

Honorable Mayor and Members  
of the City Council  
City Hall  
Torrance, California

**Members of the Council:**

**SUBJECT: City Manager – Authorize lease agreement for City-owned property located at 2790 Skypark Drive.**

**RECOMMENDATION**

Recommendation of the City Manager that City Council authorize an Estoppel and Agreement for the re-finance of the leasehold by and between the City of Torrance and Skypark Atrium, LLC for the City-owned property located at 2790 Skypark Drive (C-2399).

Funding

There is no funding required for this transaction.

**BACKGROUND/ ANALYSIS**

The subject property is on City-owned land located at 2790 Skypark Drive. The property is currently leased to Skypark Atrium, LLC. The Master Tenant is in the process of re-financing the Leasehold and the Lender has requested an Estoppel Certificate and Agreement prior to lending.

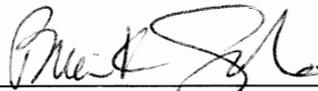
The Estoppel Certificate is a statement by the City that the Lease is in full force and effect and that there is no material defaults against the Lease. The Certificate also verifies that certain salient points of the Lease are valid.

The Master Tenant is refinancing the Leasehold to an amount not to exceed \$5,650,000. The loan amount is well below the appraised value of the Leasehold improvements as shown by an appraisal conducted as of August 16, 2011 setting the value of the Leasehold improvements at \$10,140,000. The Lease is currently in full force and effect, there are no material defaults and the rent is current. Staff has reviewed the form of Loan Documents and finds them in compliance.

The Lease expires on December 31, 2052 and the current annual rent for the Leasehold is \$109,909.80.

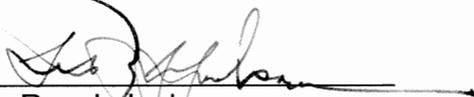
The Lease is in compliance and therefore the Estoppel and Agreement is recommended for approval.

Respectfully submitted,



by Brian K. Sunshine  
Assistant to the City Manager

CONCUR:



LeRoy J. Jackson  
City Manager

Attachments:

- A) Estoppel and Agreement – LIMITED DISTRIBUTION
- B) Loan Agreement – LIMITED DISTRIBUTION
- C) Note – LIMITED DISTRIBUTION
- D) Deed of Trust – LIMITED DISTRIBUTION

**GROUND LESSOR ESTOPPEL CERTIFICATE AND AGREEMENT**

This GROUND LESSOR ESTOPPEL CERTIFICATE AND AGREEMENT (the "Agreement") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2011, between the CITY OF TORRANCE, a municipal corporation, as ground lessor ("Ground Lessor"), and SKYPARK ATRIUM, LLC, a California limited liability company ("Lessee"), in favor of CALIFORNIA BANK & TRUST, a California banking corporation, as lender ("Lender").

**RECITALS**

A. On or about January 1, 1983, Ground Lessor and Arthur L. Valdez and G. Arleen Valdez, husband and wife (the "Original Lessees"), entered into a certain ground lease, as amended by that certain Amendment to Lease between the Ground Lessor and the Original Lessees dated as of March 13, 1984, that certain Second Amendment to Lease between the Ground Lessor and the Original Lessees dated as of June 15, 1984, that certain Third Amendment to Lease between the Ground Lessor and the Original Lessees dated as of January 12, 1987, that certain letter agreement by the Ground Lessor to the Original Lessees dated as of November 4, 1994, that certain Fifth Amendment to Lease between the Ground Lessor and Original Lessees dated as of January 1, 1997, and that certain Sixth Amendment to Lease dated as of September 24, 2002 by and between Ground Lessor and Executive Quarters, LLC, a California limited liability company ("EQ") (the "Ground Lease").

B. Original Lessee's interest in the Ground Lease was assigned to EQ pursuant to an Assignment and Assumption of Lease recorded September 25, 1998, as Instrument No. 98-1738851 in the Official Records. EQ's interest in the Ground Lease was assigned to SKYPARK ATRIUM I, LLC, a California limited liability company, and NOBUHIRO SOTOWA, as Trustee of the Survivor's Trust under the Sotowa 1988 Revocable Trust, and NOBUHIRO SOTOWA, as Trustee of the Residual Trust under the Sotowa 1988 Revocable Trust, as tenants in common (collectively, "TIC Tenant") pursuant to an Assignment and Assumption of Lease recorded July 31, 2006, as Instrument No. 06-1685224, in the Official Records (the "2006 Assignment"). As permitted by Section 6 of the 2006 Assignment, TIC Tenant's interest in the Ground Lease was assigned to Lessee pursuant to an Assignment and Assumption of Lease dated February 22, 2007, and recorded March 26, 2007, as Instrument No. 20070693185 in the Official Records (the "Assignment").

C. The Ground Lease covers certain real property more particularly described in Exhibit "A" attached hereto (the "Property")

D. Lessee is obtaining a mortgage loan from Lender in an amount not to exceed Five Million Six Hundred Fifty Thousand Dollars (\$5,650,000) (the "Loan"). The Loan will be secured by a mortgage lien on Lessee's leasehold interest in the Property, and will be evidenced by a promissory note, a deed of trust and security agreement and various other loan documents (the "Loan Documents").

E. As a condition precedent to the Loan, Lessee and Lender require the execution of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Ground Lessor hereby represents, warrants, covenants, certifies and agrees as follows:

**ESTOPPEL**

1. A true, correct and complete copy of the Ground Lease is attached hereto as Exhibit "B."
2. The Ground Lease is presently in full force and effect and has not been amended, supplemented, modified or otherwise changed in any way, except as set forth above in Recital A.
3. Except for the liens set forth on the Preliminary Report for the Property dated as of August 8, 2011, and issued by Stewart Title of California, Inc. as Order No. 400944, Ground Lessor has not created, incurred, assumed or suffered to exist any mortgage, deed of trust, pledge or other lien, charge or encumbrance of any kind or any security interest upon the Property.
4. Ground Lessor has not transferred or assigned its interest in the Ground Lease.
5. As of the date hereof, neither Ground Lessor nor Lessee are in default under the terms of the Ground Lease or the terms of any amendment thereto, and no other grounds for termination of the Ground Lease exist.
6. The term of the Ground Lease expires on December 31, 2052. Any conditions to commencement of the term of the Ground Lease have been satisfied.
7. Lessee has not prepaid any rent to Ground Lessor or made a security deposit with Ground Lessor, except as set forth in the Ground Lease.
8. Ground Lessor has not received any notice of a violation of any environmental law nor incurred any previous liability therefor with respect to the Property.
9. The Ground Lease provides for no extensions or renewals nor does it provide for an option to purchase the Property. Lessee has no right, title or interest with respect to the Property other than as a lessee under the Ground Lease.
10. The current fixed rent under the Ground Lease is \$109,909.80 annually, payable in monthly installments, and Lessee has paid the base monthly rental, and all other monetary obligations under the Ground Lease through October 31, 2011.
11. Ground Lessor's current address for receipt of payment notices, elections, demands or other communications under the Ground Lease is:

City Clerk  
City of Torrance  
3031 Torrance Boulevard  
Torrance, California 90503

12. Ground Lessor hereby acknowledges and agrees that Ground Lessor has approved the form of sublease submitted to Ground Lessor by Lessee, and that Ground Lessor has approved the tenancies and leases of the subtenants enumerated on Exhibit "C," attached hereto and by this reference made a part hereof; provided, however, that anything contained herein or in any other instrument to the contrary notwithstanding (a) nothing contained herein shall result in a modification or in any way affect any term or provision of the Ground Lease or relieve the tenant under the Ground Lease from its obligations and liabilities to perform the terms and provisions of the Ground Lease; (b) nothing contained herein shall give any sublessee the right or privilege to enforce any term or provision of the Ground Lease; and (c) all subleases, including but not limited to those listed on Exhibit "C," shall remain subject and subordinate to the Ground Lease and nothing contained herein shall be deemed an agreement by Ground Lessor to recognize any sublease or grant non-disturbance or attornment to any sublessee in the event that the Ground Lease is terminated for any reason.

