Landlord or Landlord's authorized representatives may re-enter the Premises and remove all persons and all property therefrom, either by summary dispossession proceedings or by any suitable action or proceeding at law, without being liable to indictment, prosecution or damages therefor, and may repossess and enjoy the Premises. No re-entry or repossession of the Premises by Landlord or its representatives under this Section 18.3 shall be construed as an election to terminate this Lease unless a notice of such election is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. The words "re-enter", "re-entry" and "re-entering" as used herein are not restricted to their technical legal meanings.
- b) If any default specified in Sections 17.1 (a) through (g) occurs and continues beyond the period of grace (if any) therefor, then if Landlord does not elect to terminate this Lease Landlord may, from time to time and without terminating this Lease, enforce all its rights and remedies under this Lease, including the right to recover the Fixed Monthly Rent and Additional Rent as the same becomes payable by Tenant hereunder.
 - i) If Landlord consents thereto, Tenant may sublet the Premises or any part thereof or assign this Lease (which consent Landlord agrees will not be unreasonably withheld), subject to Tenant's compliance with the requirements of Article 11 of this Lease. So long as Landlord is exercising this remedy it will not terminate Tenant's right to possession of the Premises, but it may engage in the acts permitted by Section 1951.4(c) of the California Civil Code.
- c) If Tenant abandons the Premises in breach of this Lease, Landlord shall have the right to relet the Premises or any part thereof on such terms and conditions and at such rentals as Landlord in its sole discretion may deem advisable, with the right to make alterations and repairs in and to the Premises necessary to reletting. If Landlord so elects to relet, then gross rentals received by Landlord from the reletting shall be applied:
 - i) first, to the payment of the reasonable expenses incurred or paid by Landlord in re-entering and securing possession of the Premises and in the reletting thereof (including, without limitation, altering and preparing the Premises for new tenants and brokers' commissions);
 - ii) second, to the payment of the Fixed Monthly Rent and Additional Rent payable by Tenant hereunder; and
 - iii) third, the remainder, if any, to be retained by Landlord and applied to the payment of future Fixed Monthly Rent and Additional Rent as the same become due.

Should the gross rentals received by Landlord from the reletting be insufficient to pay in full the sums stated in Section 18.3 (a) and (b) hereinabove, Tenant shall, upon demand, pay the deficiency to Landlord.

Section 18.4. Certain Waivers. After Landlord has actually obtained possession of the Premises pursuant to any lawful order of possession granted in a valid court of law, Tenant thereafter waives and surrenders for Tenant, and for all claiming under Tenant, all rights and privileges now or hereafter existing to redeem the Premises (whether by order or judgment of any court or by any legal process or writ); to assert Tenant's continued right to occupancy of the Premises; or to have a continuance of this Lease for the Term hereof. Tenant also waives the provisions of any law relating to notice and/or delay in levy of execution in case of an eviction or dispossession for nonpayment of rent, and of any successor or other law of like import.

Section 18.5. Cumulative Remedies. The remedies of Landlord provided for in this Lease are cumulative and are not intended to (i) be exclusive of any other remedies to which Landlord may be lawfully entitled, or (ii) entitle Landlord to a duplication of damages. The exercise by Landlord of any remedy to which it is entitled shall not preclude or hinder the exercise of any other such remedy.

ARTICLE 19 INSURANCE

Section 19.1. Landlord Obligations:

- a) Landlord shall secure and maintain during the Term of this Lease the following insurance:
- i) Commercial General Liability and Umbrella Liability insurance relating to Landlord's operation of the Building, for personal and bodily injury and death, and damage to other's property.
 - ii) All risk of standard fire insurance and extended coverages including vandalism and malicious mischief and sprinkler leakage endorsements relating to the Building, the parking facilities, the common area improvements and any and all improvements installed in, on or upon the Premises and affixed thereto (but excluding Tenant's fixtures, furnishings, equipment, personal property or other elements of Tenant's Property);
 - iii) Such other insurance (including, without limitation, boiler and machinery, rental loss, earthquake and/or flood insurance) as Landlord reasonably elects to obtain or any Lender requires.
- b) Insurance effected by Landlord under this Section 19.1 will be:
- i) In amounts which Landlord from time to time reasonably determines sufficient or which any Lender requires; and
 - ii) Subject to such deductibles and exclusions as Landlord reasonably deems appropriate.
- c) Notwithstanding any contribution by Tenant to the cost of insurance premiums as provided herein, Tenant acknowledges that Tenant has no right to receive any proceeds from any insurance policies carried by Landlord, but shall continue to receive the waiver of subrogation benefits pursuant to Section 19.4 below.

Section 19.2. Tenant Obligations.

- a) At least ten (10) days prior to the earlier of the Commencement Date or Tenant's anticipated early possession date of the Premises and thereafter during the Term of this Lease, Tenant shall secure and maintain, at its own expense throughout the Term of this Lease the following minimum types and amounts of insurance, in form and in companies acceptable to Landlord, insuring Tenant, its employees, agents and designees:
- i) Workers' Compensation Insurance, the amount and scope of which shall be the amount and scope required by statute or other governing law.
 - ii) Employer's Liability Insurance in amounts equal to the following: Bodily Injury by accident - \$1,000,000 each accident; Bodily Injury by disease - \$1,000,000 policy limit; and Bodily Injury by disease - \$1,000,000 each employee.
 - iii) Commercial General Liability and Umbrella Liability Insurance on an occurrence basis, without claims-made features, with bodily injury and property damage coverage in an amount equal to a combined single limit of \$2,000,000; and such insurance shall include the following coverages: (A) Premises and Operations coverage with X, C, and U exclusions for explosion, collapse, and underground property damage deleted under both premises/operations and contractual liability coverage parts, if applicable; (B) Owner and Contractor Protective coverage; (C) Products and Completed Operations coverage; (D) Broad Form Comprehensive General Liability coverage (or its equivalent); and (E) Broad Form Property Damage coverage, including completed operations.
 - iv) All risk of standard fire insurance and extended coverage with vandalism and malicious mischief and sprinkler leakage endorsements, insuring fixtures, glass, equipment, merchandise, inventory and other elements of Tenant's Property in the Premises, and all other contents of the Premises (e.g. Tenant Improvements, furniture, fixtures, equipment). Such insurance shall be in an amount equal to 100% of the replacement value thereof (and Tenant shall re-determine the same as frequently as necessary in order to comply herewith). The proceeds of such insurance, so long as this Lease remains in effect, shall be used to repair and/or replace the items so insured.
 - v) Intentionally Omitted.
 - vi) Any other forms of insurance Landlord may reasonably require from time to time, in form and amounts and for insurance risks against which a prudent tenant of comparable size in a comparable business would protect itself.

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- b) All insurance policies maintained to provide the coverages required herein shall:
- i) Be issued by insurance companies authorized to do business in the state in which the leased premises are located, and with companies rated, at a minimum "A- VII" by A.M. Best;
 - ii) Be subject to the prior approval of Landlord (which approval shall not be unreasonably withheld) as to form, substance and insurer;
 - iii) Provide for a deductible only so long as Tenant shall remain liable for payment of any such deductible in the event of any loss;
 - iv) Contain appropriate cross-liability endorsements denying Tenant's insurers the right of subrogation against Landlord as to risks covered by such insurance, without prejudice to any waiver of indemnity provisions applicable to Tenant and any limitation of liability provisions applicable to Landlord hereunder, of which provisions Tenant shall notify all insurance carriers;
 - v) Contain provisions for at least ten (10) days advance written notice to Landlord of cancellation due to non-payment and thirty (30) days advance written notice to Landlord of material modification or cancellation for any reason other than non-payment; and
 - vi) Stipulate that coverages afforded under such policies are primary insurance as respects Landlord and that any other insurance maintained by Landlord are excess and non-contributing with the insurance required hereunder.
- c) No endorsement limiting or excluding a required coverage is permitted.
- d) Tenant shall deliver to Landlord upon execution of this Lease, written evidence of insurance coverages required herein. Tenant shall deliver to Landlord no less than fifteen (15) days prior to the expiration of any required coverage, written evidence of the renewal or replacement of such coverage. Landlord's failure at any time to object to Tenant's failure to provide the specified insurance or written evidence thereof (either as to the type or amount of such insurance) shall not be deemed as a waiver of Tenant's obligations under this Section.
- e) Landlord shall be named as an additional insured on the Tenant's policies of General Liability and Umbrella Liability insurance. Landlord shall be named as a loss payee on the Tenant's policies of All Risk insurance as their interest may appear to the extent any fixtures, equipment, improvements and installations attached or built into the Premises by Tenant or on Tenant's behalf at any time during the Term shall, at the expiration or earlier termination of this Lease, be deemed the property of Landlord; become a permanent part of the Premises and remain therein. Tenant shall deliver to Landlord the appropriate endorsements evidencing additional insured and loss payee status. Any claim for loss under said insurance policies shall be payable notwithstanding any act, omission, negligence, representation, misrepresentation or other conduct or misconduct of Tenant which might otherwise cause cancellation, forfeiture or reduction of such insurance.
- f) The insurance requirements in this Section shall not in any way limit, in either scope or amount (except to reduce any claims by Landlord by the amount Landlord collects from the insurance carrier), the indemnity obligations separately owed by Tenant to Landlord under the Lease.
- g) Nothing herein shall in any manner limit the liability of Tenant for non-performance of its obligations or for loss or damage for which Tenant is responsible, except as provided in Section 19.4. The aforementioned minimum limits of policies shall in no event limit the liability of Tenant hereunder.
- h) Tenant may, at its option, satisfy its insurance obligations hereunder by policies of so-called blanket insurance carried by Tenant provided that the same shall, in all respects, comply with the provisions hereof. In such event, Tenant shall not be deemed to have complied with its obligations hereunder until Tenant shall have obtained and delivered to Landlord a copy of each such policy together with an appropriate endorsement or certificate applicable to and evidencing full compliance with the specific requirements of the Lease (irrespective of any claim which may be made with respect to any other property or liability covered under such policy), and until the same shall have been approved by Landlord in writing.

Section 19.3. Compliance with Building Insurance Requirements. After Tenant takes occupancy of the Premises, Tenant shall not violate or permit in, on or upon the Premises the violation of any condition imposed by such standard fire insurance policies as are normally issued for office buildings in the City or County in which the Building is located. Tenant shall not do, suffer or permit anything to be done, or keep, suffer or permit anything to be kept, in the Premises which would increase the risk ratings or premium calculation factors on the Building or property therein (collectively an "Increased Risk"), or which would result in insurance companies of good standing refusing to insure the Building or any property appurtenant thereto in such amounts and against such risks as Landlord may reasonably determine from time to time are appropriate. Provided, however, nothing herein shall shift the responsibility of Landlord to insure the Building Structure and Building Systems to Tenant.

Notwithstanding the above, if additional insurance is available to cover such Increased Risk, Tenant shall not be in default hereunder if:

- a) Tenant authorizes Landlord in writing to obtain such additional insurance; and
- b) prepays the annual cost thereof to Landlord for such additional coverage, as well as the additional costs, if any, of any increase in Landlord's other insurance premiums resulting from the existence or continuance of such Increased Risk.

Section 19.4. Mutual Waiver of Subrogation. Landlord and Tenant intend that their respective property loss risks shall be borne by reasonable insurance carriers to the extent above provided, and

Landlord and Tenant hereby agree to look solely to, and seek recovery only from, their respective insurance carriers in the event of a property loss to the extent that such coverage is agreed to be provided hereunder. The parties each hereby waive all rights and claims against each other for such losses, and waive all rights of subrogation of their respective insurers, provided such waiver of subrogation shall not affect the right to the insured to recover thereunder. The parties agree that their respective insurance policies are now, or shall be, endorsed such that the waiver of subrogation shall not affect the right of the insured to recover thereunder.

Section 19.5. Failure to Secure. If at any time during the Term, and after expiration of three (3) business days' prior written demand therefor from Landlord, Tenant fails to:

- a) provide Landlord with access to a registered insurance broker of record that can verify Tenant's compliance with the requirement contained in this Article 19; or
- b) provide documentation reasonably acceptable to Landlord that Tenant has secured and maintained the insurance coverage required hereunder,

then such failure shall be considered a material default under the Lease, subject to notice and opportunity to cure herein.

Section 19.6. Tenant Self Insurance. Notwithstanding any provisions of the Lease to the contrary, so long as THE MACERICH PARTNERSHIP, L.P., a Delaware limited partnership is the named tenant or an Affiliate is the named tenant on the Lease and maintains a tangible net worth of at least One Hundred Million Dollars (\$100,000,000), as evidenced by Tenant's current audited financial statements or other evidence satisfactory to Landlord, Tenant may self-insure against any or all risks for which Tenant is required to obtain insurance thereunder, to the same extent as required for policies of insurance that Tenant is obligated to maintain hereunder, subject to the following provisions.

Tenant shall be permitted to self-insure against any of the risks for which insurance is required under the Lease for such portion of the minimum coverage limitation, if any, provided in the Lease, as may be established from time to time as its company-wide limit of self-insurance against such risk. To the extent that Tenant shall self-insure against any risk, Tenant does hereby agree to maintain adequate reserves against claims, losses and liabilities arising from causes which would otherwise have been covered by insurance and to reimburse, pay, indemnify and hold Landlord harmless and defend Landlord against any and all claims, liabilities, losses, damages, expenses, and costs which would otherwise have been covered by insurance required herein.

Concurrently with the delivery of the certificates of insurance required by this Section 10.6, Tenant shall deliver to Landlord a certificate signed by an officer of Tenant setting forth the amount of Tenant's self-insured retention or deductible respecting each risk or peril against which Tenant is required to insure hereunder. Tenant shall, use commercially reasonable efforts within thirty (30) days, but no later than sixty (60) days after any change in the amount of its self-insured retention or deductible respecting any such risk or peril, deliver to Landlord a revised certificate setting forth the current amount of any self-insured retention or deductible.

ARTICLE 20 MISCELLANEOUS

Section 20.1. Entire Agreement. This Lease, including the exhibits and guaranty of lease, if any, annexed hereto, contains all of the agreements and understandings relating to the leasing of the Premises and the obligations of Landlord and Tenant in connection therewith and neither party and no agent or representative thereof has made or is making, and neither party in executing and delivering this Lease is relying upon, any warranties or representations, except to the extent set forth in this Lease. All understandings and agreements heretofore had between Landlord and Tenant relating to the leasing of the Premises are merged in this Lease, which alone fully and completely expresses their agreement. The Riders (if any) and Exhibits annexed to this Lease and the Construction Agreement are hereby incorporated herein and made a part hereof.

Section 20.2. No Waiver or Modification. The failure of Landlord or Tenant to insist in any instance upon the strict keeping, observance or performance of any covenant or agreement contained in this Lease or to exercise any election herein contained shall not be construed as a waiver or relinquishment for the future of such covenant or agreement, but the same shall continue and remain in full force and effect. No waiver or modification by either Landlord or Tenant of any covenant or agreement contained in this Lease shall be deemed to have been made unless the same is in writing executed by the party whose rights are being waived or modified. No surrender of possession of any part of the Premises shall release Tenant from any of its obligations hereunder unless accepted in writing by Landlord. The receipt and retention by Landlord, and the payment by Tenant, of Fixed Monthly Rent or Additional Rent with knowledge of the breach of any covenant or agreement contained in this Lease shall not be deemed a waiver of such breach by either Landlord or Tenant.

Section 20.3. Time of the Essence. Time is of the essence of this Lease and of all provisions hereof, except in respect to the delivery of possession of the Premises at the Commencement Date.

Section 20.4. Force Majeure. For the purposes of this Lease, "Force Majeure" shall be defined as any or all prevention, delays or stoppages and/or the inability to obtain services, labor, materials or reasonable substitutes therefor, when such prevention, delay, stoppage or failure is due to strikes, lockouts, labor disputes, acts of God, governmental actions, civil commotion, fire or other casualty, and/or other causes beyond the reasonable control of the party obligated to perform, except that Force Majeure may not be raised as a defense (except as provided in a specific rent abatement provision of this

Lease) for Tenant's non-performance of any obligations imposed by the Lease with regard to the payment of Fixed Monthly Rent and/or Additional Rent.

Notwithstanding anything to the contrary contained in this Lease, Force Majeure shall excuse the performance of such party for a period equal to any such prevention, delay, stoppage or inability. Therefore, if this Lease specifies a time period for performance of an obligation by either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure.

Section 20.5. Broker. Landlord and Tenant represent to one another that each has dealt with no broker or agent in connection with this Lease or its negotiations other than Douglas, Emmett and Company and Cushman & Wakefield of California, Inc. Landlord and Tenant shall hold one another harmless from and against any and all liability, loss, damage, expense, claim, action, demand, suit or obligation arising out of or relating to a breach by the indemnifying party of such representation. Landlord agrees to pay all commissions due to the brokers listed above created by Tenant's execution of this Lease.

Section 20.6. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California.

Section 20.7. Submission of Lease. Whether or not rental deposits have been received by Landlord from Tenant, and whether or not Landlord has delivered to Tenant an unexecuted draft version of this Lease for Tenant's review and/or signature, and regardless of whether Tenant has submitted comments to this Lease, no contractual or other rights shall exist between Landlord and Tenant with respect to the Premises, nor shall this Lease be valid and/or in effect until this Lease has been fully executed and a duplicate original of said fully-executed Lease has been delivered to both Landlord and Tenant.

The submission of this Lease to Tenant shall be for examination purposes only, and does not and shall not constitute a reservation of or an option for Tenant to lease, or otherwise create any interest by Tenant in the Premises or any other offices or space situated in the Building. Execution of this Lease by Tenant and its return to Landlord shall not be binding upon Landlord, notwithstanding any time interval, until Landlord has in fact executed and delivered a fully-executed duplicate original of this Lease to Tenant. Landlord and Tenant agree hereby to authorize transmission of all or portions of documents, including signature lines thereon, by facsimile machines, and further authorize the other party to rely conclusively upon such facsimile transmissions as if the original had been received.

Section 20.8. Captions. The captions in this Lease are for convenience only and shall not in any way limit or be deemed to construe or interpret the terms and provisions hereof.

Section 20.9. Singular and Plural, Etc. The words "Landlord" and "Tenant", as used herein, shall include the plural as well as the singular. Words used in the masculine gender include the feminine and neuter. If there be more than one Landlord or Tenant the obligations hereunder imposed upon Landlord and Tenant shall be joint and several.

Section 20.10. Independent Covenants. Except where the covenants contained in one Article of this Lease are clearly affected by or contingent upon fulfillment by either party of another Article or paragraph of this Lease, this Lease shall be construed as though the covenants herein between Landlord and Tenant are independent and not dependent and Tenant hereby expressly waives the benefit of any statute to the contrary and agrees that if Landlord fails to perform its obligations set forth herein, Tenant shall not be entitled to make any repairs or perform any actions hereunder at Landlord's expense or to any set-off of the Rent or other amounts owing hereunder against Landlord; provided, however, that the foregoing shall in no way impair the right of Tenant to commence a separate action against Landlord for the violation by Landlord of the provisions hereof so long as notice is first given to Landlord and any holder of a mortgage or deed of trust covering the Building, Real Property or any portion thereof, of whose address Tenant has theretofore been notified, and an opportunity is granted to Landlord and such holder to correct such violations as provided above.

Section 20.11. Severability. If any covenant or agreement of this Lease or the application thereof to any person or circumstance shall be held to be invalid or unenforceable, then and in each such event the remainder of this Lease or the application of such covenant or agreement to any other person or any other circumstance shall not be thereby affected, and each covenant and agreement hereof shall remain valid and enforceable to the fullest extent permitted by law.

Section 20.12. Warranty of Authority. If Landlord or Tenant signs as a corporation, limited liability company or a partnership, each of the persons executing this Lease on behalf of Landlord or Tenant hereby covenant and warrant that each is a duly authorized and existing entity, that each has and is qualified to do business in California, that the persons signing on behalf of Landlord or Tenant have full right and authority to enter into this Lease, and that each and every person signing on behalf of either Landlord or Tenant are authorized to do so.

Section 20.13. No Representations or Warranties. Neither Landlord nor Landlord's agents or attorneys have made any representations or warranties with respect to the Premises, the Building or this Lease, except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by Tenant by implication or otherwise.

Section 20.14. No Joint Venture or Partnership. This Lease shall not be deemed or construed to create or establish any relationship of partnership or joint venture or similar relationship or arrangement between Landlord and Tenant hereunder.

Section 20.15. Tenant's Obligations At Its Sole Expense. Notwithstanding the fact that certain references in this Lease to acts required to be performed by Tenant hereunder, or to breaches or defaults of this Lease by Tenant, omit to state that such acts shall be performed at Tenant's sole expense, or omit to state that such breaches or defaults by Tenant are material, unless the context clearly states or implies

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to the contrary each and every act to be performed or obligation to be fulfilled by Tenant pursuant to this Lease shall be performed or fulfilled at Tenant's sole expense.