13. All of the obligations of the Lessee under the Ground Lease with respect to construction in Section 6A, B and C of the Ground Lease have been satisfied.

14. The Reciprocal Parking Agreement Consent and Agreement dated January 2, 1983, is of no further force or effect.

15. Ground Lessor acknowledges that it has received and reviewed the form of the Loan Documents which will evidence and secure the Loan. In accordance with Section 23(A)(3) of the Ground Lease, Ground Lessor hereby irrevocably approves such documents and consents to the Loan and Lender's encumbrance of Lessee's leasehold interest in the Property pursuant to the Loan Documents, and agrees that Lender shall have the rights of a "Lessee" and a "Leasehold Mortgagee" as those terms are defined in the Ground Lease.

16. Ground Lessor acknowledges it has received notice of the Assignment to Lessee.

#### **AGREEMENT**

17. Ground Lessor hereby grants to Lender the right to demand and receive a new lease upon the terms and conditions contained in the Ground Lease for the remaining term thereof if the Ground Lease terminates prior to its expiration date for any reason, including, without limitation, the bankruptcy and insolvency of Lessee or any one of them. Any new lease between Lender and Ground Lessor shall be prior to any deed of trust, mortgage or other lien, charge or encumbrance on the fee interest upon the Property as to which the Ground Lease was prior, and the new lease shall have the same right, title, interest and priority in the Property and improvements thereon as Lessee had under the Ground Lease. The provisions of this Agreement shall survive any termination, rejection or disaffirmance of the Ground Lease and shall continue in full force and effect.

18. Ground Lessor agrees that the fair market value adjustments made pursuant to Section 3(C) of the Ground Lease shall be based solely on the value of the Property not including the value of the improvements located thereon.

19. If Lessee fails to cure any default within the applicable cure periods set forth in the Ground Lease, Ground Lessor agrees that Lender may have an additional five (5) days to

cure Lessee's monetary defaults and an additional fifteen (15) days to cure Lessee's nonmonetary defaults. Such additional Lender cure periods shall commence on the day immediately following the lapse of Lessee's applicable cure periods without any additional notice from Ground Lessor to Lender.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day, month and year first written above.

**Ground Lessor:**

CITY OF TORRANCE,  
A Municipal Corporation

\_\_\_\_\_  
Frank Scotto, Mayor

ATTEST

\_\_\_\_\_  
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III

City Attorney

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

**Lessee:**

SKYPARK ATRIUM, LLC, a California limited liability company

BY: SKYPARK ATRIUM I, LLC, a California limited liability company, Manager

By: \_\_\_\_\_  
Steve Loo, Manager

**Lender:**

CALIFORNIA BANK & TRUST, a California banking corporation

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

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

**EXHIBIT A****LEGAL DESCRIPTION OF PROPERTY**

Real property located in the State of California, County of Los Angeles, City of Torrance, described as follows:

Those portions of Lot 1 of Tract No. 9765, in the City of Torrance, County of Los Angeles, State of California, as shown on Map filed in Book 170 Pages 10 to 12 inclusive of Maps, in the office of the County Recorder of said County, more particularly described as follows:

Parcel "A":

Beginning at a point perpendicularly distant 70 feet Westerly from the centerline of Crenshaw Boulevard, 100 feet wide, as said Boulevard existed on December 21, 1955, and perpendicularly distant 60 feet Southerly from the Northerly line of said Lot 1 of Tract No. 9765; thence North 62° 50' 50" West, parallel to the Northerly line of said Lot 1, a distance of 2730.00 feet to the true point of beginning; thence South 27° 09' 10" West 328.63 feet to a point, being hereinafter referred to as Point "A"; thence North 51° 45' 55" West, 229.27 feet; thence North 27° 09' 10" East 284.56 feet; thence South 62° 50' 50" East 225.00 feet to the true point of beginning.

Parcel "B":

Beginning at said Point "A" described in Parcel "A" above; thence North 51° 45' 55" West 229.27 feet; thence continuing North 51° 45' 55" West 247.49 feet; thence South 38° 14' 05" West, 63.00 feet; thence South 51° 45' 55" East, 476.76 feet; thence North 38° 14' 05" East, 63.00 feet to said Point "A".

Except all minerals, and all petroleum in said land, together with the exclusive right at any and all times to enter upon the lands and prospect for, mine for, and remove such minerals or petroleum, with all necessary and convenient means of working and transporting materials and supplies, as reserved in the Deed from the United States of America, recorded on May 13, 1948 in Book 27145 Page 362 Official Records.

All right of surface entry and subsurface entry lying above a depth of 500 feet from the surface thereof were terminated by Quitclaim Deed dated May 14, 1958, under the terms therein provided, executed by United States of America, acting by and through the Administrator of General Services, as Disclosed in Deed recorded June 6, 1958 in Book D120 Page 527 and in Book D1237 Page 838 both of Official Records.

Also except all uranium, thorium and all other materials determined pursuant to Section 5(B) (1) of the Atomic Energy Act of 1946 (60 Stat. 761) to be peculiarly essential to the production of Fissionable material, contained, in whatever concentration, in deposits in the lands covered by this instrument, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine and remove the same, making just compensation for any damage or injury occasioned thereby. However such land may be used, and any rights otherwise acquired by this disposition may be exercised, as if no

reservation of such materials had been made, except that, when such use results in the extraction of any such material from the land in quantities which may not be transferred or delivered without a license under the Atomic Energy Act of 1946, as it now exists or may hereafter be amended, such material shall be the property of The United States Atomic Energy Commission, and the commission may require delivery of such material to it by any possessor thereof after such material has been separated as such from the ores in which it was contained. If the commission requires the Delivery of such material to it. It shall pay to the person mining or extracting the same, or to such other person as the commission determines to be entitled thereto, such sums including profits as the commission deems, fair and reasonable for the discovery, mining, development, production, extraction and other service, performed with respect to such material prior to such delivery, but such payment shall not include any amount on account of the value of such material before removal from its place of deposit in nature. If the commission does not require delivery of such material to it. The reservation hereby made shall be of no further force or effect, as reserved by The United States of America, in Book 27145 Page 382 Official Records.

(End of Legal Description)

Assessor's Parcel No: 7377 006 904

**EXHIBIT B**  
**GROUND LEASE**

(See Attached)

SER: s 12-10-82  
#A- 1

L E A S E

CITY OF TORRANCE, a  
municipal corporation,

Lessor

ARTHUR L. VALDEZ and  
G. ARLEEN VALDEZ,  
husband and wife,

Lessee

C-2399

DATED: January 1, 1983

ORIGINAL

ARTHUR L. VALDEZ AND G. ARLEEN VALDEZ  
LEASE

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Exhibit A, Legal Description, Identification No. 591

Exhibit B, Sketch, Identification No. 592

Exhibit C, Quitclaim Deed

Exhibit D, FAA Provisions

L E A S E

THIS LEASE, made and entered into in quadruplicate at Torrance, California, this 1st day of January, 1983, by and between the CITY OF TORRANCE, a municipal corporation, as Lessor, hereinafter rererred to as the "City;" and ARTHUR L. VALDEZ and G. ARLEEN VALDEZ, husband and wife, as Lessee, hereinafter referred to as "Lessee."

W I T N E S S E T HRECITALS

(a) The City is the owner in fee of the real property constituting the entire leased premises which are located on the south side of Skypark Drive westerly of Crenshaw Boulevard in the City of Torrance, California. Said leased premises are a part of the Torrance Municipal Airport, the boundaries of which are described in that certain Quitclaim Deed executed by the United States of America, dated March 5, 1948, recorded on May 13, 1948, in Book 27145, Page 362, of Official Records in the Office of the County Recorder of Los Angeles County.

(b) By Instrument of Release dated July 25, 1962, recorded on August 24, 1962, in Book R-1308, Page 800, of Official Records in the Office of the County Recorder of Los Angeles County, the United States of America acting by and through the Administrator of the Federal Aviation Administration released, with certain exceptions, the leased premises, among other lands, from the conditions, reservations and restrictions of said Quitclaim Deed.

(c) Said real property is being leased hereby for commercial development for business purposes pursuant to the authority contained in Section 37380 of the Government Code of the State of California, amended by statutes of 1968 and Section 37395 of said Code, added by statutes of 1954 (West's Annotated California Codes) and pursuant to the powers conferred on the City by the provisions

of Article XI of the State Constitution.

(d) The City acting by and through its City Council has determined by Resolution 82-282, adopted on \_\_\_\_\_ that such property is not required for other city purposes and that it is in the public interest that this Lease be executed.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. PREMISES

For and in consideration of the rents, covenants and conditions herein contained, the City does hereby lease to Lessee that certain real property as described in Exhibit "A", bearing Identification No. 591 and located as shown on Exhibit "B", bearing Identification No. 592, attached hereto and made a part hereof, which real property is hereinafter referred to as "the leased premises."

2. TERM

The term of this Lease shall be for a period of fifty (50) years, commencing January 1, 1983, and expiring at midnight December 31, 2032. In the event Lessee shall hold over after said date with the consent of the City, such holdover shall be on a month-to-month basis and in accordance with the terms and conditions hereinafter provided.

3. RENT

A. Rental Periods

(1) First Period. For each month during the period commencing with the issuance of a building permit or January 1, 1983, whichever occurs first until the first to occur of:

- (a) Twelve (12) months after the first day of the month following issuance of a building permit, or
- (b) March 31, 1984.

Lessee shall pay the City as rent the sum of Two Thousand and Fifty Dollars (\$2,050) per month for the first six months thereof, and the sum of Four thousand One Hundred Dollars (\$4,100) for each month thereafter during said period.

(2) Second Period. For each month after the First Period until the first to occur of:

- (a) Twelve (12) months after the first day of the month following first occupancy, or
- (b) December 31, 1984,

Lessee shall pay the City as rent the sum of Eight Thousand Two Hundred Dollars (\$8,200) per month.

(3) Third Period. For each month after the Second Period through December 31, 1989, Lessee shall pay the City as rent:

- (a) The sum of Eight Thousand Two Hundred Dollars (\$8,200) per month, or
- (b) Said sum recomputed at the beginning of each year of the Third Period in accordance with the Producers Price Index adjustment formula contained in subparagraph B of this Paragraph 3,

whichever is the larger of said monthly installments.

(4) Fourth Period. For each month after the Third Period through December 31, 2032, Lessee shall pay the City as rent:

- (a) The sum of Eight Thousand Two Hundred Dollars (\$8,200) per month recomputed at the beginning of each year of the Fourth Period in accordance with the Producers Price Index adjustment contained in subparagraph B of this Paragraph 3, or
- (b) Ten percent (10%) of the Gross Rents calculated in accordance with the provisions of subparagraph B of this Paragraph 3,

whichever is the larger of said monthly installments.

B. Price Index Adjustments

(1) If the "Producers Price Index, All Commodities" prepared by the Bureau of Labor Statistics, United States Department of Labor (using prices prevailing in the year 1967 as a basis of 100) for the month of October immediately preceding the commencement of each calendar year during the Third and Fourth Rental Periods shall be higher than (but not if it is lower than or the same as) it stood in October of the year before such preceding year, then the amount of each monthly payment for such calendar year shall be increased from the level of such preceding year in the same proportion as said index increased during said previous twelve-month period (October to October); provided, however, that said increase shall not exceed eight percent (8%) per calendar year.

For Example:

(a) If such price index stood at 101.6 in October 1984 and 118.4 in October 1985, the increase would be a factor of 16.5%  $(118.4 - 101.6) \div 101.6$ ; but because of the 8% cap applicable to the Third Rental Period, the rent payment for each month in 1986 would be \$8,856.00.

(2) If said Bureau shall revise the said index, the parties hereto shall accept the method of revision or conversion recommended by said Bureau.

(3) If said Bureau shall discontinue the preparation of a Producers Price Index using prices prevailing in the year 1967, as a base of 100, and if no transposition table prepared by said Bureau is available which is applicable to the year 1967, then the amount of each rent payment shall be the amount due as of the month preceding the discontinuance of the index.

C. Gross Rents

(1) The amount of the rent due for any month calculated by this method when applicable shall be ten (10%) percent of the Gross Rents.

(2) The term "Gross Rents," as used in this Paragraph 3 shall mean and include all rentals (including, without limitation, fixed rent and percentage rent) and other payments paid directly or indirectly by sublessees, licensees or concessionaires for the occupancy or use of the leased premises (including but not limited to payments made to or for Lessee by a sublessee as its share of common area charges, maintenance expense, cost of repairs, real property taxes and utility charges - but excluding utility charges billed directly to sublessees, licensees or concessionaires with separate meters and paid by them directly to the utility), together with (i) the reasonable rental value of any part of the leased premises occupied by Lessee or any affiliate of Lessee (as defined in subparagraph (3) below), calculated on a square footage basis in respect to the particular area utilized by Lessee or such affiliate, such rental value to be predicated upon the rental value of similar space located on the leased premises, and (ii) any and all monies and other things of value received as consideration for the use or occupancy of all or any part of the leased premises; provided, however, that the term "Gross Rents" as used in this Paragraph 3 shall not mean and include:

(a) any charges for secretarial services, telephone answering services, decorating services, or suite improvement services furnished by Lessee to a sublessee which are set forth in a separate itemized statement to the sublessee; and

(b) any monies or any things of value received by Lessee as consideration for the assignment of Lessee (including Lessee's successors and assigns) interest in whole or in part, in the leased premises, except to the extent that the assignor retains the right to receive any fixed rent, percentage rent, common

area charges, credit for premises occupied by Lessee, or monies paid in lieu of such rents, charges, payment or credits.

(3) Lessee covenants and agrees that each such sublease, license or concession agreement for the occupancy or use of all or any part of the leased premises will be entered into on an arm's-length basis providing for fair rentals or other payments at the time entered into. Lessee shall disclose to the City any such transactions (i) with affiliates of Lessee (which, for purposes of this Paragraph 3, shall mean any person or entity which, directly or indirectly, owns or controls, or is owned or controlled by, Lessee or any of the partners comprising Lessee) or (ii) with any person or entity which has entered into any lease, license or concession agreement with Lessee or any affiliate of Lessee for any property other than the leased premises.

(4) The term "tenant" as used in this subparagraph C shall mean and include any person from whom rent or other payment is received, including but not limited to a partial assignee, sublessee, tenant, licensee and any other person using or occupying any portion of the leased premises from whom rent is received.