Section 20.16. Attorneys' Fees. If litigation is instituted between Landlord and Tenant, the cause for which arises out of or in relation to this Lease, the prevailing party in such litigation shall be entitled to receive its costs (not limited to court costs), expenses and reasonable attorneys' fees from the non-prevailing party as the same may be awarded by the court.

Section 20.17. Waiver of Trial by Jury. In the interest of saving time and expense, Landlord and Tenant hereby consent to trial without a jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other or their successor-in-interest in respect to any matters arising out of or relating to this Lease.

Section 20.18. No Merger. 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.

Section 20.19. Prohibition Against Recording. Except as provided in Section 14.3 of this Lease, neither this Lease, nor any memorandum, affidavit or other writing with respect thereto, shall be recorded by Tenant or by anyone acting through, under or on behalf of Tenant, and the recording thereof in violation of this provision shall make this Lease null and void at Landlord's election.

Section 20.20. Hazardous Waste. Tenant specifically agrees that, except for such limited quantities of office materials and supplies as are customarily used in Tenant's normal business operations, Tenant shall not engage or permit at any time, any operations or activities upon, or any use or occupancy of the Premises, or any portion thereof, for the purpose of or in any way involving the handling, manufacturing, treatment, storage, use, transportation, spillage, leakage, dumping, discharge or disposal (whether legal or illegal, accidental or intentional) of any hazardous substances, materials or wastes, or any wastes regulated under any local, state or federal law.

Tenant shall, during the Term, remain in full compliance with all applicable laws governing its use and occupancy of the Premises, including, without limitation, the handling, manufacturing, treatment, storage, disposal, discharge, use, and transportation of hazardous substances, materials or wastes, and any wastes regulated under any local, state or federal law. Tenant will remain in full compliance with the terms and conditions of all permits and licenses issued to it by any governmental authority on account of any or all of its activities on the Premises.

Nothing in this Lease shall impose any obligation or liability upon Tenant with respect to hazardous waste that was in the Premises and or Building before Tenant first took occupancy of each portion of the Premises and or Building or which was placed in the Premises and or Building by anyone other than Tenant.

Section 20.21. Transportation Management. Tenant shall, at Tenant's sole expense (to the extent imposed upon Tenant) or otherwise at Landlord's expense which Landlord may include in Operating Expenses, fully comply with all present or future programs intended to manage parking, transportation or traffic in and around the Building, when the same have been mandated by an outside governmental authority having jurisdiction therefor and not when required for the convenience of Landlord.

In connection therewith, Tenant shall be responsible for the transportation planning and management for all of Tenant's employees while located at the Premises, by working directly with Landlord, any governmental transportation management organization or any other transportation-related committees or entities reasonably designated by Landlord. Such programs may include, without limitation:

- a) restrictions on the number of peak-hour vehicle trips generated by Tenant;
- b) requirements for increased vehicle occupancy;
- c) implementing an in-house ride-sharing program and/or appointing an employee transportation coordinator;
- d) working with employees of any Building (or area-wide) ridesharing program manager;
- e) instituting employer-sponsored incentives (financial or in-kind) to encourage employees to ridesharing; and
- f) utilizing flexible work shifts for employees.

Section 20.22. Signage. Except as set forth in Section 20.22.1 below and Exhibit E attached hereto and incorporated herein, Tenant may not install, inscribe, paint or affix any awning, shade, sign, advertisement or notice on or to any part of the outside or inside of the Building, or in any portion of the Premises visible to the outside of the Building or common areas without Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

All signage and/or directory listings installed on behalf of Tenant, whether installed in, on or upon the public corridors, doorways, Building directory and/or parking directory (if any), or in any other location whatsoever visible outside of the Premises, shall be installed by Landlord, at Tenant's sole expense.

Tenant's identification on or in any common area of the Building shall be limited to Tenant's name and suite designation, and in no event shall Tenant be entitled to the installation of Tenant's logo in any portion of the Building or common areas. Furthermore, the size, style, and placement of letters to be used in any of Tenant's signage shall be determined by Landlord, in Landlord's sole discretion, in full conformance with previously-established signage program for the Building.


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Except as specified hereinbelow, Tenant shall only be entitled to one (1) listing on the Building directory, or any parking directory ancillary thereto, which shall only show Tenant's business name and suite designation. Tenant shall also be entitled to a maximum of twenty (20) additional listings on said Building directory, which listings shall be limited solely to Tenant's officers, employees, subsidiaries, affiliates and/or sublessees, if any. All of said listings shall be subject to Landlord's prior written approval, which shall not be unreasonably withheld, conditioned or delayed.

Subject to the provisions of this Section 20.22, the name set forth on any tenant signage at the Building, including on any exterior surface of the Building (or in the ground floor lobby of the Building) or in any plaza area at the Building, shall not have a name which relates to an entity which is of a character or reputation, or is associated with a political faction or orientation, which is inconsistent with the quality of the Building, or which would otherwise reasonably offend a landlord of Comparable Buildings (an "Offensive and Objectionable Name").

Section 20.22.1 Limited Right to Parapet Signage. Subject to the conditions in this Section 20.22.1, Exhibit G (Signage Criteria) attached hereto and incorporated herein, and the exclusive First Federal Savings Bank Parapet Signage Right restated in Section 20.22.2 below (the "Parapet Signage Right"), Tenant desires to acquire from Landlord the Parapet Signage Right currently held by an existing tenant in the Building ("FFSB"), should said rights lapse, terminate or is otherwise surrendered by FFSB.

Provided that:

- (a) Tenant has not been in material uncured default after the expiration of notice and the opportunity to cure; and
- (b) the rentable area of the Premises that Tenant then directly leases exceeds the higher of seventy-five percent (75%) of the Rentable Area of the Premises and (ii) 49,968 rentable square feet, (except that Tenant may transfer the Parapet Signage Right to a Rights Holder as defined in Section 23.6); and
- (c) the design of Tenant's signage is subject to Landlord's sole discretion, and shall be subject to Tenant's compliance with Landlord's standard signage criteria attached hereto as Exhibit G (which includes among other things Landlord and Tenant's receipt of the necessary approvals from the City of Santa Monica); and
- (d) FFSB provides written acknowledgement that FFSB has relinquished the Parapet Signage Right.

then Tenant shall, at Tenant's sole expense, but at Landlord's direction, be entitled to install Tenant's name and/or company logo on the Parapet Sign.

Section 20.22.2 Superior Parapet Signage Right-FFSB. Landlord represents and Tenant acknowledges that FFSB has an exclusive right to use, place and maintain its signage on the Building parapet in accordance with the provisions of FFSB's lease with Landlord. In as much as any signage grant by Landlord to Tenant shall be subject to FFSB's signage rights, Tenant acknowledges and agrees that accordingly, Tenant's limited signage right is contingent upon FFSB written acknowledgement to Landlord that FFSB has relinquished FFSB's Parapet Signage Right or the FFSB Lease terminates or if FFSB no longer has the right to have its sign on the Building Parapet.

Section 20.23. Disclosure. Landlord and Tenant acknowledge that principals of Landlord have a financial interest in Douglas Emmett Realty Advisors and P.L.E. Builders.

Section 20.24. Confidentiality. Landlord and Tenant agree that the covenants and provisions of this Lease shall not be divulged to anyone not directly involved in the management, administration, ownership, lending against, or subleasing of the Premises, which permitted disclosure shall include, but not be limited to, the board members, legal counsel and/or accountants of either Landlord or Tenant.

Section 20.25. Asbestos Notification. Tenant acknowledges that it has received and reviewed Exhibit F attached hereto and incorporated herein.

Section 20.26. Mold. It is the policy of the Landlord to provide a healthy environment at the Building. If pursuant to industry standards there is mold within the Building that poses a health risk or a mold spore release within the Building surpassing permissible exposure limits (the "Harmful Mold Materials") and such Harmful Mold Materials were neither created or brought in or released by Tenant; then Landlord agrees that it will hire a prominent, well respected contractor certified to handle toxic materials, and will comply with the recommendation(s) of said contractor, whether for removal or encapsulation of the Harmful Mold Materials, or to leave said Harmful Mold Materials undisturbed. Said work, if any, shall be completed at Landlord's sole expense, unless the Harmful Mold Materials were brought in or created or released by Tenant, in which case said work shall be completed at Tenant's expense.

Section 20.27. Consent/Duty to act Reasonably. Regardless of any references to the terms "sole" or "absolute" (but except for matters which (1) could have an adverse effect on the structural integrity of the Building Structure, (2) could have an adverse effect on the Building Systems, or (3) could have an effect on the exterior appearance of the Building, whereupon in each such case Landlord's duty is to act in good faith and in compliance with the Lease), any time the consent of Landlord or Tenant is required, such consent shall not be unreasonably withheld, conditioned or delayed. Whenever this Lease grants Landlord or Tenant the right to take action, exercise discretion, establish rules and regulations or make allocations or other determinations (other than decisions to exercise renewal options), Landlord and Tenant shall act reasonably and in good faith and take no action which might result in the frustration of

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the reasonable expectations of a sophisticated tenant or landlord concerning the benefits to be enjoyed under this Lease.

ARTICLE 21
PARKING

Section 21.1. Parking. Throughout the Term: (i) Tenant shall have the right but not the obligation to purchase reserved parking permits for up to forty-five (45) reserved spaces, and for up to one hundred five (105) unreserved spaces; and (ii) Tenant shall have the right to purchase unreserved permits on a must-take basis for an additional fifteen (15) unreserved spaces, for a total of one hundred and sixty-five (165) parking spaces (collectively the "Initial Premises Permits"), all as set forth in Section 21.1 of the Basic Lease Information ("BLI").

The forty-five (45) reserved spaces shall be in the location described in Exhibit I attached hereto and incorporated herein; provided however Landlord reserves the right in its reasonable discretion to re-designate the location of each such reserved space as part of Landlord's overall management and operation of the parking facility (but not to grant to another tenant reserved parking in the pre-existing location(s) of Tenant's reserved parking space(s)). The substitute location for each of Tenant's forty-five (45) reserved parking spaces shall be: (i) to a comparable location in the Building parking facility, (ii) no less desirable than the pre-existing location of Tenant's forty-five (45) reserved parking space(s).

As of the Suite 500 Expansion Date, Tenant shall have the right but not the obligation to purchase the Suite 500 Expansion Permits for sixty (60) parking spaces (as defined in Article 1, Section 1.1.1 (5) above), increasing Tenant's parking allotment to a total of two hundred and twenty-five (225) spaces.

Except as otherwise permitted by Landlord's management agent in its reasonable discretion, and based on the availability thereof, in no event shall Tenant be entitled to purchase more than the number of parking permits listed in the BLI as of the Commencement Date, and listed in Section 1.1.1 as of the Suite 500 Expansion Date. If additional parking permits are available on a month-to-month basis, which determination shall be in the sole discretion of Landlord's parking agent, Tenant shall be permitted to purchase one or more of said permits on a first-come, first-served basis.

Said parking permits shall allow Tenant to park in the Building parking facility at the prevailing monthly parking rate then in effect, plus applicable taxes, and which rate may be thereafter changed from time to time, in Landlord's sole discretion to reflect prevailing rates for comparable parking in Comparable Buildings (as defined in Section 12.4.2 above). Landlord shall retain sole and reasonable discretion to designate the location of each parking space, and whether it shall be assigned, or unassigned, unless specifically agreed to otherwise in writing between Landlord and Tenant.

Guests and invitees of Tenant shall have the right to use, in common with guests and invitees of other tenants of the Building, the transient parking facilities of the Building at the then-posted parking rates and charges, or at such other rate or rates and charges as may be agreed upon from time to time between Landlord and Tenant in writing. Such rate(s) or charges may be changed by Landlord from time to time in Landlord's sole discretion, and shall include, without limitation, any and all fees or taxes relating to parking assessed to Landlord for such parking facilities.

Tenant or Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders continued use of said transient, as well as monthly parking, shall be contingent upon Tenant and Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders continued compliance with the reasonable and non-discriminatory rules and regulations adopted by Landlord, which rules and regulations may change at any time or from time to time during the Term hereof in Landlord's sole discretion.

Landlord shall provide visitor parking to Tenant's customers, clients and visitors. If Tenant buys more than Five Thousand Dollars (\$5,000.00) per month in validations, Tenant will receive a thirty percent (30%) discount off the prevailing charges then in effect per validation book. As of the reference date of this Lease the current validation charge is \$1.70 for 15 minutes [15 minute validation book - \$170.00 (100 stamps)], \$6.80 for one hour [1 hour validation book - \$680.00 (100 stamps)], and \$13.60 for all day [all day validation book - \$272.00 (20 stamps)], which charges may be thereafter changed from time to time, in Landlord's sole discretion.

ARTICLE 22
CONCIERGE SERVICES

Section 22.1. Provision of Services. Landlord and Tenant acknowledge and understand that Landlord may, from time to time, make it possible for Tenant to use or purchase a variety of personal services which may include, but not be limited to, personal shopping, assistance with choosing or obtaining travel reservations, accommodations and/or tickets; tickets to performances, recommendations to eating establishments; and the like (collectively "Concierge Services").

Tenant acknowledges that said Concierge Services are provided by Landlord solely as an accommodation to and for the convenience of Tenant and Tenant's agents, contractors, directors, employees, licensees, officers, partners or shareholders, and Landlord does not make any representation, warranty or guarantee, express or implied, as to the quality, value, accuracy, or completeness of said Concierge Services, or whether or not Tenant shall be satisfied with the services and/or goods so provided and/or recommended. Landlord hereby disclaims any control over the variety or sufficiency of such services to be provided.


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Tenant acknowledges that Tenant is not required to use such Concierge Services as a condition precedent to compliance with the Lease; that Tenant's use of such Concierge Services is strictly voluntary, and at the sole discretion and control of Tenant. Tenant shall independently make such financial arrangements for payment of the services provided as Tenant deems reasonable and of value.

Section 22.2. Indemnification and Release by Tenant. Intentionally Omitted.

ARTICLE 23 OPTIONS TO EXTEND THE TERM

23. Options to Extend Extended Term.

23.1. **Option to Extend Term.** Provided Tenant is not then in default under this Lease, Tenant and each Rights Holder are given two (2) separately exercisable options to extend the Term each for an additional five (5) year period (the "Second Extended Term" and the "Third Extended Term", respectively and collectively, the "Additional Extended Terms"), of which Second Extended Term would commence the next calendar day after the expiration of the Term and of which Third Extended Term would commence the next calendar day after the expiration of the Second Extended Term (each, an "Option" and collectively, the "Options"). The Options shall apply at a minimum in bulk to all full floors leased by Tenant in the Building (e.g. Suites 500, 600 and 700), and Tenant shall have no right to exercise either Option as to only a portion of the Premises constituting less than all of the full floors in the Building leased by Tenant in the aggregate. References in this Lease to the "Term" of the Lease shall mean the Term (as defined in Section 2.1 above) as extended by the Additional Extended Term(s), as applicable.

Tenant's exercise of an Option is contingent upon Tenant giving written notice to Landlord (the "Option Notice") of Tenant's election to exercise its rights pursuant to the applicable Option by Certified Mail, Return Receipt Requested, no more than fifteen (15) and no less than twelve (12) months prior to then applicable date of the expiration of the Term or the Second Extended Term.

23.2. **Fixed Monthly Rent Payable.** The Fixed Monthly Rent payable by Tenant during the applicable Additional Extended Term ("Option Rent") shall be equal to the Fair Market Value of the Premises as of the commencement date of the applicable Additional Extended Term. The term "Fair Market Value" shall mean the annual amount per rentable square foot that Landlord has accepted in current transactions between non-affiliated parties from new, non-expansion, non renewal and non equity tenants of comparable credit-worthiness, for comparable space, for a comparable use for a comparable period of time ("Comparable Transactions") in the Building, or if there are not a sufficient number of Comparable Transactions in the Building, what a comparable landlord of a comparable building in the downtown Santa Monica area of the Building with comparable vacancy factors would accept and grant in Comparable Transactions. In any determination of Comparable Transactions appropriate consideration shall be given to the annual rental rates per rentable square foot, the standard of measurement by which the rentable square footage is measured, the ratio of rentable square feet to usable square feet, the type of escalation clause (e.g., whether increases in additional rent are determined on a net or gross basis, and if gross, whether such increases are determined according to a base year or a base dollar amount expense stop), brokerage commissions, if any, which would be payable by Landlord in similar transactions, length of the lease term, size and location of premises being leased, building standard work letter and/or tenant improvement allowances, if any, all other economic concessions and other generally applicable conditions of tenancy for such Comparable Transactions. The intent is that Tenant will obtain the same rent and other economic benefits that Landlord would otherwise give in Comparable Transactions and that Landlord will make, and receive the same economic payments and concessions that Landlord would otherwise make, and receive in Comparable Transactions.

Landlord and Tenant shall have thirty (30) days (the "Negotiation Period") after Landlord receives the Option Notice in which to agree on the Fair Market Value. If Landlord and Tenant agree on the Fair Market Value during the Negotiation Period, they shall immediately execute an amendment to the Lease extending the Term and stating the Fair Market Value.

23.3. **Brokers to Set Fixed Rent.** If Landlord and Tenant are unable to agree on the Fair Market Value during the Negotiation Period, then:

23.3.1. Landlord and Tenant, each at its own cost, shall select an independent real estate broker with at least ten (10) years full-time commercial brokerage experience in the area in which the Premises are located, and shall provide written notice to the other party of the identity and address of the broker so appointed. Landlord and Tenant shall make such selection within ten (10) days after the expiration of the Negotiation Period.

23.3.2. Within thirty (30) days of having been appointed to do so (the "Review Period"), the two (2) brokers so appointed shall meet and set the Fair Market Value for the applicable Additional Extended Term. In setting the Fair Market Value, the broker shall solely consider the use of the Premises for general office purposes.

23.4. **Failure by Brokers to Set Fair Market Value.** If the two (2) appointed brokers are unable to agree on the Fair Market Value within ten (10) days after expiration of the Review Period, they shall elect a third broker of like or better qualifications, and who has not previously personally acted (or contracted with actions by the broker's employer) in any capacity for either Landlord or Tenant. Landlord and Tenant shall each bear one half of the costs of the third broker's fee.


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Within thirty (30) days after the selection of the third broker (the "Second Review Period") the Fair Market Value for the applicable Additional Extended Term shall be set by a majority of the brokers now appointed.

If a majority of the brokers are unable to set the Fair Market Value within the Second Review Period, the Fair Market Value determined by the independent broker shall be the Fair Market Value during the applicable Additional Extended Term, and Landlord and Tenant shall immediately execute an amendment to the Lease, extending the Term and revising the Fixed Monthly Rent payable pursuant to the Fair Market Value so established.

23.5. No Right of Reinstatement or Further Extension. Once Tenant has failed to exercise its rights to extend the term pursuant to this Section 23, it shall have no right of reinstatement of its Option(s), nor shall Tenant have any right to any further extension of the Extended Term beyond the period stated in Section 23.1 hereinabove.

23.6. Options Personal to Right Holders. Each Option is personal to the Right Holders, which are defined as:

- (i) The Macerich Partnership, L.P., a Delaware limited partnership (the "Original Tenant"), which is the entity signing this Lease;
- (ii) an "Affiliate" of Tenant (as defined in Section 11.2.1); or

an assignee approved by Landlord pursuant to the terms of Article 11 above and which assignee (x) is comparable or better as to reputation and stature of Tenant, and (y) is a person or an entity with a financial standing that is comparable to Original Tenant's financial standing on December 31, 2005 (an "Equivalent or Better Assignee"). The Original Tenant, Tenant's Affiliates, and an Equivalent or Better Assignee shall collectively constitute the "Right Holders". Each Option shall be null, void and of no further force or effect as of the date that Tenant assigns the Lease to a party or to an entity other than a Right Holder and/or subleases any portion of the Premises constituting more than one-half of a given single floor to a party or to an entity other than a Right Holder.

ARTICLE 24 RIGHT OF FIRST OFFER

24.1. Right of First Offer.

- a) Subject to any pre-existing rights of first offer and/or refusal which Landlord or Landlord's predecessors may have granted other tenants in the Building at the time this Lease is executed; and
- b) Upon Landlord's receipt of written notification ("Tenant's Expansion Notice") from Tenant that Tenant desires additional space in the Building on any floor(s) in the Building; and
- c) Provided Tenant is not then in Default under the Lease; and
- d) As to continuous right below, at least thirty-six (36) months remain before expiration of the Term of the Lease, or Tenant is willing to enter into an extension of the Term for the entire Premises then leased by Tenant as of the date of Tenant's Expansion Notice for a minimum of thirty-six (36) additional months;

then, Landlord grants Tenant a continuous right of first offer (individually and collectively, "RFO") to lease any space on any of the floor(s) of the Building (the "Expansion Premises") that is vacated and thereafter becomes available for rent following Tenant's Expansion Notice during the Term of this Lease, as follows:

If any space within the Expansion Premises becomes available for lease at any time on or after January 1, 2011 during the Term, Landlord shall give written notice thereof (the "Offer Notice") to Tenant, specifying the terms and conditions upon which Landlord is willing to lease that portion of the Expansion Premises then available (a "Post-2010 Expansion"). If any space within the Expansion Premises becomes available for lease at any time prior to December 31, 2010 during the Term, the terms of the Offer Notice shall be subject to Section 24.2.1 below.