D. Report, Books and Audit

(1) On or before March 1 of each year during the Fourth Period, Lessee shall make a report in writing to the Director of Finance of the City, on a form and in a manner approved by said Director, which shall set forth as of January 1 of such year:

- (a) The names and location of that portion of the leased premises used or occupied by each tenant;
- (b) The total amount of Gross Rents payable and paid during the preceding lease year by each such tenant.
- (c) The location of any part of the leased premises occupied by Lessee or any affiliate of Lessee and the square footage utilized thereby, the amount of rental therefor, if any, due the City under the provisions of this Paragraph 4.

(2) Lessee shall keep complete and adequate books and reports in accordance with sound accounting practice sufficient

to show all rents received by or for the account of Lessee from all tenants of the leased premises.

(3) The City shall have the right to inspect and audit at its own expense such records used as the basis of such report once each lease year, at a reasonable time, for the purpose of determining the accuracy of such reports.

(4) If, upon any examination by the City of the books and records of Lessee, an error shall be revealed in favor of the City which results in there being due to the City for any year supplementary Additional Rent in the amount of one (1%) percent or more, then the reasonable cost of such examination shall be paid by Lessee to the City.

E. Place of Payment and Late Payment

(1) Place of Payment. All rent payments shall be paid, without deduction or offset, to the office of the Treasurer of the City at 3031 Torrance Boulevard, Torrance, California 90503, or at such place as the City shall from time to time designate in writing.

(2) Late Payment. Rent payments are due on the first day of each month. In the event any rent payment is late, Lessee agrees that the following schedule of late charges shall be applicable to that portion thereof which is overdue:

(a) late 10 days but under 30 days - 2% of the amount due; plus

(b) for each additional 30 days or fraction thereof over 30 days - an additional 2% for each 30 days or fraction thereof.

4. USE

Said leased premises shall be used for the following purposes but for no other purpose or purposes unless the prior written consent of the City Council thereto has been obtained:

A. Parcel A shall be used for office building or buildings and related parking.

B. Parcel B shall be used for the parking of automobiles of customers and employees of Lessee.

5. GRADING

Lessee agrees to grade the leased premises at its own expense in accordance with a grading plan to be prepared by the Lessee at its own expense and approved by the Director of Building and Safety. The Lessee shall obtain a grading permit therefor and shall grade said leased premises in accordance with the provisions of the Torrance Municipal Code and any amendments thereto and any other applicable laws. The City makes no warranties regarding the condition of the soil. It shall be Lessee's obligation to conduct the necessary soils investigation and do any corrective work as required.

6. CONSTRUCTION

A. FAA Filing. Prior to the commencement of construction, Lessee shall file Form 7460-1 and receive approval thereof from the Federal Aviation Administration.

B. Covenant to Build.

(1) Subject to the conditions hereinafter provided in this Paragraph 6, Lessee agrees to construct a building or buildings upon said leased premises for office uses. Said building or buildings shall have a total floor area of not less than 48,000 square feet or more than 66,000 square feet and shall be of Type

V one-hour construction (as defined in the City's Building Code).

(2) Said building or buildings shall be constructed of all new material and erected in accordance with a plot plan, elevation drawings and preliminary plans and specifications which shall be prepared by Lessee and which, as a condition precedent to construction, shall have been approved by the City Council of the City upon recommendation by the Planning Commission.

(3) Subject to the provisions of subparagraph F of this Paragraph 6, said building or buildings and improvements shall be completed within twelve (12) months after the issuance of a building permit but in no event later than December 31, 1984.

(4) Said building or buildings and improvements shall be deemed to have been completed when, in accordance with said plans and specifications, they shall have been completed to the reasonable satisfaction of the City Manager following the execution of the Architect's Certificate of Completion and the filing of the Notice of Completion by the general contractor thereof in accordance with the provisions of Chapter 1 of Title 15 of Part 4 of Division 3 of the California Civil Code. Lessee shall furnish copies of the Architect's Certificate of Completion and Notice of Completion to the City Manager.

(5) Lessee shall not light or operate, or cause to be lighted or operated, any equipment which would interfere with the navigation, landing or takeoff of aircraft on the runways and in the aeronautical areas of the Airport.

C. Acoustical Treatment

(1) Said building or buildings shall be designed to

provide an interior noise level within a  $L_{eg}$  A weighted sound level of 50 dBA and a  $L_{max}$  peak value of 60 dBA. The designer must prepare detailed plans of construction showing the sound insulation assembly to resist the airborne community noise equivalent level contours of 60 dB CNEL or greater. The contour map will be provided by the Airport Division of the City's Department of Transportation.

At the time the construction plans are submitted to the Department of Building and Safety for approval, Lessee shall submit therewith an analysis of the plans by an acoustical engineer certifying that, in his opinion, such level will not be exceeded. A building permit will not be issued for said building or buildings unless and until the City's acoustical consultant certifies that, in his reasonable opinion, such level will not be exceeded.

(2) Definitions of standards specified in Section 1092 of Part I of Title 25 of the California State Housing Code are incorporated in this Lease as a minimum standard of compliance.

(3) Before occupancy of any part of a building or buildings is permitted, the Lessee shall submit to the Department of Building and Safety a statement by an acoustical engineer certifying that said building or buildings have been constructed in accordance with such acoustical plans and that, in his opinion, such level has not been exceeded. Such occupancy shall not be approved unless and until the City's acoustical consultant certifies that, in his reasonable opinion, such level has not been exceeded.

D. Liquidated Damages. Subject to the provisions of subparagraph F (Force Majeure) of this Paragraph 6, if Lessee fails to comply with the foregoing requirements of subparagraph B(3) of this Paragraph 6 as to the completion of construction, Lessee shall pay to the City in addition to the base rental the sum of \$3,000 for each month or fraction thereof until such completion as liquidated damages for such failure to complete construction. So long as Lessee pays such liquidated damages to the City, this Lease shall not be subject to cancellation or forfeiture for such failure to complete construction.

E. Bonds

(1) On or before the date of commencement of construction of any building, structure or other improvement, Lessee shall file or cause to be filed with the City Clerk of the City, a Performance Bond and a Payment Bond executed by Lessee or Lessee's contractor and by a surety authorized to do business in the State of California as surety guaranteeing the performance of the provisions of subparagraphs B and C of this Paragraph 6. If said bond is executed by the Lessee's contractor, it shall name the Lessee and the City as joint obligees.

(2) The term of both bonds shall commence on or before the date of filing with the City Clerk. The Performance Bond shall remain in effect until the date of completion of the work to the reasonable satisfaction of the City Manager of the City, or his designee. The Payment Bond shall remain in effect until the expiration of the period of filing a claim of lien as provided in Title 15 of Part 4 of the California Civil Code, and as hereafter amended, or if a claim of lien is filed, the expiration of the period for filing an action to foreclose such lien, or until the leased premises are freed from the effect of such claim of lien and any action brought to foreclose such lien pursuant to the provisions of said Title 15 of Part 4 or the lien is otherwise discharged.

(3) The Performance Bond shall be in the amount and provide a penalty of 100% of the valuation of the improvements to be constructed. The Payment Bond shall be in the amount and provide a penalty of 100% of the valuation of the improvements to be constructed.

(4) In lieu of the Performance Bond and Payment Bond required by subsections (1), (2), and (3) of subparagraph E of this Paragraph 6 herein, Lessee may furnish cash, assignment of account, a time certificate of deposit or a "Cash Set Aside Letter," provided said instruments are in a form acceptable to the City.

F. Force Majeure. The time within which Lessee is obligated hereunder to construct, repair or rebuild any building or buildings or other improvement, or cure any non-monetary default on the part of

Lessee hereunder shall be extended for a period of time equal in duration to, and performance in the meantime shall be excused on account of and for and during the period of, any delay in such performance caused by strikes, threats of strikes, lockouts, war, threats of war, insurrection, invasion, acts of God, calamities, violent action of the elements, fire, inaction, action or regulation of any governmental agency, law or ordinance, impossibility of obtaining materials, or other things beyond the reasonable control of Lessee; provided that Lessee gives the City written notice of such delay not less than five days following the first day thereof.

G. Applicable Laws. The leased premises are now zoned M-2. Any buildings, structures or other improvements constructed or placed thereon shall be constructed or placed in accordance with the laws and regulations of the state and city applicable to manufacturing development in Zone M-2 or then applicable zoning.

H. Property of Lessee. Any buildings, structures or other improvements constructed or placed on the leased premises shall become the property of Lessee for the term of this Lease, subject to the terms and conditions hereof, and shall become the property of the City upon the expiration or sooner termination of this Lease as provided in Paragraph 15 herein. Lessee shall be responsible for all maintenance of all buildings and improvements thereon in accordance with the provisions of this Lease.

7. SECURITY

A. On or before the date of commencement of the term of this Lease, the Lessee shall have deposited with the City the sum of Twenty-four Thousand Six Hundred Dollars (\$24,600.00) either (i) in cash or (ii) as an assignment of a deposit account or a time certificate of deposit payable to the City with a maturity in excess of ninety (90) days, which assignment or certificate shall be subject to the prior approval of the City. No interest shall be paid to Lessee by the City on any cash deposit held hereunder (including any cash proceeds from a non-renewed certificate of

deposit); any interest paid by the bank or other institution on any assigned deposit account or certificate of deposit shall be held by the City as part of the deposit hereunder, to be retained by the City or returned to Lessee as provided for in subparagraphs B or C, respectively, of this Paragraph 7.

B. Pending completion of construction the deposit by Lessee shall be held as security by the City for: (i) the payment of the rent reserved by this Lease, and (ii) the performance by Lessee of all other terms, covenants and conditions of this Lease to be observed and performed by Lessee. Lessee agrees that if during such period Lessee violates any of said terms, covenants or conditions of this Lease and fails to cure such default within the time herein provided therefor, then and in that event said deposit shall be applied by the City in discharge and satisfaction of any delinquent rental and any other amounts payable to the City hereunder, and the balance shall be retained by the City as liquidated damages, whereupon this Lease shall be terminated and neither party shall have any further liability or obligation to the other.

C. Provided, however, if Lessee has fully and faithfully carried out all of the terms, covenants and conditions of this Lease to be observed by Lessee, said deposit shall be returned to Lessee upon the completion of the construction as provided in Paragraph 6 herein.

8. LIENS

A. Payment by Lessee.

(1) Subject to Lessee's right to contest the same as hereinafter provided in subparagraph D of this Paragraph 8, Lessee agrees that it will pay as soon as due all mechanics', laborers', materialmen's, contractors', subcontractors', or similar charges,

and all other charges of whatever nature which may become due, attached to or payable on said property or any part thereof or any building, structure or other improvements thereon, from and after the date as of which this Lease is executed.

(2) Nothing herein contained shall in any respect make Lessee the agent of the City, or authorize Lessee to do any act or to make any contract encumbering or in any manner affecting the title or rights of the City in or to the leased premises or the improvements thereon.

B. Notice. Before any buildings, structures or other improvements, repairs or additions thereto, of an aggregate cost in excess of Twenty-five Thousand Dollars (\$25,000.00) are constructed or reconstructed upon the leased premises, Lessee shall serve written notice upon the City, in the manner provided for in Paragraph 29 herein, 20 days prior to commencement of Lessee's intention to perform such work for the purpose of enabling the City to post and record notices of non-responsibility under the provisions of Section 3094 of the California Civil Code, or any other similar notices which may be required by law.

C. Bond. If any such mechanic's or other liens shall at any time be filed against the leased premises or any portion thereof or interest therein, Lessee shall cause the same to be discharged of record within thirty (30) days after the date of filing the same, or otherwise free the leased premises from the effect of such claim of lien and any action brought to foreclose such lien, or Lessee shall promptly furnish to the City a bond in an amount and issued by a surety company satisfactory to the City, securing the City against payment of such lien and against any

and all loss or damage whatsoever in any way arising from the failure of Lessee to discharge such lien.

D. Contest. Any contest by Lessee of any such liens shall be made by Lessee in good faith and with due diligence and Lessee shall fully pay and immediately discharge the amount of any final judgment rendered against the City or Lessee in any litigation involving the enforcement of such liens or the validity thereof.

E. Discharge by City. In the event of Lessee's failure to discharge of record any such uncontested lien within said thirty (30) day period or to pay and satisfy any such judgment as aforesaid, the City may, but shall not be obliged to, pay the amount thereof, inclusive of any interest thereon and any costs assessed against Lessee in said litigation, or may discharge such lien by contesting its validity or by any other lawful means.

F. Repayment by Lessee. Any amount paid by the City for any of the aforesaid purposes, and all reasonable legal and other expenses of the City, including reasonable counsel fees, in defending any such action or in connection with procuring the discharge of such lien, with all necessary disbursements in connection therewith, together with interest thereon at the rate of one and one-half percent (1-1/2%) per month from the date of payment, shall be repaid by Lessee to the City on demand.

9. OFF-STREET PARKING

Lessee shall comply with the off-street parking requirements of all ordinances of the City and laws of the State. This provision shall not limit the scope of the provisions of Paragraph 25 herein.

10. SIGNS

Lessee agrees that all signs or advertising material to be erected or maintained on or upon said leased premises or on or upon any buildings, structures or other improvements thereon; shall comply with all State laws and City ordinances.

11. UTILITY INSTALLATIONS

A. Sanitary Sewers (Wastewater Services). Lessee acknowledges that the City has constructed a public sanitary sewer (wastewater) system to serve said leased premises. Lessee shall connect the private sewer facilities on the leased premises to the public sewer main along the frontage of the leased premises. Upon such connection the Lessee shall pay to the City such fees as are provided by law in accordance with Division 7, Chapter 2 of the City Code and any amendments thereto, and any other applicable laws.

B. Water Mains (Domestic Water and Fire Suppression Flow Services). Lessee acknowledges that the City has provided a water main along the frontage of the leased premises with the capacity to adequately serve the reasonable domestic water and fire suppression flow needs of the leased premises. The installation and construction of service and fire hydrant assemblies, and other facilities outside of the boundaries of the leased premises to carry domestic water and provide fire suppression flow from said main to serve the leased premises shall be at the expense of Lessee. The installation, construction, maintenance and repair of service and fire hydrant assemblies, and other facilities within the boundaries of the leased premises to carry domestic water and provide fire suppression flow from said main to serve the leased premises shall be at the expense of Lessee.

C. Gas, Electric and Telephone Services. The City does not warrant or affirm that gas, electric, telephone or other public utility services, except water, are available to Lessee. Lessee, at its own risk and without cost or expense to the City, shall install on and to said premises all such public utility services.

12. NO ACCESS TO AIRPORT

A. No Access Permitted. Lessee shall have no right of access for aircraft, vehicles or people to the runways, taxiways or other property or facilities on the Torrance Municipal Airport.

B. Security Fence. Lessee acknowledges that it has been informed of the presence of the City's chain-link fence constructed for airport security purposes, which is located along the northerly perimeter of the leased premises. Said chain-link fence shall be relocated by the Lessee at Lessee's expense to the southerly perimeter of the premises to the satisfaction of the City.