24.2. Offer Notice Terms.

24.2.1. If the effective date of Tenant's lease of the Expansion Premises is to be prior to December 31, 2010 (a "Pre-2011 Expansion"), then Landlord's Offer Notice for such Expansion Premises shall be on the same terms and conditions as the Premises, except for the amount of the tenant improvement contribution allocable to such Expansion Premises, which shall be based on an adjustment to the original contribution of \$15.00 per usable square foot (the "Base Contribution"), and further allocation on a pro-rated basis. The Base Contribution shall be adjusted on a pro-rated basis upwards based on a three percent (3%) annual increase by factoring in the number of months after April 1, 2008 that the commencement date for the given Expansion Premises occurs (minus the number of days of any beneficial occupancy days granted to Tenant by Landlord per Section 24.6 below) and then; (ii) the Base Contribution shall also be reduced on a prorated basis to reflect the portion of the initial ten (10) year renewal term that has elapsed - to the extent applicable.

Hypothetical: If Tenant's exercise of the RFO results in an expansion commencement date of January 1, 2010 (after deduction of any beneficial occupancy days granted to Tenant by Landlord), then the amount of the Pre-2011 Expansion Contribution for the given Expansion Premises would be adjusted to be equal to \$13.04 plus contained in the given Expansion Premises.

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- 1. Increase the Base Contribution by 3% per annum on a prorated basis. Factor in number of months after April 1, 2008 that the commencement date for the given expansion space occurs [in this case 21 months (so 99 months remain on the Term)].

As of 4/1/2009: \$15.00 times 3% (for the entire 1st 12 month period) = \$15.45.

As of 4/1/2010: \$15.45 times 3% (for the entire 2nd 12 month period) = \$15.91.

As of 1/1/2010: \$15.45 times 2.25% (—the 3% is reduced by 0.25 times 3 due to 1/1/2010 being 3 months prior to 4/1/2010). Therefore, as of 1/1/2010, the Increased Base Contribution would be approximately equal to \$15.80.

- 2. Then take the adjusted Base Contribution of \$15.80 and pro-rate it based on the amount of time remaining in the Term.

Hence from 1/1/2010 through 3/30/2018 is equal to 99 months, which when divided by 120, is equal to 0.83. Multiply \$15.80 by 0.83, which equals approximately \$13.04.

Section 24.2.2. If the effective date of Tenant's lease of the Expansion Premises constitutes a Post-2010 Expansion, then Landlord's Offer Notice for such Expansion Premises shall be at the Fair Market Value for such space. If the parties do not agree as to the Fair Market Value, the Fair Market value shall be defined and determined pursuant to Sections 23.2 and 23.3 with the necessary minor adjustments to reflect that the space is RFO Expansion Premises.

24.3. Tenant's Acceptance. Tenant shall have ten (10) business days after receipt of each Offer Notice from Landlord to advise Landlord of Tenant's election (the "Acceptance") to lease the Expansion Premises on the same terms and conditions as Landlord has specified in its Offer Notice or, when appropriate, to have such Rent or the Fair Market Value determined as provided above. If the Acceptance is so given, then within twenty (20) days thereafter, Landlord and Tenant shall sign an amendment to this Lease, adding the Expansion Premises to the Premises and incorporating all of the terms and conditions originally contained in Landlord's Offer Notice, as applicable for a Pre-2011 Expansion, or a Post-2010 Expansion.

24.4. Failure to Accept Extinguishes Rights. If Tenant does not tender the Acceptance of Landlord's Offer Notice, then Landlord may, for a period of six (6) months, lease such portion of the Expansion Premises identified in the Offer Notice to any third party it chooses without liability to Tenant, and Tenant's option to expand into that portion of the Expansion Premises not accepted by Tenant shall be null and void for such six (6) month period. If no lease as to Expansion Space identified in the Offer Notice is consummated within such six (6) month period, then such space shall once again become part of the Expansion Premises.

24.5. RFO Personal to Right Holders. This RFO is personal to the Right Holders (as defined in Section 23.6), and shall be null, void and of no further force or effect as of the date that Tenant assigns the Lease to an unaffiliated entity and/or subleases any portion of the Premises constituting more than one-half of a given single floor to a party or to an entity other than a Right Holder.

24.6. Rent Commencement Date For Each Expansion Premises. Each time Tenant leases a portion of the Expansion Premises pursuant to this Article 24, then the Fixed Monthly Rent and Operating Expenses for such Expansion Premises shall commence on the earlier of the date:

- (a) that Tenant commences its business operations in the Expansion Premises including but not limited to Tenant moving of furniture and equipment into the Expansion Premises, together with the occupancy of the Expansion Premises by any personnel, staff or agent of Tenant (other than Tenant's Contractor and subcontractors) or
- (b) ninety (90) days after such portion of the Expansion Premises are delivered to Tenant.

**ARTICLE 25
TELECOMMUNICATIONS EQUIPMENT**

25. Telecommunications Equipment.

25.1. Landlord hereby grants Tenant the nonexclusive right, at Tenant's sole cost and expense, but without a charge for Fixed Monthly Rent or Operating Expenses, and subject to the provisions of this Lease, to install up to three (3) satellite dishes (no larger than 24" in diameter) (each a "Satellite Dish"), on the roof of the Building in a location reasonably designated by Landlord and reasonably approved by Tenant. In addition, Tenant shall have the right, subject to the available capacity of the Building, to install such connection equipment, such as conduits, cables, risers, feeders and materials (collectively, the "Connecting Equipment") in the conduits, chases, utility closets and other facilities of the Building as is reasonably necessary to connect the Connecting Equipment and/or Satellite Dish to Tenant's other machinery and equipment in the Premises, subject however, to the provisions of 25.2 below. Tenant shall also have the right of access, consistent with 25.4, below, to the areas where any such Connecting Equipment is located for the purposes of maintaining, repairing, testing and replacing the same.

25.2. The installation of the Satellite Dish and related Connecting Equipment (hereinafter referred to together and/or separately as the "Transmission and/or Reception Equipment") shall be performed in

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a good and workmanlike manner, and the Transmission and/or Reception Equipment shall be treated for all purposes of this Lease as if the same were Tenant's property. For the purposes of determining Tenant's obligations with respect to its use of the roof of the Building herein provided, the portion of the roof of the Building affected by the Transmission and/or Reception Equipment shall be deemed to be a portion of the Premises, and all of the provisions of this Lease with respect to the Premises shall apply to the installation, use and maintenance of the Transmission and/or Reception Equipment, including without limitation, provisions relating to compliance with requirements as to insurance, indemnity, repairs and maintenance, and compliance with laws. Landlord shall have no obligation with regard to the affected portion of the roof or the Transmission and/or Reception Equipment.

25.3. It is expressly understood that Landlord retains the right to grant third parties the right to utilize any portion of the roof not utilized by Tenant and to use the portion of the roof on which the Transmission and/or Reception Equipment is located for any purpose whatsoever, provided in each event that Tenant shall have reasonable access to, and Landlord shall not unduly interfere with the use of, the Transmission and/or Reception Equipment.

25.4. Tenant shall install, use, maintain and repair the Transmission and/or Reception Equipment so as not to damage the mechanical, electrical, plumbing, HVAC or communications systems of the Building (collectively the "Systems and Equipment") or any other communications or similar equipment located on the roof of the Building; and Tenant hereby agrees to indemnify, defend and hold Landlord and Landlord's agent (Douglas, Emmet and Company) harmless from and against any and all claims, costs, damages, expenses and liabilities (including reasonable attorney's fees) arising out of Tenant's failure to comply with the provisions of this 25.4.

25.5. Landlord shall not have any obligations with respect to the Transmission and/or Reception Equipment or compliance with any requirements relating thereto nor shall Landlord be responsible for any damage that may be caused to the Transmission and/or Reception Equipment unless and to the extent caused by the negligent or intentional acts of Landlord, its agents, employees, or contractors. Landlord makes no representation that the Transmission and/or Reception Equipment will be able to receive or transmit communication signals without interference or disturbance and Tenant agrees that Landlord shall not be liable to Tenant therefor.

25.6. Tenant, at Tenant's sole cost and expense, shall maintain such equipment and install such fencing and other protective equipment on or about the Transmission and/or Reception Equipment as Landlord may reasonably determine to be appropriate. Further Tenant at Tenant's sole expense shall be responsible for abnormal wear and tear to the roof area affected by the Antenna installation or utilization. Tenant's failure to pay such amounts, upon the expiration of any applicable notice and cure period set forth in this Lease with regard to the non-payment of Rent, shall entitle Landlord to exercise any and all remedies available to Landlord pursuant to this Lease. Additionally, upon the expiration of any applicable notice and cure period, but with one (1) additional business days' notice, Landlord shall have the right to remove the Antenna Equipment, at Tenant's expense. Tenant shall be entitled to have non-exclusive access to the roof for its use and operation of the Transmission and/or Reception Equipment at no charge for the duration of the Lease Term; provided however any additional rooftop equipment beyond the one (1) single satellite dish herein shall be subject to Landlord's then applicable monthly fee.

25.7. Tenant shall (i) be solely responsible for any damage caused as a result of the Transmission and/or Reception Equipment, (ii) promptly pay any tax, license or permit fees charged pursuant to any requirements in connection with the installation, maintenance or use of the Transmission and/or Reception Equipment and comply with all precautions and safeguards recommended by any governmental authority, and (iii) make necessary repairs, replacements or maintenance of the Transmission and/or Reception Equipment.

25.8. If any of the conditions set forth in this Article 25 are not complied with by Tenant, then without limiting Landlord's rights and remedies it may otherwise have under the Lease, Tenant shall, upon written notice from Landlord, have the obligation either to (i) reposition the Transmission and/or Reception Equipment to a location designated by Landlord (if Landlord elects to permit such repositioning), and make the repairs and restorations required under 25.9 below, or (ii) otherwise correct such noncompliance within ten (10) days after receipt of notice (or such longer period as may be reasonably required as long as Tenant commences such correction within such 10-day period and diligently prosecutes same to completion). If Tenant fails to correct such noncompliance within such ten (10) day period (as may be extended as set forth above), then Tenant shall immediately discontinue its use of the Transmission and/or Reception Equipment and remove the same, in all events at Tenant's sole expense.

25.9. Upon the expiration or earlier termination of the Lease, Tenant shall, subject to the control and direction of Landlord, remove the Satellite Dish, repair any damage caused thereby, and restore the roof and other facilities of the Building to their condition existing prior to the installation of the Transmission and/or Reception Equipment.

25.10. Tenant's rights pursuant to this Article 25 shall be personal to the Right Holders (as defined in Section 23.6 above) and shall be null, void and of no further force or effect as of the date that Tenant assigns the Lease to an entity or person other than a Right Holder and/or subleases any portion of the Premises constituting more than one-half of a given single floor more than any portion of the Premises constituting more than one-half of a given single floor in the Building to an entity or person other than a Right Holder.

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**ARTICLE 26
PROPRIETARY EMERGENCY GENERATOR**

26. Proprietary Emergency Generator.

26.1. Landlord hereby grants Tenant the nonexclusive right, at Tenant's sole cost and expense, and subject to the provisions of this Article 26, to maintain the proprietary emergency generator (the "Generator") installed by Tenant on or about April 18, 2001, on the roof of the Building. In addition, Tenant shall have the right, subject to the available capacity of the Building, to install the "Connecting Equipment" (as defined in Article 25 above) in the conduits, chases, utility closets and other facilities of the Building as is reasonably necessary to connect the Generator to Tenant's other machinery and equipment in the Premises, subject however, to the provisions of 26.2 below, and subject to the availability of vertical riser and feeder excess capacity, as reasonably determined by Landlord. Tenant shall also have the right of access, consistent with 26.4, below, to the areas where any such Connecting Equipment is located for the purposes of maintaining, repairing, testing and replacing the same.

26.2. The Generator and related Connecting Equipment (hereby referred to together and/or separately as the "Generator Equipment") shall be treated for all purposes of this Lease as if the same were Tenant's property. For the purposes of determining Tenant's obligations with respect to its use of the roof of the Building herein provided, the portion of the roof of the Building affected by the Generator Equipment shall be deemed to be a portion of the Premises except that Tenant shall not be obligated to pay Landlord Fixed Monthly Rent for such use of the Building roof; consequently, all of the provisions of the Lease with respect to the Premises shall apply to the use and maintenance of the Generator Equipment, including without limitation, provisions relating to compliance with requirements as to insurance, indemnity, repairs, maintenance, structural enhancement, and compliance with laws. Landlord shall have no obligation with regard to the affected portion of the roof or the Generator Equipment except as provided in this Article 26.

26.3. It is expressly understood that Landlord retains the right to grant third parties the right to utilize any portion of the roof not utilized by Tenant and to use the portion of the roof on which the Generator Equipment is located for any purpose whatsoever, provided in each event that Tenant shall have reasonable access to, and Landlord shall not unduly interfere with the use of, the Generator Equipment.

26.4. Tenant shall use, maintain and repair the Generator Equipment so as not to damage or interfere with the operation of the Building, the roof or structure of the Building, or the "Systems and Equipment" (as defined in Section 25.4 above) of the Building or any other communications or similar equipment located on the roof of the Building, and Tenant hereby agrees to indemnify, defend and hold Landlord and Landlord's agent (Douglas, Emmett and Company) harmless from and against any and all claims, costs, damages, expenses and liabilities (including attorney's fees) arising out of Tenant's failure to comply with the provisions of this 26.4, except for damage to property which is covered by Landlord's insurance as part of Operating Expenses and to which the waiver of subrogation is applicable. Tenant shall enter into a quarterly maintenance contract with respect to the Generator with a contractor approved by Landlord, and shall conduct monthly tests of the Generator, with the results thereof furnished to Landlord in writing.

26.5. Landlord shall not have any obligations with respect to the Generator Equipment or compliance with any requirements relating thereto nor shall Landlord be responsible for any damage that may be caused to the Generator Equipment unless and to the extent caused by the negligent or intentional acts of Landlord, its agents, employees, or contractors.

26.6. Tenant shall (i) be solely responsible for any damage caused as a result of the Generator Equipment, (ii) promptly pay any tax, license or permit fees charged pursuant to any requirements in connection with the maintenance or use of the Generator Equipment and comply with all precautions and safeguards recommended by any governmental authority (including, but not limited to, the S.C.A.Q.M.D.), and (iii) make necessary repairs, replacements or maintenance of the Generator Equipment (including, without limitation, the purchase of diesel fuel and its related storage and fueling).

26.7. If any of the conditions set forth in this Article 26 are not complied with by Tenant, then without limiting Landlord's rights and remedies it may otherwise have under the Lease, Tenant shall, upon written notice from Landlord, have the obligation to correct such noncompliance within ten (10) days after receipt of notice (or such longer period as may be reasonably required as long as Tenant commences such correction within such 10-day period and diligently prosecutes same to completion). If Tenant fails to correct such noncompliance within such ten (10) day period (as may be extended as set forth above), then Tenant shall immediately discontinue its use of the Generator Equipment and remove the same, in all events at Tenant's sole expense.

26.8. Upon the expiration or earlier termination of the Lease, Tenant shall, subject to the control and direction of Landlord, remove the Generator Equipment, repair any damage caused thereby, and restore the roof, Building electrical system and other facilities of the Building to their condition existing prior to the installation of the Generator Equipment. If Landlord desires the Generator Equipment to remain, Tenant agrees to consider the sale of the Generator Equipment to Landlord on mutually agreed upon terms.

26.9. Tenant's rights pursuant to this Article 26 shall be personal to the Right Holders (as defined in Section 23.6 above) and shall be null, void and of no further force or effect as of the date that Tenant assigns the Lease to an entity or person other than a Right Holder and/or subleases any portion of the

   
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Premises constituting more than one-half of a given single floor to an entity or person other than a Right Holder.

26.10. Effective on the Commencement Date (as defined in Section 2.1) and for the duration of the initial Term, Tenant shall have no obligation to pay to Landlord, any Fixed Monthly Rent, or Operating Expenses for Tenant's use of the portion of the roof of the Building affected by the Generator Equipment.

ARTICLE 27

NOTICE OF INTENT TO SELL THE REAL PROPERTY.

Section 27.1 Intent to Sell. Subject to the limitations set forth in Section 27.2 below, if at any time during the term of this Lease, Landlord should intend to sell one hundred percent (100%) of Landlord's interest in the Real Property in a single-asset sale transaction, Landlord shall endeavor, on a one-time basis, to deliver a notice of such intent ("Sale Notice") to Tenant not later than thirty (30) days prior to Landlord's execution of a binding contract for the sale of the Real Property. Landlord shall not be liable to Tenant if Landlord does not in fact timely deliver the Sale Notice to Tenant, it being the mutual intent of Landlord and Tenant that this Section 27.1 shall not create any contractual obligations of Landlord, either express or implied, of any kind whatsoever, including, without limitation, any obligation of Landlord to negotiate with Tenant in connection with the sale of the Real Property.

Section 27.2 Inapplicability. Section 27.1 shall be inapplicable, without limitation, (a) to any sale of less than one hundred percent (100%) of Landlord's interest in the Real Property of the following, (b) to any sale of Landlord's interest in the Real Property to any entity in which Landlord or any Landlord Affiliate has any direct or indirect ownership interest, (c) to any sale of Landlord's interest in the Real Property as part of one or more integrated sale transactions involving multiple properties, (d) to any transfer of any direct or indirect ownership interest in Landlord; (e) to any transfer of Landlord's interest in the Real Property that is not a sale transaction, (f) to any sale of the Real Property to or by a "Foreclosure Owner" (as hereinafter defined) or any successor of a Foreclosure Owner, (g) during any period where Tenant is in default of any of its obligations under the Lease or following any failure by Tenant to timely deliver an Estoppel Certificate as provided in Section 27.3, (h) following delivery by Landlord of the Sale Notice on one occasion, and/or (i) following any assignment of this Lease by the Tenant named in this Lease, The Macerich Partnership, L.P., ("Macerich") other than an assignment to Tenant Affiliates or during any time that Macerich and Tenant Affiliates physically occupy less than seventy-five percent (75%) of the Premises. A "Foreclosure Owner" shall mean an entity or person which becomes the owner of the Building through a foreclosure by trustee's power of sale, judicially or otherwise, or as a purchaser at a foreclosure sale or by deed in lieu.

Section 27.3 Estoppel. In addition to Tenant's obligations to provide estoppel certificates, and subject to Landlord's remedies for Tenant's failure to provide estoppel certificates, pursuant to Section 15.1 of this Lease, Tenant shall within ten (10) days after receipt of Landlord's written request therefor, execute, acknowledge and deliver to Landlord an Estoppel Certificate, which may be conclusively relied upon by any title insurance company, prospective purchaser, mortgagee or beneficiary under any deed of trust covering the Building or any part thereof, certifying that Tenant has no right to purchase, or to negotiate for the purchase, of the Real Property, or any portion thereof or interest therein, pursuant to this Article 27.

ARTICLE 28

LIMITED FULL FLOOR EXPANSION RIGHT, WITH SUITE 1000 SWAP

28.1. Tenant right to lease the second (2nd), or the third (3rd) or the fourth (4th) floor of the Building. First Federal Bank, an existing tenant in the Building, currently leases the second (2nd), and the third (3rd) and the fourth (4th) floor of the Building from Landlord ("FFB Space"), which lease is due to expire on September 13, 2008.

a) Subject to any pre-existing rights of first offer and/or refusal which Landlord or Landlord's predecessors may have granted to First Federal Bank at the time this Lease is executed; and

b) Upon Landlord's receipt of written notification from Tenant no later than January 1, 2008 (i.e. nine (9) full calendar months prior to September 13, 2008), that Tenant desires to lease one or more of the second (2nd), or the third (3rd) or the fourth (4th) floors of the Building directly from Landlord contingent on Tenant's ability to terminate Tenant's lease of Suite 1000 (the "FFB Notice"); and

c) Provided Tenant is not then in Default under the Lease;

then, Landlord grants Tenant a one-time right to lease one or more of the following three (3) floors, either the second (2nd), or the third (3rd) or the fourth (4th) floor of the Building (a "Former First Fed Floor"), that is vacated and becomes available for rent following Tenant's FFB Notice, per Section 28.2 below.

28.2. Full Floor Offer Notice Terms. Landlord shall within ten (10) business days of receipt of the FFB Notice, give written notice thereof (the "Full Floor Offer Notice") to Tenant, specifying the terms and conditions upon which Landlord is willing to lease a Former First Fed Floor; provided however:

(i) the rent payable by Tenant for such a Former First Fed Floor shall be at the lower of: (1) the Rent then payable under this Lease, with the periodic bumps, for the sixth (6th) floor space with the same \$15.00 per usable square foot allowance (the "Current Terms"), or (2) ninety-five percent (95%) of the Fair Market Value (as defined in Section 23.2, except that only for the purposes of this Section 28.2 such Fair Market Value shall exclude any concessions other than an allowance described in 28.2(ii) below);

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(ii) the amount of Landlord's tenant improvement contribution allocable to such Former First Fed Floor, shall be based on \$20.00 per usable square foot (the "Full Floor Base Contribution"), as reduced on an amortized and prorated basis to reflect the portion of the initial ten (10) year Term for the Initial Premises that has elapsed between April 1, 2008 and the rent start date for Former First Fed Floor (the "Full Floor Start Date"); and

28.3 Optional Suite 1000 Cancellation. If Tenant exercises its right to lease the 2nd, 3rd, and 4th floors of the FFB Space, Tenant may, but is not obligated to, concurrently elect to terminate its lease of Suite 1000 effective no earlier than the Full Floor Start Date and subject to Tenant's payment of the "Suite 1000 Cancellation Fee" to Landlord, which is defined as any lease commission, and tenant improvement reimbursement(s) for Suite 1000, which shall remain unamortized as of the Full Floor Start Date.

28.4 Tenant's Acceptance. Tenant shall have ten (10) business days after receipt of the Full Floor Offer Notice from Landlord to advise Landlord of Tenant's election (the "Full Floor Acceptance") to lease one or more of the FFB Space on the same terms and conditions as Landlord has specified in its Full Floor Offer Notice or on the Current Terms. If the Full Floor Acceptance is so given, then within twenty (20) days thereafter, Landlord and Tenant shall sign an amendment to this Lease, to add the Former First Fed Floor to the Premises, to delete Suite 1000 from the Premises (but subject to Landlord's receipt of the Suite 1000 Cancellation Fee with Tenant's delivery of the signed amendment to Landlord) if Tenant concurrently exercises its right to terminate the Lease as to Suite 1000, and to incorporate all of the terms and conditions originally contained in Landlord's Full Floor Offer Notice, or when appropriate to accept the Current Terms.

28.5 Failure to Accept Extinguishes Rights. If Tenant does not tender the Full Floor Acceptance of Landlord's Full Floor Offer Notice, then Landlord may lease such portion of the Former First Fed Floor identified in the Full Floor Offer Notice to any third party it chooses without liability to Tenant, and Tenant's option to expand pursuant to this Article 28 into a Former First Fed Floor not accepted by Tenant shall be null and void.

28.6 Expiration of right to lease a Former First Fed Floor. Provided that Tenant has not already delivered the FFB Notice specified hereinabove, then, effective January 2, 2008, the provisions of this Article 27 shall be deemed null, void and of no further force or effect.

28.7 Former First Fed Floor Right Personal to Right Holders. This limited right to lease a Former First Fed Floor is personal to the Right Holders (as defined in Section 23.6), and shall be null, void and of no further force or effect as of the date that Tenant assigns the Lease to an unaffiliated entity and/or subleases any portion of the Premises constituting more than one-half of a given single floor to a party or to an entity other than a Right Holder.

ARTICLE 29 CONTINGENCIES TO THE EFFECTIVENESS OF THE LEASE

Section 29.1 JNL Waiver of Renewal Option. Intentionally Omitted.

Section 29.2 Lender Approval. Tenant acknowledges that this Lease is subject to the review and approval of Landlord's Lender (as defined in Section 14.4 above). Accordingly, this Lease is contingent upon Landlord obtaining a written approval from Landlord's Lender and using commercially reasonable efforts to send the same to Tenant within ten (10) business days of the full execution of the Lease.

Section 29.3 Third Amendment to Suite 820 Lease. The effectiveness of this Lease is conditioned upon the simultaneous full execution of the Suite 820 Extension Amendment. Landlord agrees to promptly fully execute this Lease simultaneously with its full execution of the Suite 820 Extension Amendment; it being understood that Landlord shall have first received from Tenant both the tenant-executed originals of this Lease and the Suite 820 Extension Amendment.

ARTICLE 30 TIERED-ROOFTOP AREA(S) LICENSE

Section 30.1. Tiered-Rooftop Area License. If Tenant leases the second (2nd) floor and/or the third (3rd) floor, and/or fourth (4th) floor, Tenant, in its capacity as a licensee, shall be permitted to use the adjoining tiered-rooftop area to the second (2nd) floor, and/or the adjoining tiered-rooftop area to the third (3rd) floor, and/or the adjoining tiered-rooftop area to the fourth (4th) floor (the "Tiered-rooftop Area(s)"), at Tenant's sole cost and expense; subject to (i) the express terms of this Lease (including, without limitation, the provisions of the Exhibit I (License Agreement) attached hereto and made a part hereof), (ii) Landlord's prior consent to any improvements, changes or alterations in the Tiered-rooftop Area(s) including aesthetic approvals, and (iii) Tenant's compliance with any Applicable Laws (including, without limitation, obtaining any necessary governmental approvals therefor). Further Tenant shall be responsible for all costs associated with (i) the governmental approval process, and (ii) any required and Landlord approved alterations or enclosures in connection with the use of the Tiered-rooftop Area(s).

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IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the later of the date(s) written below.

LANDLORD:

DOUGLAS EMMETT 1995, LLC,
a Delaware limited liability company

By: DOUGLAS, EMMETT AND COMPANY,
a California corporation,
its agent

By: Michael J. Moana
Michael J. Moana, Senior Vice President

Dated: 4/5/06

TENANT:

THE MACERICH PARTNERSHIP, L.P.,
a Delaware limited partnership

By: The Macerich Company, its general partner

By: David J. Conly
David J. Conly,
Executive Vice President and
Chief Operating Officer

Dated: 3/31/06 2006

By: Richard A. Bayer
Richard A. Bayer,
Executive Vice President and
Chief Legal Officer

Dated: 4/3/06 2006

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EXHIBIT A-1 -- INITIAL PREMISES PLAN

Suite 101E at 401 Wilshire Boulevard, Santa Monica, California 90401

Rentable Area: approximately 3,732 square feet

Usable Area: approximately 3,393 square feet

(Measured pursuant to the provisions of Section 1.4 of the Lease)

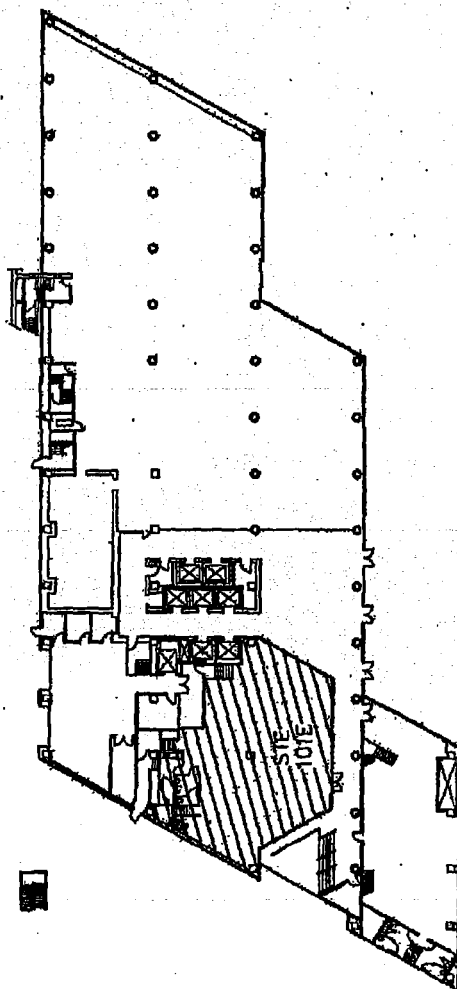


EXHIBIT A-1 - INITIAL PREMISES PLAN

Suite 101E Mezz at 401 Wilshire Boulevard, Santa Monica, California 90401

Rentable Area: approximately 1,722 square feet

Usable Area: approximately 1,722 square feet

(Measured pursuant to the provisions of Section 1.4 of the Lease)

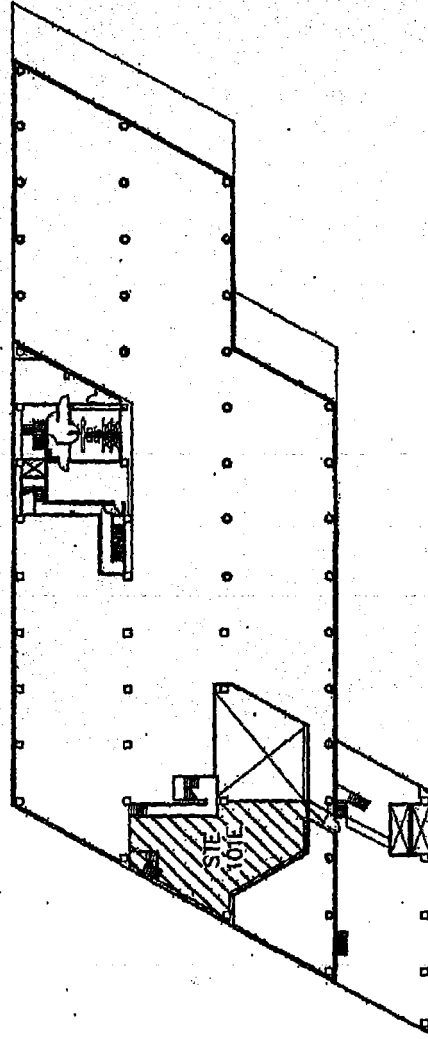


EXHIBIT A-1 – INITIAL PREMISES PLAN (cont'd)

Suite 600 at 401 Wilshire Boulevard, Santa Monica, California 90401
Rentable Area: approximately 16,893 square feet
Usable Area: approximately 15,277 square feet
(Measured pursuant to the provisions of Section 1.4 of the Lease)

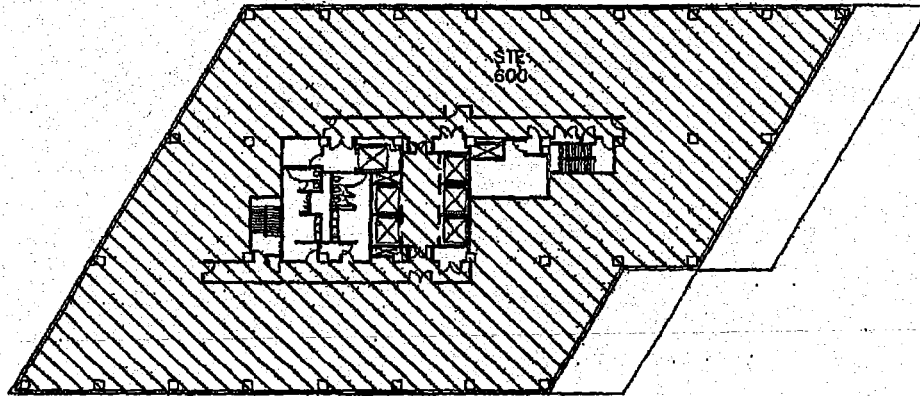


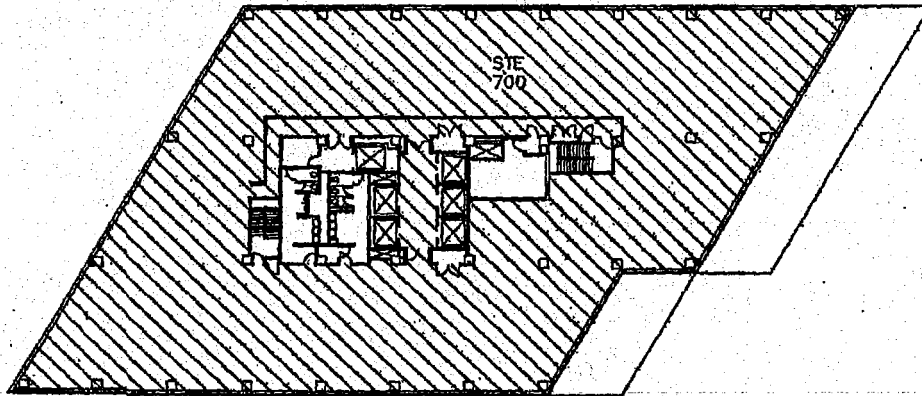
EXHIBIT A-1 - INITIAL PREMISES PLAN (CONT'D)

Suite 700 at 401 Wilshire Boulevard, Santa Monica, California 90401

Rentable Area: approximately 16,893 square feet

Usable Area: approximately 15,277 square feet

(Measured pursuant to the provisions of Section 1.4 of the Lease)



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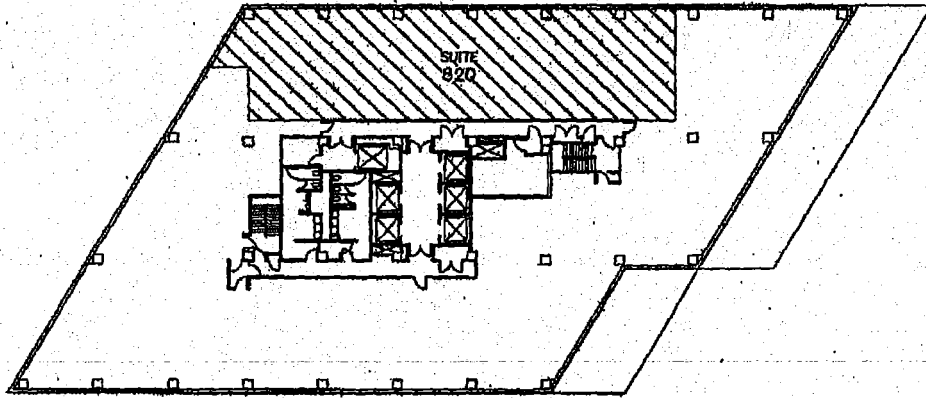
EXHIBIT A-1 - INITIAL PREMISES PLAN (cont'd)

Suite 820 at 401 Wilshire Boulevard, Santa Monica, California 90401

Rentable Area: approximately 4,526 square feet

Usable Area: approximately 3,818 square feet

(Measured pursuant to the provisions of Section 1.4 of the Amended and Restated Office Lease)



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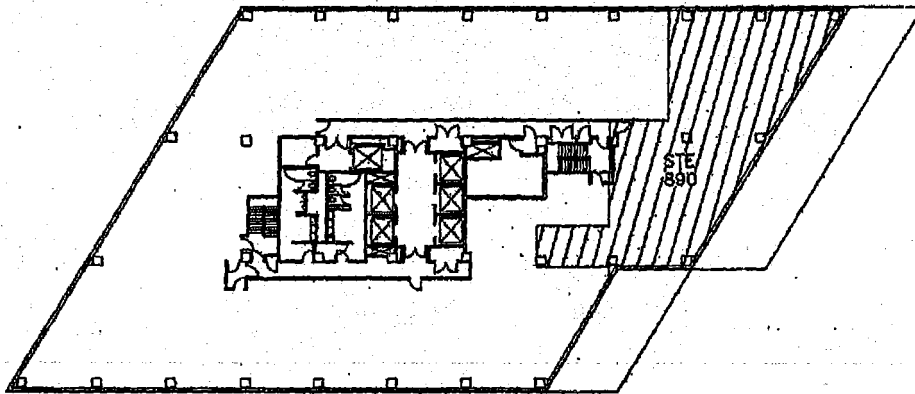
EXHIBIT A-1 - INITIAL PREMISES PLAN (cont'd)

Suite 890 at 401 Wilshire Boulevard, Santa Monica, California 90401

Rentable Area: approximately 3,551 square feet

Usable Area: approximately 2,996 square feet

(Measured pursuant to the provisions of Section 1.4 of the Amended and Restated Office Lease)



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EXHIBIT A-1 - INITIAL PREMISES PLAN (cont'd)

Suite 1000 at 401 Wilshire Boulevard, Santa Monica, California 90401

Rentable Area: approximately 4,136 square feet

Usable Area: approximately 3,471 square feet

(Measured pursuant to the provisions of Section 1.4 of the Amended and Restated Office Lease)

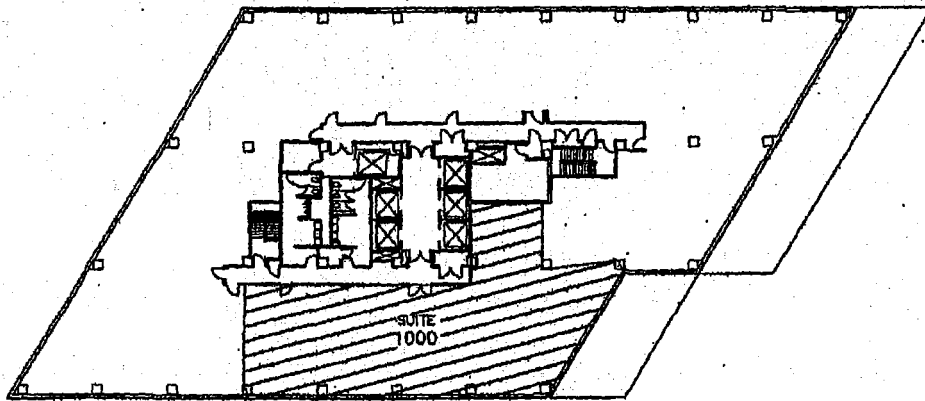


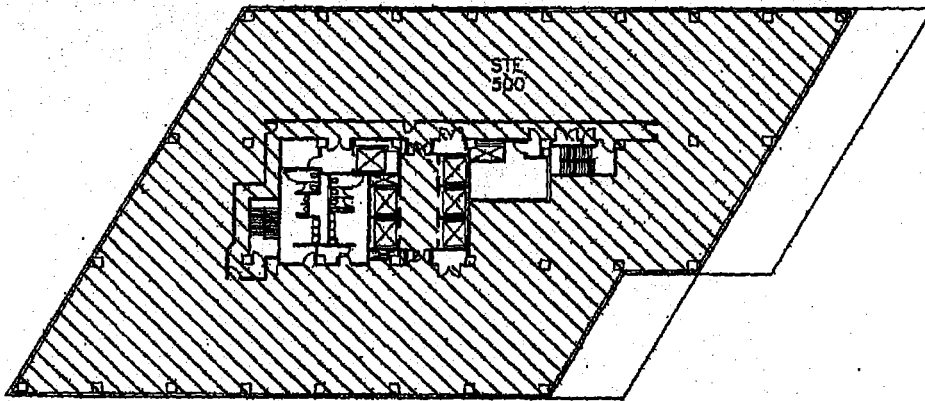
EXHIBIT A -2-SUITE 500 EXPANSION SPACE

Suite 500 at 401 Wilshire Boulevard, Santa Monica, California 90401

Rentable Area: approximately 16,893 square feet

Usable Area: approximately 15,277 square feet

(Measured pursuant to the provisions of Section 1.4 of the Amended and Restated Office Lease)



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EXHIBIT B
CONSTRUCTION AGREEMENT
CONSTRUCTION PERFORMED BY TENANT

Section 1. Tenant to Complete Construction. Tenant's general contractor ("Contractor") shall furnish and install within the Premises and/or Suite 500 (as used herein the "Premises") those items of general construction (the "Improvements"), shown on the final Plans and Specifications approved by Landlord, and in compliance with all applicable codes and regulations.

All Tenant selections of finishes shall be indicated in the Plans and Specifications and shall be equal to or better than the minimum Building standards and specifications.

Any work not shown in the final construction Plans and Specifications or included in the Improvements such as, but not limited to, telephone service, furnishings, or cabinetry, for which Tenant contracts separately shall be subject to Landlord's reasonable to the extent not inconsistent with this Lease.

Section 2. Tenant's Payment of Costs. Subject to Landlord's reimbursement as specified hereinbelow, Tenant shall bear all costs of the Improvements, and shall timely pay said costs directly to the Contractor. From time to time, Tenant shall provide Landlord with such evidence as Landlord may reasonably request that the Contractor has been paid in full for the work completed to-date.

Tenant shall also pay the cost of any renovations or revisions which Landlord is required to make to any common area or portion of the Building but excluding the Designated Areas (as defined in Section 9(e) below), which such renovations, repairs or revisions arise out of or are required in connection with Tenant's completion of the Improvements contemplated herein. Provided, however, to the extent any such renovations, repairs or revisions are required because of:

- (i) the failure of the Building Systems and Building Structure to be structurally sound, water tight and in good operating order and condition; or
- (ii) the failure of the Designated Areas of the Building to be in compliance with all laws applicable to new construction disregarding variances and grandfathered rights; or
- (iii) the existence of ACM in the Premises not placed in the Premises by Tenant,

then Landlord shall pay Tenant directly for such costs, separate and apart from, and in addition to, the Landlord Section 5 Contributions (the "Extra Allowances").

Section 3. Lien Releases. Contractor shall provide Landlord with lien releases as requested by Landlord and confirmation that no liens have been filed against the Premises or the Building. If any liens arise against the Premises or the Building as a result of Tenant's Improvements, Tenant shall immediately, at Tenant's sole expense, remove such liens and provide Landlord evidence that the title to the Building and Premises have been cleared of such liens.