13. ALTERATIONS AND ADDITIONAL IMPROVEMENTS

A. Construction Approval. Except as provided in subparagraph B of Paragraph 6 herein, Lessee shall not construct any building, structure or other improvement on the leased premises unless the plan showing the location thereof and construction plans and specifications are first approved by the Director of Building and Safety and by the City Council of the City, and the giving of such consent shall not be a waiver of any rights to object to further or future construction.

B. Alteration Approval. Lessee shall not make any exterior changes or alterations, structural or otherwise, to any building, structure, or other improvement on the leased premises unless the consent of the City Manager or his designee is first obtained. Such consent shall not be unreasonably withheld, and the giving of such consent shall not be a waiver of any rights to object to further or future alterations.

C. Provisions Governing. Following the completion of the improvements required by Paragraphs 5 and 6 herein, in the event that (and in each case that) Lessee shall construct any additional or replacement buildings, structures or other improvements (including alterations or additions to the existing buildings) on the leased premises, Lessee shall construct such improvements and each of them in accordance with the provisions of Paragraphs 6 and 8; provided, however, that:

(1) the May 31, 1984 completion date set forth in subparagraph B(3) of Paragraph 6 shall not apply to such construction; but

(2) the provisions of subparagraph E of Paragraph 6 shall apply to such construction; and

(3) without limiting any rights and remedies of the City under any other provision of this Lease by reason of any failure to complete any such construction, the provisions of subparagraph B of Paragraph 6 shall not apply to such construction.

D. Demolition. In case any building or structure is demolished, Lessee shall erect a new building or structure within twelve (12) months following such demolition in substitution therefor in accordance with the provisions of subparagraph C of this Paragraph 13. Failure of Lessee to comply with the provision of this subparagraph D shall constitute a default of this Lease.

E. Value and Utility. All changes and alterations shall be of such a character that when completed, the value and utility of the building, structure or other improvement changed or altered by such changes or alterations shall not be less than the value and utility thereof immediately before any such change or alteration.

F. Alterations Following Commencement. All work done in connection with any changes or alterations following the commencement thereof shall be performed in a good and workmanlike manner and with due diligence.

14. MAINTENANCE

A. Lessee Maintain. Lessee, at its own expense shall maintain said leased premises and all buildings, structures, roadways, landscaping and other improvements thereon, and shall keep the same in good and sanitary condition and repair.

B. Periodic - Structures. As often as necessary to properly maintain the appearance and at least once each five (5) years during the term of this Lease, Lessee shall, at its own expense, paint or clean or otherwise preserve and beautify the surfaces of the interior and exterior of all buildings, structures, structural members and other improvements on said leased premises. The treatment applied shall restore the appearance of and act as a preservative of the buildings, structures, structural members and other improvements.

C. Periodic - Pavement. Lessee, at its own expense, shall at least once each five (5) years during the term of this Lease repair or replace any area of pavement or slabs on the leasehold as have spalled, weathered, alligatored, or otherwise failed, and shall as often as necessary promptly repair or replace any damaged areas thereof.

D. Landscaping. Lessee, at its own expense, shall landscape with flora, including trees, in an attractive manner and thereafter maintain said landscaping on the leased premises.

15. SURRENDER

A. Structures. At the expiration of the term of this Lease or upon the sooner termination thereof, Lessee shall surrender said leased premises to the City and all buildings, structures and other improvements thereon, including but not by way of limitation, any alterations, additions or improvements, shall remain for the benefit of the City.

B. Removal. No buildings, structures or other improvements shall be removed from said leased premises or voluntarily destroyed or damaged during the term of this Lease without the prior written consent of the City Manager.

C. Movable Structures. Machines, trade fixtures and similar installations which are installed in any building, structure or other improvement on the leased premises shall not be deemed to be part of the realty even though such installations are attached to the floors, walls or roof of any building or structure or to outside pavements, so long as such installation can be removed without structural damage to any building, structure or other improvement on the leased premises; provided, however, that if the removal of any such installation damages any part of the building, structure, other improvement, pavements or premises, Lessee shall repair such damage and restore said building, structure, other improvement, pavements or premises to the same condition as originally existed upon the completion of construction, ordinary and usual wear and tear excepted; and provided further, that no holes or apertures, or unpainted or otherwise unfinished walls shall be left by Lessee in any building, structure or other improvement at the expiration of the term of this Lease.

D. Personal Property. Any and all personal property of every kind and nature whatsoever, not attached to or installed in any building, structure or other improvement which Lessee or its sublessees places in, upon or about the leased premises during the term hereof may be removed therefrom prior to the expiration of the term of this Lease and shall, as between the City and Lessee, be and remain the personal property of Lessee or its sublessees, as the case may be, provided that any such personal property left on the premises upon surrender to the City shall be presumed to be abandoned by Lessee.

E. Lighting, etc. Notwithstanding anything to the contrary contained in subparagraphs C and D of this Paragraph 15, any and all lighting, plumbing, air cooling, air conditioning, heating and ventilating equipment shall be deemed to be a part of the realty, and regardless of whether or not any such item or equipment can be removed without structural damage to the building, structure or improvement in which it is installed, it shall not be removed from such building, structure or other improvement except for repairs, alterations and replacement with newer equipment, without the consent of the City Council, and all such equipment shall remain as a part of the realty at the expiration of the term of this Lease.

F. Removal at Expiration. Notwithstanding the above provisions of this Paragraph 15, the City may give notice of its election, not less than five (5) years prior to the expiration of the term of this Lease, to require the removal of any or all improvements and restoration of the premises, upon expiration of this Lease, in which event the Lessee shall remove such improvements and restore the premises within 120 days following the ex-

piration of the term of this Lease. Such period shall not constitute an extension or renewal of this Lease.

16. SUBORDINATION

Lessee acknowledges that it has received a copy of the Quitclaim Deed executed by the United States of America, dated March 5, 1948, Exhibit "C" attached hereto and made a part hereof (recorded on May 13, 1948 in Book 27145, Page 362 of Official Records in the Office of the County Recorder of Los Angeles County), upon which the City holds title to said leased premises and Lessee agrees to comply with the provisions thereof as amended to the date of this Lease. This lease shall be subordinate to such provisions as amended and to any further agreements between the City and the United States of America required by such provisions as amended.

17. FEDERAL AVIATION ADMINISTRATION PROVISIONS

Lessee acknowledges its acceptance of and its agreement to comply with all the Federal Aviation Administration provisions as shown on Exhibit "D" attached hereto and made a part hereof.

18. TAXES, ASSESSMENTS AND UTILITY CHARGES

A. Payment of Liens. Lessee agrees to pay before delinquency every charge, lien or expense accruing or payable during the term of this Lease in connection with the use of said leased premises, including, but not by way of limitation, water, electricity, gas, telephone, utilities and other services used by Lessee on said leased premises.

B. Payment of Taxes. Lessee agrees to pay before delinquency all taxes which shall be levied against its interest in said leased premises or its property thereon, or against any buildings, structures or any improvements erected or constructed by the Lessee on said leased premises, or which become a lien against

said leased premises or its interest therein or its property thereon or against any building, structure or any improvements erected or constructed by the Lessee on said leased premises during the term of this Lease.

C. Payment of Assessments. Lessee agrees to pay before delinquency any assessment against said leased premises or against any buildings, structures or any improvements erected or constructed by the Lessee on said leased premises made for maintenance purposes, such as lighting. If said assessment be for capital improvement, such as water lines, sewer (wastewater facilities), fences or other utilities, Lessee agrees to pay before delinquency a sum equal to one-half (1/2) of each annual installment thereof during each year of the term hereof.