Section 4. Intentionally Omitted.

Section 5. Landlord's Reimbursement for Costs. Landlord's reimbursement to Tenant for the Improvements in Paragraph 1 above, shall be as set forth below.

5.1 Suites 101E, 101E Mezz, 600, 700, 820, 890 and 1000. As of April 1, 2008, and subject to Section 5.3 below, Tenant shall be eligible to be reimbursed by Landlord up to:

- (i) per square feet of Usable Area contained in Suite 101E and 101E Mezz, which amount is approximately the sum of \$38,362.50 (based on \$7.50 times approximately 5,115 usf); and
- (ii) \$15.00 per square feet of Usable Area contained in Suites 600, 700, 820, 890 and 1000, which amount is approximately the sum of \$612,585.00 (based on \$15.00 times approximately 40,839 usf) (items (i) and (ii) collectively referred to as the "Initial Contribution"),

towards the costs of Tenant's design, permitting and completion of Improvements to Suites 101E, 101E Mezz, 600, 700, 820, 890 and 1000.

5.2 Suite 500. As of the Suite 500 Expansion Date, and subject to Section 5.3 below, Tenant shall be eligible to be reimbursed by Landlord up to \$15.00 per square feet of Usable Area contained in Suite 500, which amount is approximately the sum of \$229,155 (based on \$15.00 times approximately 15,277 usf) (the "Suite 500 Contribution") towards the costs of Tenant's completion of Improvements to Suite 500.

EXHIBIT B
IMPROVEMENT CONSTRUCTION AGREEMENT (continued)

5.3 Extra Allowances. To the extent necessary in accordance with Section 2 above Landlord shall pay Tenant such amounts due as Extra Disbursements within thirty (30) days of receipt of a written request by Tenant for such payment.

5.4 Reimbursement Conditions. Landlord shall, upon Tenant's submission to Landlord of (i) copies of checks paying for the completed tenant improvements to Suites 101E, 101E Mezz, 600, 700, 820, 890 and 1000 and/or to Suite 500, and (ii) unconditional lien releases from the contractor and/or sub-contractors providing the services therefor, reimburse Tenant up to an amount equal to the Initial Contribution, and/or the Suite 500 Contribution within thirty (30) days of receipt of a written request for payment from Tenant, and so long as Landlord receives the items described in (i) and (ii) above prior to March 31, 2009 with respect to the Initial Contribution, and (y) prior to March 31, 2010 with respect to the Suite 500.

It is expressly understood and agreed that Tenant may be entitled to claim reimbursement for any or all of its construction related costs for Suites 101E, 101E Mezz, 600, 700, 820, 890 and 1000 and Suite 500, including by way of example, space planning, data cabling, mill work and built-in furniture, but shall not be entitled to claim reimbursement for movable furniture, art, decorative items and computer equipment.

5.5 Failure to Disburse Payments to Tenant. To the extent any payment due to Tenant from Landlord pursuant to this Section 5 is not paid when due, Tenant shall be entitled to deliver written notice to Landlord and to any mortgage or trust deed holder of the Building whose identity and address have been previously disclosed to Tenant (the "Payment Notice"). If Landlord still fails to fulfill its payment obligations within sixty (60) days after Landlord's receipt of the Payment Notice from Tenant, and if Landlord fails to deliver written notice to Tenant within a thirty (30) day period explaining Landlord's reasons that Landlord believes that the amounts described in Tenant's Payment Notice are not due and payable by Landlord (a "Refusal Notice"), Tenant may fund such portion of the payment due pursuant to this Section 5 and to offset from the Rent next due and owing under this Lease, the amount so funded together with interest at six percent (6%) (the "Interest Rate") from the date of funding until the date of offset. If Landlord delivers a Refusal Notice, and if Landlord and Tenant are not able to agree on the amounts to be so paid by Landlord, if any within thirty (30) days after Tenant's receipt of a Refusal Notice, then Tenant shall not then be entitled to such deduction from Rent, but as Tenant's sole remedy, Tenant may proceed to institute legal proceedings against Landlord to collect the amount set forth in the Payment Notice. If Tenant receives a non-appealable final judgment against Landlord in connection with such legal proceedings, Tenant may deduct the amount of the judgment, not to exceed the amount of the unpaid portion of the relevant invoice, from the Rent next due and owing under this Lease.

Section 6. Pre-Construction Requirements. Prior to Tenant or Contractor commencing any work:

- a) Contractor, and its subcontractors and suppliers, shall be approved in writing by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. As a condition of such approval, to the extent the Improvements may affect the fire, life safety systems, plumbing and electrical systems within the Building, Contractor shall use subcontractors for such work from the Landlord's pre-approved list of subcontractors, as follows: Pyro-Comm (life safety systems), Muir Chase (plumbing) and Cornell Electric (electrical);
- b) Tenant or Tenant's Contractor shall submit all Plans and Specifications to Landlord, and no work on the Premises shall be commenced before Tenant has received Landlord's final written approval thereof, which shall not be unreasonably withheld unless a Design Problem (per Lease Section 12.12) exists, delayed or conditioned and shall be given or withheld if a Design Problem exists, within ten (10) business days of receipt as to each initial request for consent and within five (5) business days for each subsequent request for consents as to re-submittals;
- c) Contractor shall concurrently submit to Landlord and Tenant a written bid for completion of the Improvements. Said bid shall include Contractor's overhead, profit, and fees, but Tenant shall not be obligated to pay any administration or similar fee of three point five percent (3.5%) or any amount of the Initial Contribution and of the Suite 500 Contribution as applicable, which Contractor shall pay directly to Landlord's managing agent to defray said agent's costs for supervision of the construction;
- d) Contractor shall complete all architectural and planning review and obtain all permits, including signage, required by the city, state or county in which the Premises are located; and
- e) Contractor shall submit to Landlord verification of public liability and workmen's compensation insurance adequate to fully protect Landlord and Tenant from and against any and all liability for death or injury to persons or damage to property caused in, on or about the Premises or the Building from any cause whatsoever arising out completion of the Improvements or any other work done by Contractor.

EXHIBIT B
IMPROVEMENT CONSTRUCTION AGREEMENT (continued)

f) Landlord and Tenant agree that if the Improvements are actually constructed by Tenant's Contractor at a cost which is less than the Initial Contribution and/or the Suite 500 Contribution as applicable, there shall be no monetary adjustment between Landlord and Tenant and the entire cost savings shall accrue to the benefit of Landlord.

Section 7. Landlord's Administration of Construction. Tenant's Contractor and its subcontractors and suppliers shall be subject to Landlord's reasonable administrative control and supervision. Landlord shall provide the Contractor and its subcontractors reasonable access to the Premises so as to timely complete the Improvements; reasonable use of the freight elevators for the movement of Contractor's and its subcontractor's materials and laborers; and use of parking spaces in the parking facilities serving the Building at no cost so long as the same are available therefor without disturbing the quiet enjoyment or reasonable access of any other occupant of the Building.

Section 8. Fixed Date for Commencement. Tenant acknowledges and agrees that whether or not Tenant has completed construction of the Improvements, the Commencement Date for Suites 101E, 101E Mezz, 600, 700, 820, 890 and 1000, shall be as specified in Section 2.1 of the Lease, and the Suite 500 Expansion Date shall be as set forth in Article 1, Section 1.1.1 of the Lease.

Section 9. Compliance with Construction Policies and General Provisions. During construction of the Improvements, Tenant's Contractor shall adhere to the Construction Policies specified hereinbelow, which represent Landlord's minimum requirements for completion of the Improvements.

- (a) **No Miscellaneous Charges.** Neither Tenant nor the Contractor shall be charged for, and Landlord shall provide, parking for Tenant's architects, designers, contractors and subcontractors (including those people working on the Tenant Improvements), electricity, water, toilet facilities, HVAC, security, elevators during the design and construction of the improvements work.
- (c) **Unions.** Tenant, subject to Landlord's prior approval may utilize union or non-union contractors and/or subcontractors.
- (d) **Bonding.** Notwithstanding anything to the contrary set forth in the Lease, Tenant shall not be required to obtain or provide any completion or performance bond in connection with any construction, alteration, or improvement work performed by or on behalf of Tenant.
- (e) **Presence of Asbestos.** In the event that during construction within the Premises the Premises are determined to contain ACM (as defined on Exhibit F), Tenant shall have the right, by notice to Landlord, to require Landlord to remove, encapsulate, contain, or otherwise dispose of such ACM at Landlord's sole cost and expense, within ninety (90) days following receipt of such notice. If Landlord does not remove, encapsulate, contain, or otherwise dispose of such ACM within such time period, Tenant shall have the right to remove, encapsulate, contain, or otherwise dispose of such Hazardous Materials, and the cost incurred by Tenant in connection therewith shall be reimbursed by Landlord to Tenant within ten (10) days after receipt by Landlord from Tenant of an invoice documenting and evidencing such costs (the "Asbestos Abatement Costs") shall be reimbursed by Landlord to Tenant within ten (10) days after receipt by Landlord from Tenant of an invoice documenting and evidencing such Asbestos Abatement Costs. The amount of such reimbursements shall be separate and apart from, and in addition to, the Section 5 Allowances and shall not be deducted from the Section 5 Allowances.
- (f) **Designated Areas-Life-Fire Safety Codes/Disabled Access Codes/Earthquake Safety Codes.** In the event that, because the exterior ramps of the Building and the main lobby of the Building (the "Designated Areas") do not comply with current Applicable Laws which pertain to new construction disregarding variances and grandfathered rights, including but not limited to life-fire safety codes, disabled access codes (including, without limitation, the ADA), and/or earthquake safety codes, Tenant incurs increased design or construction costs that it would not have incurred had the Designated Areas already been in compliance with the then Applicable Laws which are applicable to new construction disregarding variances and grandfathered rights, then such costs shall be reimbursed by Landlord to Tenant within ten (10) days after receipt by Landlord from Tenant of an invoice documenting and evidencing such increased costs. The amount of such reimbursement shall be separate and apart from, and in addition to, the Section 5 Allowances and shall not be deducted from the Section 5 Allowances.
- (g) **Staging Area.** During the period prior to the respective Commencement Dates for each portions of the Premises, Tenant shall have the right, without the obligation to pay Rent for

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**EXHIBIT B
IMPROVEMENT CONSTRUCTION AGREEMENT (continued)**

up to four (4) months only and thereafter at Landlord's prevailing rate for such space, to use empty and available space in the Building designated by Landlord for the purposes of storing and staging its furniture and equipment only. With respect to this storage space, Tenant shall be responsible for providing all insurance and for providing any necessary fencing or other protective facilities. Tenant shall hold Landlord harmless and shall indemnify Landlord from and against any and all loss, liability or cost arising out of or in connection with use of such storage space by Tenant. Tenant shall be obligated to remove all of the stored materials and its fencing and other facilities within thirty (30) days after Tenant's receipt of written notice from Landlord stating that such staging area is needed by Landlord for construction of another tenant's premises in which event comparable space, to the extent such space is available, shall be made available to Tenant as a substitute staging area.

CONSTRUCTION POLICY

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

Section 10. Administration.

- a) Contractors to notify Building Office at 401 Wilshire Boulevard, Suite 1045, Santa Monica, California 90401, prior to starting any work. No exceptions. All jobs must be scheduled by the general contractor or sub-contractor when no general contractor is being used.
- b) The general contractor is to provide the Building Manager with a copy of the projected work schedule for the suite, prior to the start of construction.
- c) Contractor will make sure that at least one set of drawings will have the Building Manager's initials approving the plans and a copy delivered to the Building Office.
- d) As-built construction, including mechanical drawings and air balancing reports will be submitted at the end of each project.
- e) The HVAC contractor is to provide the following items to the Building Manager upon being awarded the contract from the general contractor:
 - i) A plan showing the new ducting layout, all supply and return air grille locations and all thermostat locations. The plan sheet should also include the location of any fire dampers.
 - ii) An Air Balance Report reflecting the supply air capacity throughout the suite, which is to be given to the Chief Building Engineer at the finish of the HVAC installation.
- f) All paint bids should reflect a one-time touch-up paint on all suites.
- g) The general contractor must provide for the removal of all trash and debris arising during the course of construction. At no time are the building's trash compactors and/or dumpsters to be used by the general contractor's clean-up crews for the disposal of any trash or debris accumulated during construction. The Building Office assumes no responsibility for bins. Contractor is to monitor and resolve any problems with bin usage without involving the Building Office. Bins are to be emptied on a regular basis and never allowed to overflow. Trash is to be placed in the bin.
- h) Contractors will include in their proposals all costs to include: after hours elevator service, additional security (if required), restoration of carpets, etc. Parking will be validated by Landlord at no charge to Tenant or its contractors.
- i) Any problems with construction per the plan, will be brought to the attention of and documented to the Building Manager. Any changes that need additional work not described in the plans will be approved in writing by the Building Manager. All contractors doing work on this project should first verify the scope of work (as stated on the plans) before submitting bids; not after the job has started.

Section 11. Building Facilities Coordination.

- a) All deliveries of material will be made through the parking lot entrance.
- b) Construction materials and equipment will not be stored in any area without prior approval of the Building Manager other than the Staging Area.
- c) Only the freight elevator is to be used by construction personnel and equipment. Under no circumstances are construction personnel with materials and/or tools to use the "passenger" elevators.

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EXHIBIT B
IMPROVEMENT CONSTRUCTION AGREEMENT (continued)

Section 12. Housekeeping.

- a) Suite entrance doors are to remain closed at all times, except when hauling or delivering construction materials.
- b) All construction done on the property that requires the use of lobbies or common area corridors will have carpet or other floor protection. The following are the only prescribed methods allowed:
 - i) Mylar -- Extra heavy-duty to be taped from the freight elevator to the suite under construction.
 - ii) Masonite -- 1/4 inch Panel, Taped to floor and adjoining areas. All corners, edges and joints to have adequate anchoring to provide safe and "trip-free" transitions. Materials to be extra heavy-duty and installed from freight elevator to the suite under construction.
- c) Restroom wash basins will not be used to fill buckets, make pastes, wash brushes, etc. If facilities are required, arrangements for utility closets will be made with the Building Office.
- d) Food and related lunch debris are not to be left in the suite under construction.
- e) All areas the general contractor or their sub-contractors work in must be kept clean. All suites the general contractor works in will have construction debris removed prior to completion inspection. This includes dusting of all window sills, light diffusers, cleaning of cabinets and sinks. All common areas are to be kept clean of building materials at all times so as to allow tenants access to their suites or the building.

Section 13. Construction Requirements.

- a) All Life and Safety and applicable Building Codes will be strictly enforced (i.e. tempered glass, fire dampers, exit signs, smoke detectors, alarms, etc.). Prior coordination with the Building Manager is required.
- b) Electric panel schedules must be brought up to date identifying all new circuits added.
- c) All electrical outlets and lighting circuits are to be properly identified. Outlets will be labeled on back side of each cover plate.
- d) All electrical and phone closets being used must have panels replaced and doors shut at the end of each day's work. Any electrical closet that is opened with the panel exposed must have a work person present.
- e) All electricians, telephone personnel, etc. will, upon completion of their respective projects, pick up and discard their trash leaving the telephone and electrical rooms clean. If this is not complied with, a clean-up will be conducted by the building janitors and the general contractor will be back-charged for this service.
- f) Welding or burning with an open flame will not be done without prior approval of the Building Manager. Fire extinguishers must be on hand at all times.
- g) All "anchoring" of walls or supports to the concrete are not to be done during normal working hours (7:30 AM - 6:00 PM, Monday through Friday). This work must be scheduled before or after these hours during the week or on the weekend.
- h) All core drilling is not to be done during normal working hours (7:30 AM - 6:00 PM, Monday through Friday). This work must be scheduled before or after these hours during the week or on the weekend.
- i) All HVAC work must be inspected by the Building Engineer. The following procedures will be followed by the general contractor:
 - i) A preliminary inspection of the HVAC work in progress will be scheduled through the Building Office prior to the reinstallation of the ceiling grid.
 - ii) A second inspection of the HVAC operation will also be scheduled through the Building Office and will take place with the attendance of the HVAC contractor's Air Balance Engineer. This inspection will take place when the suite in question is ready to be air-balanced.
 - iii) The Building Engineer will inspect the construction on a periodic basis as well.
- j) All existing thermostats, ceiling tiles, lighting fixtures and air conditioning grilles shall be saved and turned over to the Building Engineer.

Good housekeeping rules and regulations will be strictly enforced. The building office and engineering department will do everything possible to make your job easier. However, contractors who do not observe the construction policy will not be allowed to perform within this building. The cost of repairing any damages that are caused by Tenant or Tenant's contractor

ORIGINAL

EXHIBIT B
IMPROVEMENT CONSTRUCTION AGREEMENT (continued)

during the course of construction shall be deducted from Tenant's Initial Contribution and/or the Suite 500 Contribution as applicable or Tenant's Security Deposit, as appropriate.

LANDLORD:

DOUGLAS EMMETT 1995, LLC,
a Delaware limited liability company
By: **DOUGLAS, EMMETT AND COMPANY,**
a California corporation,
its agent

By: *Michael J. Means*
Michael J. Means, Senior Vice President

Dated: 4/5/06

TENANT:

THE MACERICH PARTNERSHIP, L.P.,
a Delaware limited partnership
By: The Macerich Company, its general partner

By: *David J. Contis*
David J. Contis
Executive Vice President and
Chief Operating Officer

Dated: 3/31/06 2006

By: *Richard A. Bayer*
Richard A. Bayer,
Executive Vice President and
Chief Legal Officer

Dated: 4/3/06 2006

**EXHIBIT B-1
CONSTRUCTION BY TENANT DURING TERM**

1. If Tenant wishes to make a Tenant Change, as specified in Section 12.12 of the Lease, such Tenant Change shall be completed pursuant to the provisions of Section 12.12 of the Lease and this Exhibit B-1. Tenant shall bear all costs of said Tenant Change, which shall be paid directly to Tenant's general contractor ("Contractor").
2. Contractor shall complete construction to the Premises pursuant to the final Plans and Specifications approved in writing by Landlord and Tenant (the "Tenant Change"), in compliance with all applicable codes and regulations. Tenant's selections of finishes and materials shall be indicated on the Plans and Specifications, and shall be equal to or better than the minimum Building standards and specifications. All work not shown on the final Plans and Specifications, but which is to be included in the Tenant Change, including but not limited to, telephone service installation, furnishings or cabinetry, shall be installed pursuant to Landlord's reasonable directives.
3. Prior to commencing any work:
 - a) Tenant's proposed Contractor and the Contractor's proposed subcontractors and suppliers shall be approved in writing by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. As a condition of such approval, so long as the same are reasonably cost competitive, then Contractor shall use Landlord's Heating, Venting, and Air-conditioning, plumbing, and electrical subcontractors for such work.
 - b) During completion of any Tenant Change, neither Tenant or Contractor shall permit any subcontractors, workmen, laborers, material or equipment to come into or upon the Building if the use thereof, in Landlord's reasonable judgment, would violate Landlord's agreement with any union providing work, labor or services in or about the Building.
 - c) Contractor shall submit to Landlord and Tenant a written bid for completion of the Tenant Change. Said bid shall include Contractor's overhead, profit, and fees, and, if the proposed Tenant Change is for cosmetic work in excess of \$5,000 in aggregate value per occurrence or for structural work of any kind, Contractor shall:
 - i. pre-pay to Landlord's managing agent \$250.00 as partial payment of said managing agent's construction administration fee, as specified hereinbelow, and
 - ii. upon completion of said Tenant Change, pay an administration fee for supervision of said Tenant Change equal to fifty dollars (\$50.00) per hour, to a maximum of three and one-half percent (3.5%) of the total cost of the Tenant Change, to defray said agent's costs for supervision of the construction;
4. Tenant or Contractor shall submit all Plans and Specifications to Landlord, and no work on the Premises shall be commenced before Tenant has received Landlord's final written approval thereof, which shall not be unreasonably withheld, delayed or conditioned.
5. Contractor shall complete all architectural and planning review and obtain all permits, including signage, required by the city, state or county in which the Premises are located.
6. Contractor shall submit to Landlord verification of public liability and worker's compensation insurance adequate to fully protect Landlord and Tenant from and against any and all liability for death or injury to persons or damage to property caused in or about or by reason of the construction of any work done by Contractor or Contractor's subcontractors or suppliers.
7. Intentionally Omitted.
8. Contractor and Contractor's subcontractors and suppliers shall be subject to Landlord's reasonable rules and regulations. Landlord shall provide Contractor and Contractor's subcontractors and suppliers with reasonable access to the Premises.
9. During construction of the Tenant Change, Contractor shall adhere to the procedures contained hereinbelow, which represent Landlord's minimum requirements for completion of the Tenant Change.
10. Upon completion of the Tenant Change, Tenant shall provide Landlord with such evidence as Landlord may reasonably request that the Contractor has been paid in full, and Contractor shall provide Landlord with lien releases as requested by Landlord, confirmation that no liens have been filed against the Premises or the Building. If any liens arise against the Premises or the Building as a result of the Tenant Change, Tenant shall immediately, at Tenant's sole expense, remove such liens and provide Landlord evidence that the title to the Building and Premises have been cleared of such liens.
11. Whether or not Tenant or Contractor timely complete the Tenant Change, unless the Lease is otherwise terminated pursuant to the provisions contained therein, Tenant acknowledges and agrees that Tenant's obligations under the Lease to pay Fixed Monthly Rent and/or Additional Rent shall continue unabated.

CONSTRUCTION POLICY

The following policies outlined are the construction procedures for the Building. As a material consideration to Landlord for granting Landlord's permission to Tenant to complete the construction contemplated hereunder, Tenant agrees to be bound by and follow the provisions contained hereinbelow to the extent not contrary to, or inconsistent with, the Lease and the above Exhibit B Construction Agreement:

**EXHIBIT B-1
CONSTRUCTION BY TENANT DURING TERM (continued)**

1. Administration

- a) Contractors to notify the management office for the Building prior to starting any work. All jobs must be scheduled by the general contractor or sub-contractor when no general contractor is being used.
- b) The general contractor is to provide the Building Manager with a copy of the projected work schedule for the suite, prior to the start of construction.
- c) Contractor will make sure that at least one set of drawings will have the Building Manager's initials approving the plans and a copy delivered to the Building Office.
- d) As-built construction, including mechanical drawings and air balancing reports will be submitted at the end of each project.
- e) The HVAC contractor is to provide the following items to the Building Manager upon being awarded the contract from the general contractor:
 - f) A plan showing the new ducting layout, all supply and return air grille locations and all thermostat locations. The plan sheet should also include the location of any fire dampers.
 - ff) An Air Balance Report reflecting the supply air capacity throughout the suite, which is to be given to the Chief Building Engineer at the finish of the HVAC installation.
- f) All paint contracts should reflect a one-time touch-up paint on all suites. This is to be completed approximately five (5) days after move-in date.
- g) The general contractor must provide for the removal of all trash and debris arising during the course of construction. At no time are the building's trash compactors and/or dumpsters to be used by the general contractor's clean-up crews for the disposal of any trash or debris accumulated during construction. The Building Office assumes no responsibility for bins. Contractor is to monitor and resolve any problems with bin usage without involving the Building Office. Bins are to be emptied on a regular basis and never allowed to overflow. Trash is to be placed in the bin.
- h) Contractors will include in their proposals all costs to include: parking, elevator service, additional security (if required), restoration of carpets, etc. Parking will be validated only if contractor is working directly for the Building Office.
- i) Any problems with construction per the plan, will be brought to the attention of and documented to the Building Manager. Any changes that need additional work not described in the bid will be approved in writing by the Building Manager. All contractors doing work on this project should first verify the scope of work (as stated on the plans) before submitting bids; not after the job has started.

2. Building Facilities Coordination

- a) All deliveries of material will be made through the parking lot entrance.
- b) Construction materials and equipment will not be stored in any area without prior approval of the Building Manager.
- c) Only the freight elevator is to be used by construction personnel and equipment. Under no circumstances are construction personnel with materials and/or tools to use the "passenger" elevators.

3. Housekeeping

- a) Suite entrance doors are to remain closed at all times, except when hauling or delivering construction materials.
- b) All construction done on the property that requires the use of lobbies or common area corridors will have carpet or other floor protection. The following are the only prescribed methods allowed:
 - i) Mylar: Extra heavy-duty to be taped from the freight elevator to the suite under construction.
 - ii) Masonite: ¼ inch Panel, Taped to floor and adjoining areas. All corners, edges and joints to have adequate anchoring to provide safe and "trip-free" transitions. Materials to be extra heavy-duty and installed from freight elevator to the suite under construction.
- c) Restroom wash basins will not be used to fill buckets, make pastes, wash brushes, etc. If facilities are required, arrangements for utility closets will be made with the Building Office.
- d) Food and related lunch debris are not to be left in the suite under construction.
- e) All areas the general contractor or their sub-contractors work in must be kept clean. All suites the general contractor works in will have construction debris removed prior to completion inspection. This includes dusting of all window sills, light diffusers, cleaning of cabinets and sinks. All common areas are to be kept clean of building materials at all times so as to allow tenants access to their suites or the building.

4. Construction Requirements

- a) All Life and Safety and applicable Building Codes will be strictly enforced (i.e., tempered glass, fire dampers, exit signs, smoke detectors, alarms, etc.). Prior coordination with the Building Manager is required.
- b) Electric panel schedules must be brought up to date identifying all new circuits added.
- c) All electrical outlets and lighting circuits are to be properly identified. Outlets will be labeled on back side of each cover plate.

ORIGINAL

EXHIBIT B-1
CONSTRUCTION BY TENANT DURING TERM (continued)

- d) All electrical and phone closets being used must have panels replaced and doors shut at the end of each day's work. Any electrical closet that is opened with the panel exposed must have a work person present.
- e) All electricians, telephone personnel, etc. will, upon completion of their respective projects, pick up and discard their trash leaving the telephone and electrical rooms clean. If this is not complied with, a clean-up will be conducted by the building janitors and the general contractor will be back-charged for this service.
- f) Welding or burning with an open flame will not be done without prior approval of the Building Manager. Fire extinguishers must be on hand at all times.
- g) All "anchoring" of walls or supports to the concrete are not to be done during normal working hours (7:30 AM - 6:00 PM, Monday through Friday). This work must be scheduled before or after these hours during the week or on the weekend.
- h) All core drilling is not to be done during normal working hours (7:30 AM - 6:00 PM, Monday through Friday). This work must be scheduled before or after these hours during the week or on the weekend.
- i) All HVAC work must be inspected by the Building Engineer. The following procedures will be followed by the general contractor:
 - 1) A preliminary inspection of the HVAC work in progress will be scheduled through the Building Office prior to the reinstallation of the ceiling grid.
 - 2) A second inspection of the HVAC operation will also be scheduled through the Building Office and will take place with the attendance of the HVAC contractor's Air Balance Engineer. This inspection will take place when the suite in question is ready to be air-balanced.
 - 3) The Building Engineer will inspect the construction on a periodic basis as well.
- j) All existing thermostats, ceiling tiles, lighting fixtures and air conditioning grilles shall be saved and turned over to the Building Engineer.

Good housekeeping rules and regulations will be strictly enforced. The building office and engineering department will do everything possible to make your job easier. However, contractors who do not observe the construction policy will not be allowed to perform within this building. The cost of repairing any damages that are caused by Tenant or Tenant's contractor during the course of construction shall be deducted from Tenant's Allowance or Tenant's Security Deposit, as appropriate.

LANDLORD:

DOUGLAS EMMETT 1995, LLC,
a Delaware limited liability company
By: DOUGLAS, EMMETT AND COMPANY,
a California corporation,
its agent

TENANT:

THE MACERICH PARTNERSHIP, L.P.,
a Delaware limited partnership
By: The Macerich Company, its general partner

By: Michael J. Means
Michael J. Means, Senior Vice President
Dated: 1/5/06

By: David J. Contis
David J. Contis,
Executive Vice President and
Chief Operating Officer
Dated: _____ 2006

By: Richard A. Bayer
Richard A. Bayer,
Executive Vice President and
Chief Legal Officer
Dated: 4/3/06 2006

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EXHIBIT C
RULES AND REGULATIONS
BUILDING RULES AND REGULATIONS

1. Access. Tenant and/or Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders shall only use the sidewalks, entrances, lobby(ies), garage(s), elevators, stairways, and public corridors as a means of ingress and egress, and shall take such actions as may reasonably be necessary to ensure that the same remain unobstructed at all times.

The entrance and exit doors to the Premises are to be kept closed at all times except as required for orderly passage to and from the Premises. Except on balconies available for the joint or exclusive use of Tenant as otherwise specified hereinabove, Tenant shall not permit its agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders to loiter in any part of the Building or obstruct any means of ingress or egress. Tenant shall not cover any doors, and shall not cover any window, other than with vertical or mini-blinds pre-approved in writing by Landlord. Landlord specifically disapproves the installation of any film or foil covering whatsoever on the windows of the Premises.

Neither Tenant, nor its agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders shall go up on the roof or onto any balcony serving the Building, except (i) upon such roof, portion thereof, or balcony as may be contiguous to the Premises and is designated in writing by Landlord as a roof-deck, roof-garden area, or exclusive use balcony area, and (ii) to the extent Tenant is entitled to reasonable access to the Building roof to install, maintain and repair any permitted signage to which Tenant obtains pursuant to Lease, Article 20, Section 20.22.1, and any Transmission and/or Reception Equipment (as defined in Lease, Article 25).

2. Restroom Facilities. The toilet rooms, toilets, urinals, wash bowls and other apparatus (the "Restroom Facilities"), whether contained in the common areas of the Building and/or the interior of the Premises, shall not be used for any purpose other than that for which they were designed. Tenant shall not permit its agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders to throw foreign substances of any kind whatsoever or papers not specifically designated for use in the Restroom facilities down any toilet, or to dispose of the same in any way not in keeping with the instructions provided to Tenant by the management of the Building regarding same, and Tenant hereby specifically agrees to reimburse Landlord directly for the expense (to the extent not covered by insurance carried by Landlord as part of Operating Expenses) of any breakage, stoppage or damage resulting from Tenant's violation of this rule.

3. Heavy Equipment. Landlord reserves the right, in Landlord's reasonable discretion, to decline (if a Design Problem (per Lease Section 12.12) exists), limit or designate the location for installation of any safes, other unusually heavy, or unusually large objects to be used or brought into the Premises or the Building. In each case where Tenant requests installation of one or more such unusually heavy item(s), which request shall be conclusively evidenced by Tenant's effort to bring such item(s) into the Building or Premises, Tenant shall reimburse Landlord for the costs of any engineering or structural analysis required by Landlord in connection therewith. In all cases, each such heavy object shall be placed on a metal stand or metal plates or such other mounting detail of such size as shall be prescribed by Landlord.

Tenant hereby indemnifies Landlord against any damage or injury done to persons and to the extent not covered by insurance carried by Landlord as part of Operating Expenses, places, things or the Building or its common areas when such damage or injury primarily arises out of Tenant's installation or use of one or more unusually heavy objects. Tenant further agrees to reimburse Landlord for the costs of repair of any damage done to the Building or property therein by putting in, taking out, or maintaining such safes or other unusually heavy objects.

4. Transportation of Freight. Except as otherwise agreed to by Landlord in writing, Tenant or Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders shall only carry freight, furniture or bulky materials in or out of the Building before or after Normal Business Hours, (as that term is defined in Section 3.1 of the Lease). Tenant may only install and/or move such freight, furniture or bulky material after previous written notice of its intention to complete such a move, given to the Office of the Building. The persons and/or company employed by Tenant for such work must be professional movers, reasonably acceptable to Landlord, and said movers must provide Landlord with a certificate of insurance evidencing the existence of worker's compensation and all risk liability coverage in a minimum amount of \$2,000,000.

Tenant may, subject to the provisions of the immediately preceding paragraph, move freight, furniture, bulky matter and other material in or out of the Premises on Saturdays between the hours of 8:00 A.M. and 6:00 P.M., provided that Tenant pays for Landlord's reasonably anticipated additional costs, if any, for elevator operators, security guards and other expenses arising by reason of such move by Tenant.

5. Flammable Materials. Except for such limited quantities of office materials and supplies as are customarily utilized in Tenant's normal business operations, Tenant shall not use or keep in the Premises or the Building any kerosene, gasoline, flammable or combustible fluid or material, other than those limited quantities of normal business operating materials as may reasonably be necessary for the operation or maintenance of office equipment. Nor shall Tenant keep or bring into the Premises or the Building any other toxic or hazardous material specifically disallowed pursuant to California state law.

6. Cooking / Odors / Nuisances. Tenant shall not permit its agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders to engage in the preparation and/or

**EXHIBIT C
RULES AND REGULATIONS (continued)**

... serving of foods unless the Premises includes a self-contained kitchen area. Nor shall Tenant permit the odors arising from such cooking, or any other improper noises, vibrations, or odors to be emanate from the Premises. Tenant shall not obtain for use in the Premises, ice, drinking water, food, beverage, towel or other similar services except at such reasonable hours and under such reasonable regulations as may be specified by Landlord.

Tenant hereby agrees to instruct all persons entering the Premises to comply with the requirements of the Building, by advising all persons entering the Premises that smoking of any tobacco or other substance is prohibited at all times, except in such common areas located outside the Building as may be designated by the Building management.

Tenant shall not permit Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders to interfere in any way with other tenants of the Building or with those having business with them.

Tenant shall not permit its agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders to bring or keep within the Building any animal, bird or bicycle, except such seeing-eye dog or other disability assistance type animal as may comply with the requirements of any handicapped ordinances having jurisdiction therefor.

Tenant shall store its trash and garbage within the Premises. No material shall be placed in the trash boxes or receptacles if such material is a hazardous waste or toxic substance or is of such a nature that its disposal in Landlord's ordinary and customary manner of removing and disposing of trash and garbage would be a violation of any law, ordinance or company regulation governing such disposal. All garbage and refuse disposal shall be made only through entry ways and elevators provided for such purposes and at such times as Landlord shall designate. As and when directed by Landlord and/or if required by any governmental agency having jurisdiction therefor, Tenant shall comply with all directives for recycling and separation of trash.

Tenant shall not employ any person to do janitorial work in any part of the Premises without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion.

Landlord reserves the right to exclude or expel from the Building any person who in Landlord's sole discretion is intoxicated or under the influence of liquor or drugs or who, in any manner, engages in any act in violation of the Rules and Regulations of the Building.

Tenant shall not conduct any public or private auction, fire sale or other sale of Tenant's personal property, furniture, fixtures or equipment or any other property located in or upon the Premises, without Landlord's prior written consent, which consent shall be in Landlord's sole discretion.

7. Storage. Tenant may only store goods, wares, or merchandise on or in the Premises in areas specifically designated by Landlord for such storage.

8. Directives to Management. Tenant's requirements, other than those Landlord specifically agrees to perform elsewhere in this Lease, shall only be attended to upon the Building management's receipt of Tenant's written request therefor. Landlord's employees shall not perform any work or do anything outside of their regular duties unless under special instruction from the Building management. No security guard, janitor or engineer or other employee of the Building management shall admit any person (Tenant or otherwise) to the Premises without specific instructions from the Office of the Building and written authorization for such admittance from Tenant.

9. Keys and Locks. Landlord shall furnish Tenant with two keys to each door lock existing in the Premises. Tenant shall reimburse Landlord a reasonable charge for these and any additional keys. Tenant shall not be permitted to have keys made, nor shall Tenant alter any lock or install a new or additional lock or bolts on any door of the Premises without Landlord's prior written consent. Tenant shall, in each case, furnish Landlord with a key for any additional lock installed or changed by Tenant or Tenant's agent(s). Tenant, upon the expiration or earlier termination of this Lease, shall deliver to Landlord all keys in the possession of Tenant or Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders for doors in the Building, whether or not furnished to Tenant by Landlord. If Tenant, or Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders, lose or misplace any key(s) to the Building, Landlord shall, in Landlord's sole discretion, either replace said key(s) or re-key such locks as may be affected thereby, and Tenant shall reimburse Landlord for all such costs of such re-keying and/or replacement.

10. Solicitation. Tenant and/or its agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders shall not permit any canvassing, peddling, soliciting and/or distribution of handbills or any other written materials to occur in the Premises and/or the Building, nor shall Tenant or Tenant's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders engage in such solicitation or distribution activities.

11. Retail Sales, Services and Manufacturing Prohibited. Except with the prior written consent of Landlord, Tenant shall not sell, or permit the retail sale of, newspapers, magazines, periodicals, theater tickets or any other goods or merchandise to the general public in or on the Premises, nor shall Tenant carry on or permit or allow any employee or other person to carry on the independent business of stenography, typewriting or any similar business in or from the Premises for the service or accommodation of other occupants of any other portion of the Building. Tenant shall not permit the Premises to be used for manufacturing or for any illegal activity of any kind, or for any business or activity other than for Tenant's specific use.

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**EXHIBIT C
RULES AND REGULATIONS (continued)**

- 12. **Change in Name or Address.** Landlord shall have the right, exercisable without notice and without liability to Tenant, to change the name and street address of the Building.
- 13. **Projections from Premises.** Tenant shall not install any radio or television antenna, loudspeaker or other device on the roof or the exterior walls of the Building or in any area projecting outside the interior walls of the Premises. Tenant shall not install or permit to be installed any awnings, air conditioning units (except as permitted by the Lease) or other projections, without the prior written consent of Landlord.
- 14. **Superiority of Lease.** These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the covenants, agreements or provisions of this Lease. If a conflict or disagreement between the Lease and these Rules becomes apparent, this Lease shall prevail.
- 15. **Changes to Rules and Regulations.** Provided such changes do not materially harm Tenant's ability to conduct its normal business operations, Landlord shall retain the right to change, add or rescind any rule or regulation contained herein, or to make such other and further reasonable and non-discriminatory Rules and Regulations as in Landlord's reasonable judgment may, from time to time, become necessary for the management, safety, care and cleanliness of the Premises, the Building or the Parking Facilities, or for the preservation of good order therein, or for the convenience of other occupants and tenants therein, so long as such rescission, addition, deletion or change is thereafter reasonably applied to all occupants of the Building affected thereby.

PARKING RULES AND REGULATIONS

- A. Tenant shall strictly comply with all posted speed limits, directional signs, yield signs, stops signs and all other signs within or about the parking facilities.
- B. Tenant shall register all vehicle license plate numbers with the Building management.
- C. Tenant shall be responsible to the extent not covered by insurance carried by Landlord as part of Operating Expenses for the cost of repairing any damage to the parking facilities or cleaning any debris created or left by Tenant, including, without limitation, oil leakage from motor vehicles parked in the parking facilities under its auspices.
- D. Landlord, in addition to reserving the right to designate one or more areas solely for visitor parking, which areas may be changed by Landlord from time to time with or without prior notice to Tenant, reserves the right to allocate additional visitor spaces on any floor of the parking facilities. Tenant shall not park any vehicles in any spaces designated as visitor only spaces or customer spaces within the parking facilities.
- E. Tenant shall strictly comply with all rules, regulations, ordinances, speed limits, and statutes affecting handicapped parking and/or access, and shall not park any vehicles within the fire lanes, along parking curbs or in striped areas.
- F. Tenant shall only use the number of parking permits allocated to it and shall not permit more than one of its employees to utilize the same parking permit. Landlord reserves the right to assign or re-assign parking spaces (but shall not change the assigned reserved spaces unless mutually agreed upon by Landlord and Tenant) within the Parking facilities to Tenant from time to time, and provided Landlord is required to do so by reason of any action arising out of a governmental mandate imposed on Landlord, Landlord further reserves the right at any time to substitute an equivalent number of parking spaces in a parking facilities or subterranean or surface parking facility within a reasonable distance of the Premises.
- G. Except with Landlord's managing agent(s)' prior written consent, Tenant shall not leave vehicles in the parking facilities overnight, nor park any vehicles in the parking facilities other than automobiles, motorcycles, motor-driven or non-motor-driven bicycles or four-wheeled trucks or vans. Landlord may, in its sole discretion, designate separate areas for bicycles and motorcycles. Tenant shall ensure that vehicles parking in the parking facilities by using the parking permits assigned to Tenant shall be parked entirely within the striped lines designating a single space and are not so situated or of such a width or length as to impede access to or egress from vehicles parked in adjacent areas or doors or loading docks. Further, all vehicles utilizing Tenant's parking permits shall not be higher than any height limitation that may be posted, or of such a size, weight or dimension so that entry of such vehicle into the parking facilities would cause any damage or injury thereto.
- H. Tenant shall not allow any of the vehicles parked using Tenant's permits, or the vehicles of any of Tenant's suppliers, shippers, customers or invitees to be loaded or unloaded in any area other than those specifically designated by Landlord for loading.
- I. Tenant shall not use or occupy the parking facilities in any manner which will unreasonably interfere with the use of the parking facilities by other tenants or occupants of the Building. Without limitation, Tenant agrees to promptly turn off any vehicle alarm system activated and sounding an alarm in the parking facilities.
- J. Tenant acknowledges that the Rules and Regulations as posted herein shall be in effect twenty-four hours per day, seven days per week, without exception.
- K. Tenant acknowledges that the uniformed guard officers and parking attendants serving the parking facilities are authorized to issue verbal and written warnings of Tenant's violations of any of the rules and regulations contained herein. Except in the case of a car alarm continuing to sound in excess of a maximum of fifteen minutes, in which case no further notice by Landlord shall be

**EXHIBIT C
RULES AND REGULATIONS (continued)**

ORIGINAL

required. If Tenant or Tenant's agents, contractors, directors, employees, officers, partners or shareholders continue to materially breach these rules and regulations after expiration of written notice and the opportunity to cure has been given to Tenant, then in addition to such other remedies and request for injunctive relief it may have, Landlord shall have the right, without additional notice, to remove or tow away the vehicle involved and store the same, all costs of which shall be borne exclusively by Tenant and/or revoke Tenant's parking privileges and rights under the Lease.