D. Payments to City. Lessee agrees that in the event the interest of Lessee in said leased premises shall not be subject to taxation (possessory interest) by the County of Los Angeles, the City of Torrance, the Torrance Unified School District or by any taxing district encompassing said leased premises, or by any of said governmental agencies or districts, or by any successor or successors thereof, then in lieu of said taxes, Lessee shall pay each year on the anniversary date of this Lease to the City for the sole use and benefit of the City, a sum equal to the amount of all said taxes for the last tax year ending prior to such anniversary date which Lessee would have paid if such taxes has been assessed and levied.

E. Valuation. Lessee understands that under the law now in effect the leased premises will be valued by the City's Tax Assessor for the purpose of assessing and levying real property (possessory interest) taxes by adhering to the formula contained in the case of De Luz Homes, Inc. v. County of San Diego,

45 Ca.2d 546, 290 P.2d 544 (1955). Lessee agrees that if at any time during the term of this Lease the law is changed so as to require said assessor to value the interest of Lessee in the leased premises in a manner other than that being used by said assessor on the date of execution of this Lease as first above written, which change will result in reduction of the amount of real property (possessory interest) taxes paid by Lessee on the value of its interest in the leased premises as compared to the amount of said taxes which would have been paid had such change not been made, then the Lessee shall pay to the City each year on the anniversary date of this Lease for the sole use and benefit of the City a sum equal to the amount of the difference in the real property (possessory interest) taxes between (1) the amount of said taxes for the last tax year ending prior to such anniversary date which Lessee actually paid to the County of Los Angeles, the City of Torrance, the Torrance Unified School District and any other taxing district encompassing said leased premises, or by any governmental agency or district, or by any successor or successors thereof, and (2) the amount of such taxes that Lessee would have paid had the value of the interest of Lessee in the leased premises been valued in accordance with the law and practice of said assessor as it existed on the date of execution of this Lease as first above written.

F. Additional Rent. The amounts payable to the City, if any, under the provisions of subparagraphs D and E of this Paragraph 18 shall be deemed to be additional rent payable to the City as consideration for the execution of this Lease.

G. Sales Tax Permit. Lessee agrees that it will require those sublessees who are involved in retail sales to have obtained a California State Sales and Use Tax Permit for the leased premises before doing business thereon.

H. Contests. Lessee shall have the right, at the Lessee's sole cost and expense, to contest the amount or legality of any taxes, assessments or utility charges which it is obligated to pay, and make application for the reduction thereof, or of any assessments upon which the same may be based, provided that Lessee first posts a bond with the City in an amount equal to the amount of such taxes, assessments or charges contested with interest and penalties, or by paying the amounts contested under protest. Lessee agrees that it will prosecute any such contest or application with due diligence and will within thirty (30) days after an adverse final determination thereof pay the amount of any such taxes, assessments or charges which may have been the subject of such contest or application as so determined, together with any interest, penalties, costs and charges which may be payable in connection therewith.

19. LIABILITY

Lessee agrees that its taking possession of the said leased premises shall be an acceptance of the safety and condition thereof, and Lessee agrees to hold the City free and harmless from any and all liability and claim for damages by reason of any injury to any person or persons, including but not limited to Lessee, or property of any kind whatsoever and to whomsoever belonging, including but not limited to Lessee's, from any cause or causes whatsoever while in, upon or in any way connected with the said leased premises and any buildings constructed thereon during the term of this Lease, or any renewal or extension thereof, or any occupancy thereunder.

20. INSURANCEA. Liability.

(1) Lessee agrees that at all times during the term of this Lease and any renewal or extension thereof, it will maintain in force a comprehensive public liability insurance policy which will insure and indemnify the Lessee and the City, the City Council and each member thereof, and every officer and employee of the City against liability or financial loss resulting from any suits, claims, or actions brought by any person or persons and from all costs and expenses of litigation brought against the City in the amount of \$1,000,000 combined single limit for any injury to persons and/or damage to property (i) in or about said leased premises and any buildings constructed thereon or (ii) by reason of the use and occupation by Lessee or by any other person or persons of said leased premises.

(2) It is understood that the type of insurance and minimum limits of insurance required herein may become inadequate for such purposes during the term of this Lease, and Lessee agrees that it shall add such insurance coverage and increase such minimum limits by such amounts as may be requested in writing from time to time by the City.

B. Fire and Extended Coverage. Lessee agrees that at all times during the term of this Lease and any renewal or extension thereof, it will maintain in full force and effect an insurance policy which will insure and indemnify the Lessee and the City from loss occurring to buildings, structures or other improvements on said leased premises by reason of fire and any other hazards insured against in what is commonly known as an extended coverage fire insurance policy. During the first thirty-five (35) years of this Lease, the amount of such coverage shall be at least one hundred percent (100%) of the full replacement cost of the buildings, structures, or other improvements

located on said leased premises. During the remaining fifteen (15) years of this Lease, the amount of such coverage shall be the actual cash value of such buildings, structures and improvements.

C. Rent Insurance. Lessee agrees that at all times during the term of this Lease and any renewal or extension thereof, it will maintain in full force and effect a rent or rental value fire insurance policy, including extended coverage, with endorsements in an amount not less than twelve (12) months rent (including the estimated amount of the Additional Rent) plus the estimated annual cost of taxes and the annual premiums for insurance policies required to be carried under this Paragraph 20. All rent or rental value insurance policies provided for herein shall name the City and Lessee as insured as their respective interest may appear, but shall be deposited with the City, and such rent or rental value insurance policies shall provide for payment of loss to the City to the extent of Lessee's obligations hereunder, and the difference between such payment and the amount of insurance collected shall be payable to Lessee. Any rent or rental value insurance proceeds received by the City shall be applied against Lessee's rental obligations hereunder.

D. Builder's Risk. During the period from the date of this Lease until the completion of construction contemplated under Paragraph 6, and thereafter during any subsequent periods of construction as contemplated under Paragraph 13, Lessee shall obtain and maintain, at its sole cost and expense, with a casualty insurance company authorized to do business in California, builder's risk insurance in so-called nonreporting form covering the total cost of work performed and equipment, supplies and materials furnished, with Lessee and the City as named insureds.

E. Periodic Evaluation. Upon the completion of any buildings constructed pursuant to the provisions of Paragraph 6 herein, and on or before January 1, 1987 and on or before January 1 of each third year thereafter during the term of this Lease or any extension thereof, Lessee shall obtain an appraisal of the replacement cost of the buildings, structures, fixtures and other improvements as aforesaid. If the Lessee and the City cannot agree on said replacement cost, the same shall be determined by arbitration in accordance with the rules of the American Arbitration Association.

F. City as Additional Insured and Cancellation. The City, the City Council and each member thereof, and every officer and employee of the City acting in the due course of his employment or in his official capacity shall be named an additional insured on the liability policy described in subparagraph A above. Any leasehold mortgagee may be an additional named insured on the liability policy described in subparagraph A above and, if the agreements between Lessee and such leasehold mortgagee provide that the entire net proceeds of such insurance shall be applied to the restoration or replacement of any improvements on the leased premises destroyed or damaged by such casualty, such leasehold mortgagee may be an additional named insured on the policies described in subparagraphs B and D above. In the event of a fire and extended coverage loss, the City of Torrance shall be listed as a co-payee with the Lessee (and, if applicable, the leasehold mortgagee) on any such insurance check issued. Said policies shall be issued by an insurer rated in Best's Insurance Guide with a financial rating of Class X or better.