LANDLORD:

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a Delaware limited liability company
By: **DOUGLAS, EMMETT AND COMPANY,**
a California corporation,
its agent

TENANT:

THE MACERICH PARTNERSHIP, L.P.,
a Delaware limited partnership
By: The Macerich Company, its general partner

By: Michael J. Means, Senior Vice President
Dated: 4/15/06

By: David J. Contis, Executive Vice President and Chief Operating Officer
Dated: _____ 2006

By: Richard A. Bayer, Executive Vice President and Chief Legal Officer
Dated: 4/13/06 RA B 2006

EXHIBIT D
INTENTIONALLY OMITTED

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EXHIBIT E
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**EXHIBIT F
ASBESTOS RIDER**

As you are probably aware, many buildings constructed during the 20th Century through the mid to late 1970s, such as this property, utilized some degree of asbestos in the construction process; such practice was formerly a standard in the building trade. Asbestos is the commercial name for a naturally-occurring family of fibrous minerals which was used in building materials mainly as a fireproofing, reinforcing and insulating agent, and is typically encountered in wrapped heating system insulation, structural fire-proofing, acoustical ceilings, vinyl flooring and roofing felts. Asbestos was regularly used in many other building and non-building products as well. In fact, asbestos fibers are generally present in urban air and water.

Extensive governmental regulation of asbestos now exists, and proposals have been made for additional regulations. No federal laws, regulations or standards, however, require wholesale removal of asbestos from an occupied building. Indeed, the EPA has concluded that "The presence of asbestos in a building does not mean that the health of building occupants is endangered. If asbestos-containing material remains in good condition and is unlikely to be disturbed, exposure will be negligible." *Guidance for Controlling Asbestos-Containing Materials in Buildings* (EPA 560/5-85-024 June 1985), page 1-1. According to the experts, the health risks associated with asbestos arise only when and if fibers become airborne and are inhaled, for example, as a result of maintenance or repairs conducted without proper controls. When inhaled, asbestos fibers can cause certain diseases, including asbestosis, mesothelioma and lung cancer (and risks for smokers are dramatically compounded). The thrust of both current EPA and OSHA requirements and non-binding guidance is to identify the materials that are releasing or could release asbestos fibers into the air, implement proper response actions when such materials are located, maintain asbestos in good condition, and follow appropriate work practices when disturbance of asbestos is unavoidable.

It is the policy of the property owner to provide a healthy environment by repairing, removing or otherwise abating any damaged asbestos materials that pose a health risk, and by complying with all regulations concerning asbestos at the property and following procedures that will minimize or avoid disturbance of asbestos-containing materials (ACM). We have engaged a qualified asbestos consultant to survey the property for asbestos and assist in implementing an asbestos management plan which includes, among other things, periodic reinspection and surveillance, air monitoring, information and training programs for building engineering and maintenance staff, cleaning procedures, emergency fiber release and training programs for building engineering and maintenance staff, cleaning procedures, emergency fiber release procedures, work procedures and other measures to minimize potential fiber releases, as well as recordkeeping requirements.

Because any tenant alterations or other work at the property could disturb ACM and possibly release asbestos fibers into the air, we must require the property manager's written approval prior to beginning such projects. This includes major alterations, but might also include such activities as drilling or boring holes, installing electrical, telecommunications or computer lines, sanding floors, removing ceiling tiles, or other work which might disturb ACM. In many cases, such activities will not affect ACM, but you must check with the property manager in advance, just in case, and the property manager may make available such instructions as may be required. Any such work should not be attempted by an individual or contractor who is not qualified to handle ACM.

In connection with the foregoing, we are adopting the following new rules under tenant leases: (1) the owner, and representatives of the owner, including, without limitation, the owner's ACM consultant, are entitled to enter into the premises of any tenant to inspect for ACM, perform air tests and abatement which may be legally required or prudent, and otherwise to comply with legal requirements or recommended practices relating to ACM; (2) any tenant, contractor, or other party must obtain the property manager's prior written approval before performing any alterations on any tenant space, or performing any other work at the property that might disturb ACM or involve exposure to asbestos fibers as described above.

We trust that the implementation of the aforesaid requirements will not unduly inconvenience you. If you have any questions or concerns about asbestos, please contact the property manager. Thank you for your cooperation in this mutual endeavor.

LANDLORD:

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a Delaware limited liability company
By: DOUGLAS, EMMETT AND COMPANY,
a California corporation,
its agent

TENANT:

THE MACERICH PARTNERSHIP, L.P.,
a Delaware limited partnership
By: The Macerich Company, its general partner

By: Michael J. Means
Michael J. Means, Senior Vice President

Dated: 4/5/06

By: David J. Contig
David J. Contig
Executive Vice President and
Chief Operating Officer

Dated: 3/31/06 2006




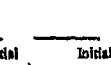
By: Richard A. Bayer
Richard A. Bayer,
Executive Vice President and
Chief Legal Officer

Dated: 4/3/06 2006

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EXHIBIT G SIGNAGE CRITERIA

1. **Introduction.** The intent of this sign criteria is to provide the guidelines necessary to achieve a visually coordinated, balanced and appealing signage environment at the Building. The name set forth on any tenant's signage at the Building shall not have an Offensive or Objectionable Name (as defined in Section 20.22 above).
2. **Signage Allotment.** Subject to Section 20.22 of this Lease, Tenant has a limited Parapet Signage Right (the "Parapet Signage").
3. **Control over Design and Installation.** Landlord and the City of Santa Monica retain sole rights of approval over the design and installation location(s) of any sign used at the Building. In no event shall Landlord approve installation of awnings over window areas in lieu of signage, nor shall the installation of neon lighting or "canned" signage be permitted. No modification of the requirements of this Exhibit G shall be valid, unless executed in advance by Landlord and the City of Santa Monica. Landlord shall, at Tenant's sole cost and expense, reasonably cooperate with Tenant in securing all required governmental approval.
4. **Tenant's Failure to Comply.** Landlord shall rigorously enforce Tenant's compliance with the requirements of this Exhibit G. If Tenant fails to comply with the requirements of this Exhibit G and/or with Landlord's request to remove any non-conforming signage within five (5) business days after Tenant has received written request therefor from Landlord, then Landlord shall have the option, but not the obligation, to remove and store such non-conforming sign or signs at Tenant's sole expense.
5. **Limitations on Signage.**
 - a. Tenant shall not install temporary signage of any type.
 - b. Tenant shall not be permitted to hang any additional advertisement (i.e., flags, pennants, cloth signs, sidewalk boards, banners, placards or similar devices) outside the Premises, nor display the same on the inside of windows facing towards the exterior of the Premises or in such a manner so that the same are visible from the exterior of the Premises.
 - c. Tenant and/or Tenant's signage contractor shall comply with all local, city, and state building, electrical, and signage codes. If submission to and acceptance of Tenant's proposed signs by any design review board or committee for the neighborhood or city in which the Building is located is required, Tenant agrees to comply with all requirements of said committee or board.
 - d. Tenant shall ensure that all penetrations of the structure required for installation of Tenant's sign shall be sealed in a water tight condition and shall be patched to match the adjacent building finish.
 - e. Tenant shall not be permitted to install any signage in such a manner so that raceways, cross-overs, conduits, conductors, transformers, or the like are exposed and/or visible.
6. **Installation Requirements.**
 - a. Tenant shall submit to Landlord four (4) copies of detailed shop drawings of Tenant's proposed sign(s). Said shop drawings shall be prepared in full conformance with the sign criteria contained herein; include details of the proposed installation(s); and shall include renderings of the building elevation(s), showing the proposed final installation.
 - b. Tenant shall pay for all costs associated with manufacture and installation of the proposed sign(s), including, without limitation, all costs of final connection, transformers and labor and materials.
 - c. Tenant shall have the sign(s) proposed to be installed pursuant to this Exhibit G manufactured and installed by licensed contractors reasonably acceptable to Landlord. Tenant's contractor shall obtain all necessary permits, at Tenant's sole cost and expense. Tenant shall be fully responsible for the operations of Tenant's sign contractor, and shall hold Landlord and Landlord's agents, clients, contractors, directors, employees, invitees, licensees, officers, partners or shareholders harmless from any damages arising out of or in connection with Tenant's installation of signage during the entire Extended Term, any extensions thereof.
 - d. Tenant's contractor shall maintain worker's compensation insurance as required by the State of California; all-risk liability insurance in a minimum amount of \$2,000,000, prior to commencing installation of Tenant's signs, shall provide to Landlord certificates of insurance evidencing such coverages, and naming Landlord as additional insured under the liability policy.
 - e. Landlord, at Tenant's expense, shall provide primary electrical service to the proposed location of the Parapet Signage.
7. **Maintenance and Repair.** Tenant shall repair and maintain the Parapet Signage in good order and repair. If, after the expiration of ten (10) days prior written notice to Tenant from Landlord, Tenant

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**EXHIBIT G
SIGNAGE CRITERIA (continued)**

ORIGINAL

- falls to make such reasonable repairs as may be necessary to ensure that Tenant's signage does not detract from the first-class appearance of the Building, Landlord shall have the option, but not the obligation, to, at Tenant's sole expense, to make such repairs as may be reasonably necessary and/or remove the signage which Tenant has failed to maintain, and store the same on behalf of Tenant.
- 8. **Signage Deposit. Intentionally Omitted.**
 - 9. **Removal of Signage.** At the expiration, or earlier termination of the Lease, Tenant shall, at Tenant's sole cost, remove Parapet Signage, repair any damage caused by such removal and restore the Building to the condition that existed prior to the installation of the Parapet Signage.
 - 10. **Rights Personal to Right Holders.** Notwithstanding anything to the contrary contained herein, Tenant's right to install and maintain said signage shall be subject to Tenant's compliance with the provisions of the Lease. Should Tenant be in default under this Lease (after the expiration of any applicable cure period), such signage shall upon the request of Landlord be removed immediately at Tenant's sole cost. The rights granted to Tenant pursuant to this Exhibit G are personal to the Original Tenant, an Affiliate of Tenant and an Equivalent or Better Assignee (as said terms are defined in Lease Section 23.6).

LANDLORD:

DOUGLAS EMMETT 1995, LLC,
a Delaware limited liability company
By: **DOUGLAS, EMMETT AND COMPANY,**
a California corporation,
its agent

By: Michael J. Means
Michael J. Means, Senior Vice President
Dated: 4/5/06

TENANT:

THE MACERICH PARTNERSHIP, L.P.,
a Delaware limited partnership
By: The Macerich Company, its general partner

By: David J. Conroy
David J. Conroy,
Executive Vice President and
Chief Operating Officer
Dated: 3/31/06 2006

By: Richard A. Bayer
Richard A. Bayer,
Executive Vice President and
Chief Legal Officer
Dated: 4/3/06 2006

DM DC _____ _____
Initial Initial Initial Initial

EXHIBIT H
FORM OF SUBORDINATION, NONDISTURBANCE AND ATTORNMEN T AGREEMENT

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

EUROHYPO AG
1114 Avenue of the Americas
29th Floor
New York, New York 10036
Attn: John Lippman

**SUBORDINATION, NON-DISTURBANCE
AND ATTORNMEN T AGREEMENT**
(Lease)

THIS AGREEMENT made March 31, 2006, between EUROHYPO AG, New York Branch, as Administrative Agent on behalf of a syndicate of lenders (collectively, the "Lenders"), having an office at 1114 Avenue of the Americas, New York, New York 10036 (the "Mortgagee"), and THE MACERICH PARTNERSHIP, L.P., a Delaware limited partnership having an office at 401 Wilshire Boulevard, Suite 700, Santa Monica, California 90401 (the "Tenant");

WITNESSETH:

WHEREAS the Mortgagee (on behalf of the Lenders) is the present owner and holder of a certain mortgage, mortgages, deed of trust or deeds of trust (the "Mortgage") encumbering the premises located in the County of Los Angeles, City and State of Santa Monica, CA, known as 401 Wilshire Boulevard (the "Premises") which Premises are more fully described in the attached Exhibit A;

WHEREAS the Tenant is the holder of a leasehold estate in a portion of the Premises under and pursuant to the provisions of a certain Amended and Restated Lease (the "Lease") dated March 31, 2006 by and between Tenant and DOUGLAS EMMETT 1995, LLC, a Delaware limited liability company (the "Landlord"); and

WHEREAS the Tenant has agreed to subordinate the Lease to the Mortgage and to the lien thereof and the Mortgagee has agreed to grant non-disturbance to the Tenant under the Lease on the terms and conditions hereinafter set forth;

NOW THEREFORE, in consideration of good and valuable consideration, the receipt of which is hereby acknowledged, the Mortgagee and the Tenant hereby covenant and agree as follows:

1. Subject to the terms and conditions of this Agreement and Article 14 of the Lease, the Tenant agrees that the Lease and all of the terms, covenants and provisions thereof and all rights, remedies and options of the Tenant thereunder are and shall at all times continue to be subject and subordinate in all respects to the Mortgage and all of the terms, covenants and provisions thereof and to the lien thereof and to any and all increases, renewals, modifications, spreaders, consolidations, replacements and extensions thereof, and to any and all sums secured thereby, with the same force and effect as if the Mortgage had been executed, delivered and recorded prior to the execution and delivery of the Lease.

2. The Mortgagee agrees that if any action or proceeding is commenced by the Mortgagee to foreclose the Mortgage or to sell the Premises, the Tenant shall not be named as a party in any such action nor shall the Tenant be named a party in connection with any sale of the Premises, provided that at the time of the commencement of any such action or proceeding or at the time of any such sale (i) the Lease shall be in full force and effect, and (ii) the Tenant shall not be in Default under Section 17.1 of the Lease or of this Agreement, unless applicable law

[Signature] *[Signature]* *[Signature]* *[Signature]*
Initial Initial Initial Initial

EXHIBIT H (CONTINUED)
FORM OF SUBORDINATION, NONDISTURBANCE AND
ATTORNMEN T AGREEMENT

requires the Tenant to be made a party thereto as a condition to proceeding against the Landlord or protecting such rights and remedies. In the latter case, the Mortgagee may join the Tenant as a defendant in such action only for such purposes and not to terminate the Lease.

3. The Tenant and Landlord and Mortgagee agree that if the Mortgagee or any successors in interest to the Mortgagee shall become the owner of the Premises by reason of the foreclosure of the Mortgage or the acceptance of a deed or assignment in lieu of foreclosure or otherwise, the Lease shall not be terminated or affected thereby but shall continue in full force and effect as a direct lease between the Mortgagee and the Tenant upon all of the terms, covenants and conditions set forth in the Lease and in that event the Tenant agrees to attorn to the Mortgagee and the Mortgagee agrees to accept such attornment; provided, however, that the Mortgagee shall not be (i) liable for any accrued obligation of the Landlord, or for any act or omission of the Landlord, except to the extent same pertain to a failure to repair and or maintain and then only to the extent such failure continues for more than thirty (30) days after Mortgagee obtains possession and control over the Premises, or (ii) subject to any offsets (except for offset rights under Section 12.14 of the Lease or Section 5.5 of Exhibit B to the Lease if and only if Tenant made a prior written claim to Landlord and Mortgagee for any unpaid sums owed to Tenant by Landlord under Section 12.14 of the Lease or Section 5.5 of Exhibit B to the Lease and Mortgagee received said prior written claim from Tenant prior a foreclosure of the Mortgage), claims or counterclaims which shall have accrued to the Tenant against the Landlord prior to the date on which the Mortgagee or its successor in interest shall become the owner of the Premises or (iii) liable for any security deposit or other monies not actually received by the Mortgagee.

4. Without the prior written consent of Mortgagee, Mortgagee shall not be bound by (i) any agreement amending, or modifying the Lease unless excepted to document the exercise of a specific right (other than a lease termination) under the Lease; or (ii) terminating the Lease; or (iii) by any prepayment of the rents, additional rents or other sums due under the Lease for more than one (1) month in advance of the due date thereof.

5. The Tenant and Landlord hereby represents and warrants to the Mortgagee that as of the date hereof (i) the Tenant is the owner and holder of the tenant's interest under the Lease, (ii) the Lease has not been modified or amended, (iii) the Lease is in full force and effect and the term is due to commence April 1, 2008 pursuant to the provisions thereof, (iv) neither the Tenant nor the Landlord is in default under any of the terms, covenants or provisions of the Lease and the Tenant and Landlord to the best of their knowledge know of no event which but for the passage of time or the giving of notice or both would constitute an event of default by the Tenant or the Landlord under the Lease, (v) neither the Tenant nor the Landlord has commenced any action or given or received any notice for the purpose of terminating the Lease, (vi) all rents, additional rents and other sums due and payable under the Lease have been paid in full and no rents, additional rents or other sums payable under the Lease have been paid for more than one (1) month in advance of the due dates thereof, (vii) there are no offsets or defenses to the payment of the rents, additional rents, or other sums payable under the Lease and (viii) Tenant has received no notice of a prior assignment, hypothecation or pledge of the Lease or the rents, income, deposits or profits arising thereunder; other than in connection with the Mortgage.

6. Notwithstanding anything to the contrary in the Lease, Tenant shall not commence any action against Landlord or otherwise pursue any right or remedy against Landlord in consequence of a default by Landlord under the terms and provisions of the Lease unless written notice by Tenant specifying such default is delivered to Mortgagee at its address set forth below. Tenant further agrees that Mortgagee shall have the right, but shall not be obligated, to cure such default on behalf of Landlord within thirty (30) days after receipt of such notice, or if such default cannot reasonably be cured in such 30-day period, Mortgagee shall have the right to commence the cure of such default in such 30-day period and thereafter diligently pursue such cure until completed. Tenant further agrees not to invoke any of its remedies either express or implied, under the Lease (except in the case of emergency repairs) unless such default shall remain uncured at the expiration of the 30-day period after receipt of such notice of default, or if such default cannot reasonably be cured in such 30-day period, unless the cure of such default shall not be commenced within such 30-day period and thereafter prosecuted diligently to completion.

FIRST FED/MACERICH/LO March 31, 2006

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**EXHIBIT H (CONTINUED)
FORM OF SUBORDINATION, NONDISTURBANCE AND
ATTORNEY AGREEMENT**

7. Anything herein or in the Lease to the contrary notwithstanding, in the event that the Mortgagee shall acquire title to the Premises, or shall otherwise become liable for any obligations of the Landlord under the Lease, the Mortgagee shall have no obligation, nor incur any liability, beyond the Mortgagee's then interest, if any, in the Premises and the Tenant shall look exclusively to such interest of the Mortgagee, if any, in the Premises for the payment and discharge of any obligations imposed upon the Mortgagee hereunder or under the Lease and the Mortgagee is hereby released or relieved of any other liability hereunder and under the Lease. The Tenant agrees that with respect to any money judgment which may be obtained or secured by the Tenant against the Mortgagee, the Tenant shall look solely to the estate or interest owned by the Mortgagee in the Premises and the Tenant will not collect or attempt to collect any such judgment out of any other assets of the Mortgagee.

8. Tenant shall neither suffer nor itself manufacture, store, handle, transport, dispose of, spill, leak or dump any toxic or hazardous waste, waste products or substance (as they may be defined in any federal or state statute, rule or regulation pertaining to or governing such wastes, waste products or substances) on the Premises at any time during the term, or extended term, of the Lease, except as are used in the ordinary course of Tenant's business as conducted on the Premises and in full compliance with environmental laws.

9. In connection with the assignment to Mortgagee pursuant to the Mortgage and/or the loan documents referred to therein of Landlord's interest in the Lease, Tenant agrees that after receipt of written notice from Mortgagee that Mortgagee is exercising its right under such assignment to have all rents and other sums due under the Lease paid directly to Mortgagee, Tenant shall pay to Mortgagee all rent and other sums due to Landlord under the Lease. By its signature below, the Landlord under the Lease hereby authorizes and directs Tenant to so pay such rents and other sums due under the Lease directly to Mortgagee and agrees that the Tenant shall be fully protected in doing so.

10. Any notice, request, demand, statement, authorization, approval or consent made hereunder shall be in writing and shall be sent by Federal Express, or other reputable courier service, or by postage pre-paid registered or certified mail, return receipt requested, and shall be deemed given when received or refused (as indicated on the receipt) and addressed as follows:

If to the Mortgagee:

Eurohypo AG, New York Branch,
as Administrative Agent
1114 Avenue of the Americas, 29th Floor
New York, New York 10036
Attention: Legal Director
Facsimile: (212) 479-5803

With a copy to:

Morrison & Foerster LLP
555 West Fifth Street
Los Angeles, California
Attention: Thomas R. Fletti, Esq.
Facsimile: (213) 892-5454

If to the Tenant:

The Macerich Partnership
401 Wilshire Boulevard, Suite 700
Santa Monica, California 90401
Attention: Mr. Mike Slavin

**EXHIBIT H (CONTINUED)
FORM OF SUBORDINATION, NONDISTURBANCE AND
ATTORNEYMENT AGREEMENT**

With a copy to:
DLA Piper Rudnick Gray Cary
550 South Hope Street
Los Angeles, California 90071
Attention: Michael E. Meyer, Esq.

it being understood and agreed that each party will use reasonable efforts to send copies of any notices to the addresses marked "With a copy to" hereinabove set forth; provided, however, that failure to deliver such copy or copies shall have no consequence whatsoever to the effectiveness of any notice made to the Tenant or the Mortgagee. Each party may designate a change of address by notice given, as hereinabove provided, to the other party, at least fifteen (15) days prior to the date such change of address is to become effective.

11. This Agreement shall be binding upon and inure to the benefit of the Mortgagee and the Tenant and their respective successors and assigns.

12. The term "Mortgagee" as used herein shall include the successors and assigns of the Mortgagee and any person, party or entity which shall become the owner of the Premises by reason of a foreclosure of the Mortgage or the acceptance of a deed or assignment in lieu of foreclosure or otherwise. The term "Landlord" as used herein shall mean and include the present landlord under the Lease and such landlord's predecessors and successors in interest under the Lease. The term "Premises" as used herein shall mean the Premises, the improvements now or hereafter located thereon and the estates therein encumbered by the Mortgage.

13. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the parties hereto.

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ME
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J
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**EXHIBIT H (CONTINUED)
FORM OF SUBORDINATION, NONDISTURBANCE AND
ATTORNMEN T AGREEMENT**

14. This Agreement shall be governed by and construed under the laws of the State in which the Premises are located.

IN WITNESS WHEREOF, the Mortgagee and the Tenant have duly executed this Agreement as of the date first above written.

Mortgagee:

**EUROHYPO AG,
New York Branch,
as Administrative Agent**

By: _____
Name: _____
Title: _____

Tenant:

**THE MACERICH PARTNERSHIP, L.P.,
a Delaware limited partnership**

By: **The Macerich Company, its general partner**

By: _____
**David J. Contis,
Executive Vice President and
Chief Operating Officer**

Dated: _____ 2006

By: _____
**Richard A. Bayer,
Executive Vice President and
Chief Legal Officer**

Dated: _____ 2006

Agreed to:

Landlord:
**DOUGLAS EMMETT 1995, LLC,
a Delaware limited liability company**

By: **Douglas Emmett and Company,
a California corporation, its agent**

By: _____
Michael J. Means, Senior Vice President

Date: _____

DESCRIPTION OF THE PREMISES:

LOTS "M", "N", "O", "P", "Q", "R", "S", "T", "U" AND "Z-2" IN BLOCK 95 OF SANTA MONICA, IN THE CITY OF SANTA MONICA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 3 PAGES 80 AND 81 AND IN BOOK 39 PAGES 45, ET SEQ., OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

END OF LEGAL DESCRIPTION

RW
initial

SC
initial

[Signature]
initial

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ACKNOWLEDGMENTS

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

On _____, 2006 before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

On _____, 2006 before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

On _____, 2006 before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

On _____, 2006 before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

**EXHIBIT I
RESERVED PARKING LOCATION**

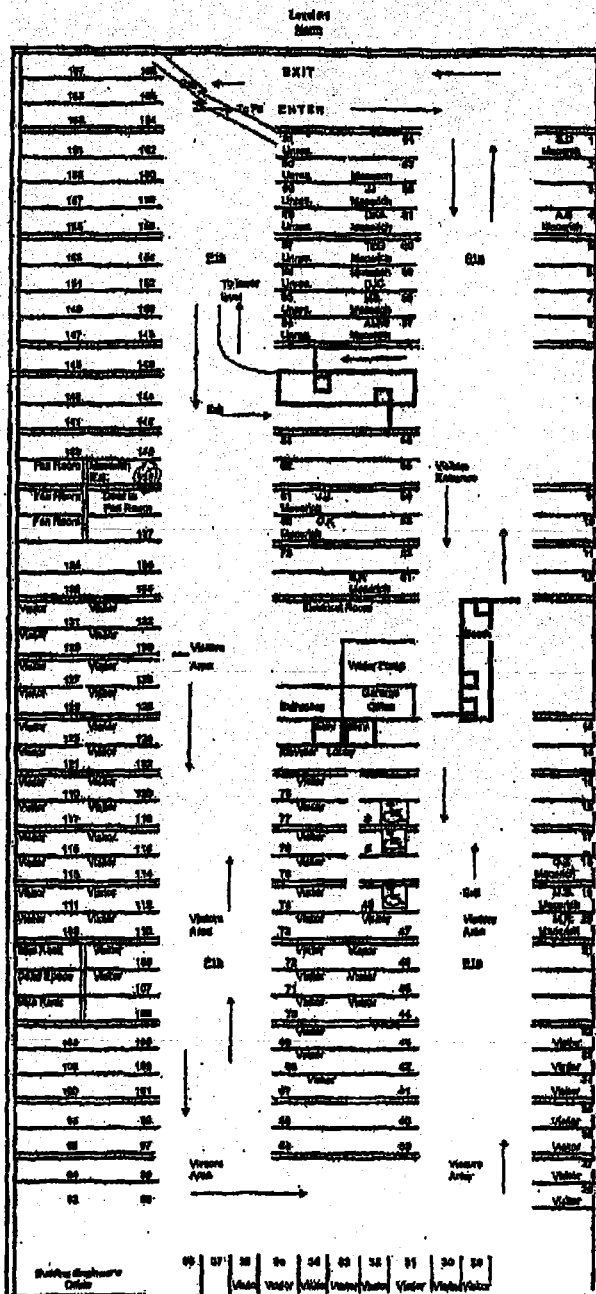
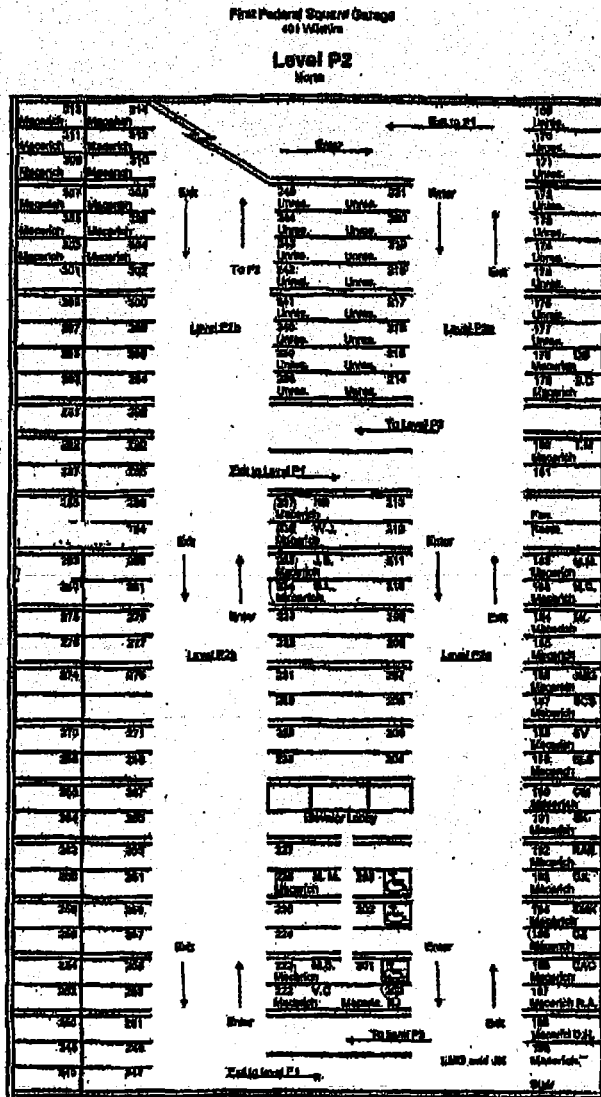


EXHIBIT I (Continued) RESERVED PARKING LOCATION



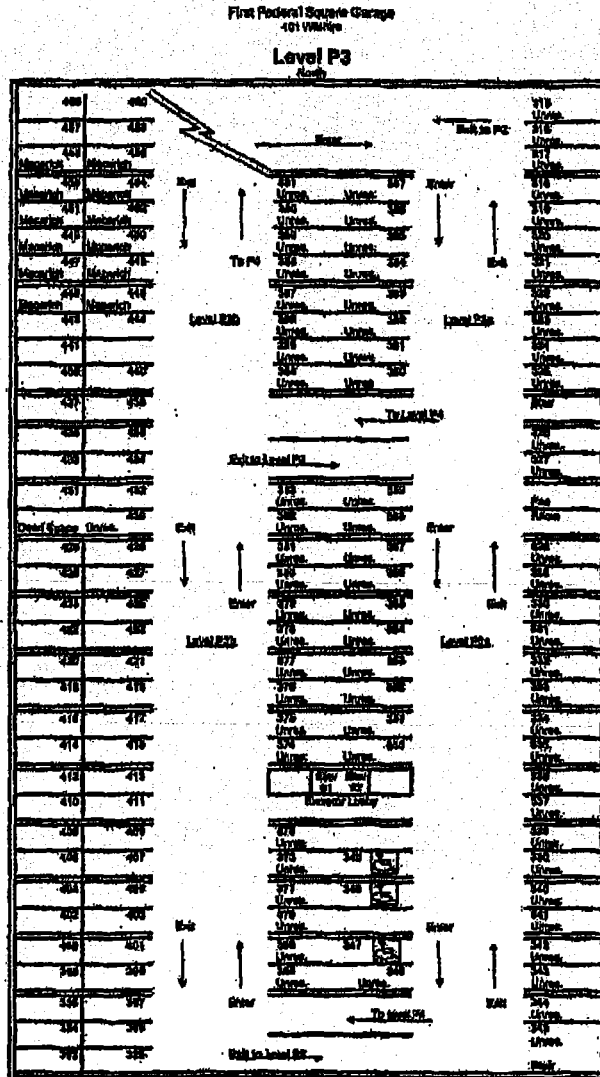
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EXHIBIT I (Continued) RESERVED PARKING LOCATION

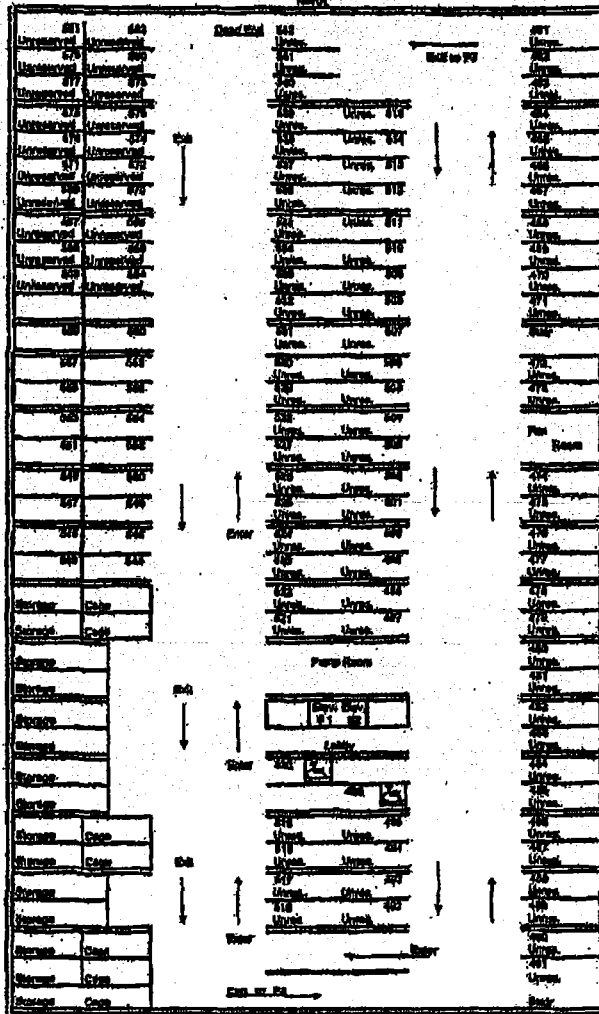


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EXHIBIT I (Continued)
RESERVED PARKING LOCATION

First Federal Square Garage
401 Wilcox

Level P4
North



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**EXHIBIT J (Continued)
LICENSE AGREEMENT**

therein in connection with the use of the Tiered-rooflop Area(s) by Licensee as contemplated in this License Agreement, or related thereto. If the repairs are not commenced within seven days and completed within thirty days following written notice from Owner, then Owner shall have the right to make the needed repairs at the expense of Licensee and shall be reimbursed therefor within thirty days of billing by Owner.

5. The use of the Tiered-rooflop Area by Licensee shall be limited solely to the specific purposes set forth in this License Agreement and no structures of any kind shall be erected or placed thereon.

6. Neither Owner nor its agents, servants, employees, contractors or consultants shall be responsible or liable for any damage whatsoever resulting from any cause whatsoever to any property of Licensee of any of its agents, employees, or contractors located at or about the Tiered-rooflop Area(s).

7. Licensee shall at all times keep the Tiered-rooflop Area(s) in good and sightly condition so far as such may be affected by Licensee's operations hereunder.

8. Licensee shall be responsible and liable for any and all damage to structures or property of Owner for injury to, or death of, persons, due directly or indirectly to Licensee's occupation and use of the Tiered-rooflop Area(s), and shall promptly pay any claim therefor.

9. Licensee shall indemnify and hold Owner harmless against any and all loss, cost, liability and expense, including attorneys' fees, which Owner may incur as a direct or indirect result of any of the work and activities or rights of Licensee contemplated in this License Agreement.

10. During the periods of this License Agreement, Licensee will maintain comprehensive general liability insurance, including contractual liability coverage for the indemnification in Paragraphs 8 and 9 hereof, in the amount of at least Two Million Dollars (\$2,000,000.00) and will furnish a certificate of such insurance to Owner, prior to the commencement of any work or the installation of any personal property or improvements on the Tiered-rooflop Area(s), which shall reflect that Owner has been named as an added insured under such policy for such purpose. Such certificate shall also state that such insurance shall not be cancelled or reduced without thirty days prior written notice to Owner.

11. Licensee shall promptly remove and clean-up any trash, dust, debris, or other foreign material from the Property and the Tiered-rooflop Area(s) which results from any activities of Licensee contemplated herein.

12. Upon completion of the installation of the personal property and improvements contemplated in Paragraph 2 hereof, Licensee shall provide evidence to Owner that Licensee has obtained, at its sole expense, all necessary and appropriate governmental permits, licenses and approvals relating to such installation of such improvements including the Awning, and for the conduct of Licensee's restaurant business from the Tiered-rooflop Area(s).

13. At all times during the installation of the personal property and improvements contemplated herein and the conduct of the restaurant business by Licensee in the Tiered-rooflop Area(s), Licensee shall use all reasonable efforts to keep the noise at a level so as not to disturb Owner's tenants during regular business hours. Licensee shall not interfere with the tenancy or occupancy of any persons now or hereafter using the Property or any activities being conducted thereat.

14. In any action or proceeding to enforce any provision hereof, or for damages by reason of any alleged breach of this License Agreement, or for a declaration of such party's rights or obligations hereunder, or for any other judicial remedy, the prevailing party shall be entitled to be reimbursed by the losing party for all costs and expenses incurred thereby, including but not limited to, such amount as the court may adjudge to be reasonable attorneys' fees for the services rendered the party finally prevailing in any such action or proceeding.

15. This License Agreement contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written, regarding such matters which are not specifically contained and/or incorporated herein by reference, shall be deemed in any way to exist or to bind any of the parties hereto, except as specifically set forth herein. The parties hereto acknowledge that each said party has not been induced to enter into this License Agreement in reliance upon any promises, representations, warranties or statements not set down in writing in the License Agreement.

**EXHIBIT J (Continued)
LICENSE AGREEMENT**

16. No provisions hereof may be waived unless in writing and signed by all parties hereto. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein. This License Agreement may be modified or amended only by a written agreement executed by all of the parties hereto.

17. This License Agreement shall be construed in accordance with the laws of the State of California. In the event this License Agreement must be enforced by a court of law, the parties hereby agree that any such lawsuit shall be tried by a court of the State of California and that venue of the action shall be in Los Angeles County.

18. This License Agreement may be executed in one or more counterparts, each of which shall be an original but all of which, together, shall be deemed to constitute a single document.

19. This License Agreement has been jointly prepared and shall not be construed as if prepared by any party above.

20. The covenants and burdens of this License Agreement shall be binding until terminated by either party hereto at any time, upon service to the other of written notice, or upon the expiration or termination of the Lease (after which time said covenants shall be automatically extinguished). The parties hereto recognize and understand that either party may terminate this License Agreement on any day following the date first written above and that upon termination Licensee shall remove all personal property and improvements from the Tiered-rooftop Area(s) as provided in Paragraph 2 hereinabove.

21. Any notice, consent or approval ("notice") required or permitted to be given hereunder shall be in writing and may be served personally or by mail; if served by mail it shall be addressed as specified in the address which appears below the signature of the parties below. Any notice which is personally served shall be effective upon service; any notice given by mail shall be deemed effectively given three (3) days after deposit in the United States mail, registered or certified, postage prepaid and addressed to the address below. Either party may by written notice to the other from time to time specify a different address for notice purposes.

LANDLORD:
DOUGLAS EMMETT 1995, LLC,
a Delaware limited liability company
By: DOUGLAS, EMMETT AND COMPANY,
a California corporation,
its agent

By: _____
Michael J. Means, Senior Vice President

Dated: _____

TENANT:
THE MACERICH PARTNERSHIP, L.P.,
a Delaware limited partnership
By: The Macerich Company, its general partner

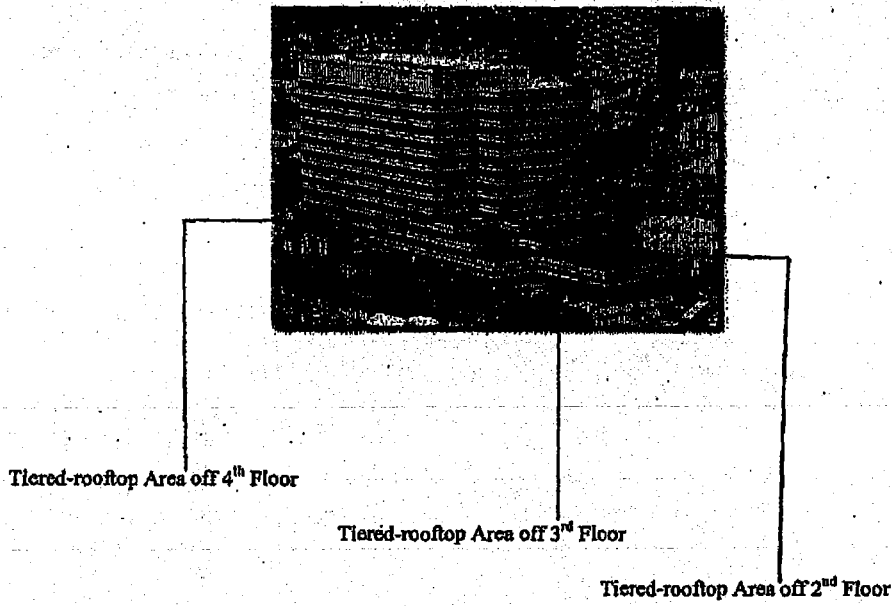
By: _____
David J. Contis,
Executive Vice President and
Chief Operating Officer

Dated: _____ 2006

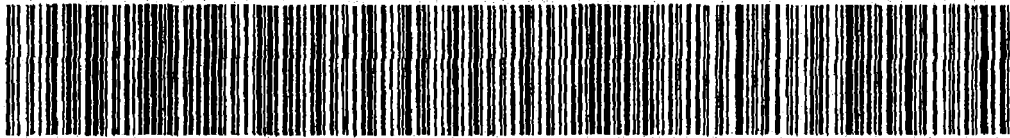
By: _____
Richard A. Bayer,
Executive Vice President and
Chief Legal Officer

Dated: _____ 2006

Exhibit "A" to License Agreement
Tiered-rooftop Area(s)



170 MarkView Barcode Cover Page



170 MarkView

DTYPE:PM PERM LEASING-LEASE\$3220\$Alexander Krak\$

© 170 Systems, Inc.

Document Type: PM PERM LEASING-LEASE

Property ID: 3220

DBA: Alexander Krak

For faxing, the LR Department number is (602) 923-1061.

Please DO:

- Fax in this bar code with lease related documents/forms.
- Separate documents/forms with a bar code.
- Contact the Helpdesk if the bar code generator is down.
- Use your browser's back button to generate another bar code.

Please DO NOT:

- Include a fax cover sheet. The bar code serves as the cover sheet
- Fax in documents without a bar code.