Said policies shall provide that the insurance coverage shall not be cancelled or reduced by the insurance carrier without the City having been given ten (10) days prior written notice thereof by such carrier. Lessee agrees that it will not cancel or reduce said insurance coverage.

G. Certificate. At all times during the term of this Lease and prior to taking possession of said leased premises, Lessee shall maintain on file with the City Clerk of the City a certificate of the insurance carrier or carriers showing that the aforesaid insurance policies are in effect in the amounts above provided and a copy of each insurance policy. Notwithstanding any other provision to the contrary contained in this Lease, Lessee shall not have the right to take possession of said leased premises until such certificate or certificates are filed with the City Clerk.

H. Failure to Provide. Lessee agrees that if it does not keep the aforesaid insurance in full force and effect, the City may take out the necessary insurance and pay the premium thereon, and the repayment thereof shall be deemed to be a part of the rental of said premises in addition to the usual monthly rental and payable as such on the next day after notice of the payment by the City for the said insurance policy upon which rental becomes due hereunder.

I. Subrogation. Any insurance policies procured by Lessee hereunder shall provide that the insurance carrier waives all rights of subrogation against the City. If the City shall obtain any policies of insurance on or insuring against loss arising out of the operation of the leased premises during the term hereof, each such policy shall include a waiver by the insurance carrier of all rights of subrogation against Lessee.

21. CASUALTY: INSURANCE PROCEEDS

A. Statement of Costs. In the event of the partial or total destruction of any of the buildings, structures or other improvements on the leased premises where the cost of repair or replacement exceeds Ten Thousand Dollars (\$10,000.00), as established jointly by Lessee and the Director of Building and Safety of the City, Lessee shall promptly furnish the City with:

- (1) A statement of the original cost of the damaged structures;
- (2) An itemized statement setting forth the estimated cost of reconstruction thereof or repairs thereto, prepared by a California licensed architect or engineer.

B. Duty to Repair - Where Insurance.

(1) In the event of the partial or total destruction of any of the buildings, structures or other improvements on the leased premises by any cause which is by the terms of this Lease required to be insured against, Lessee shall repair or rebuild the affected buildings, structures or other improvements to the condition existing prior to the occurrence of such destruction or damage, and shall do so even though the proceeds of the insurance policies covering the loss shall be insufficient to reimburse Lessee therefor; provided, however, that if such proceeds of insurance are more than sufficient to pay the cost of any such rebuilding, Lessee shall be entitled to receive any surplus.

(2) Any insurance proceeds exceeding Twenty-five Thousand Dollars (\$25,000.00) shall be payable to an insurance trustee, acceptable to both parties, who shall disburse the funds for construction purposes as construction progresses and with such safeguards as said trustee may deem to be desirable

to assure that workmen and materialmen are paid and that no mechanic's liens may be recorded. If any Leasehold Mortgagee, as defined in Paragraph 23 of this Lease, agrees to disburse such proceeds for restoration as aforesaid, such Leasehold Mortgagee shall be acceptable to the City as the insurance trustee for purposes of this provision.

C. Duty to Repair - Where No Insurance.

(1) In the event of the partial or total destruction of any of the buildings, structures or other improvements on the leased premises by any cause which is by the terms of this Lease not required to be insured against, then:

(a) If the cost to repair or restore such building, structure or other improvement is reasonably estimated to be less than fifty percent (50%) of the value of same immediately prior to such damage or destruction, then Lessee shall proceed to repair and replace the same at its own expense; or

(b) If such damage or destruction exceeds fifty percent (50%) of the value of such building, structure or other improvement immediately prior to such damage or destruction, then Lessee may elect to demolish same, restore the leased premises to a neat and clean condition to the reasonable satisfaction of the City and terminate this Lease by notifying the City in writing of its intent to do so within thirty (30) days of the event causing such damage or destruction.

(2) If Lessee shall elect to cancel this Lease as provided for above, it shall have no further obligation for rental or other payments hereunder from and after the date that such demolition and restoration are completed.

D. Repair Work. Any reconstruction and repair work provided to be performed by Lessee hereunder shall be commenced and continued to completion promptly and diligently. Such reconstruction and repair work shall be performed, insofar as reasonably possible, in compliance with and pursuant to the original plans and specifications and in compliance with the provisions of Paragraph 13 herein. The City may require a Payment Bond from Lessee to assure the removal or bonding of any liens.

E. Rent. In the event of destruction or damage, whether total or partial, to the buildings, structures or other improvements on the leased premises, the rent provided for hereunder shall not be abated by reason of the occurrence of any such destruction or damage as long as the term of this Lease continues and remains in existence.

## 22. ASSIGNMENT AND SUBLETTING

### A. Consent.

(1) Lessee shall have the right to enter into subleases for space in the improvements hereafter constructed at the demised premises and no consent of the City shall be required therefor provided that such sublease

(a) is made on a form sublease previously approved by the City, with no material deviations therefrom, which form provides, among other things, that the occupancy and use of such subleased space is subject to the terms and conditions of this Lease; and

(b) is on rental terms reasonable at the time of execution thereof.

Lessee will notify the City promptly of each such sublease entered into and will, upon request, provide the City with copies thereof.

(2) Except as provided for in subparagraph (1) above, Lessee shall not sublet all or any part of the leased premises, or assign this Lease or any interest herein or in the leased premises, without first obtaining the written consent of the City Council, which consent shall not be unreasonably withheld. The giving of such consent shall not be a waiver of any right to object to further or future assignments or subleases, but the consent to each successive assignment or sublease must be first obtained in writing from the City Council.

(3) Any of the following shall be deemed an assignment prohibited hereby unless the written consent of the City be first obtained thereto:

(a) if Lessee is a partnership or joint venture, a withdrawal, addition or change (voluntary, involuntary, by operation of law, or otherwise) of any of the partners or adventurers thereof; or

(b) if Lessee is composed of more than one person, a purported assignment or transfer (voluntary or involuntary, by operation of law, or otherwise) from one to any other or others thereof; or

(c) if Lessee is a corporation, a cumulative change in the ownership (voluntary, involuntary, or by operation of law, or otherwise) of thirty-three and one-third percent (33 1/3%) or more of its capital stock owned as of the date of its acquisition of this Lease, provided, however, that any such transfer as a result of the death or judicially-declared incompetency of any such person may be made without the consent of the City. Lessee shall give the City prompt written notice of any such change in the ownership

interests in Lessee, whether or not the consent of the City is required therefor.

B. Vesting. As a condition to the vesting of any rights in this Lease or in the leasehold estate created hereby in any assignee or sublessee of the Lessee's interest hereunder (except a sublessee under the provisions of subparagraph A(1) of Paragraph 22), whether voluntary or involuntary, each such proposed assignee or sublessee shall first have delivered to the City Clerk of the City a written notice of such proposed assignment or sublease, which notice:

(1) shall contain a statement that the proposed assignee or sublessee agrees to be bound by all the terms, covenants and conditions of this Lease which are to be performed by Lessee;

(2) shall state the name and address of the proposed assignee or sublessee for the purpose of enabling notices to be given under Paragraph 29 herein; and

(3) shall state whether the proposed assignee or sublessee is an individual, a corporation or a partnership; and if such assignee or sublessee is a corporation, the names of such corporation's principal officers and directors, its state of incorporation, the amount of capital stock authorized and the amount of capital stock outstanding at the time of the assignment, the number of shareholders and the name and address of every shareholder who directly or indirectly owns or controls five percent (5%) or more of such stock (stating the number of such shares); and if such assignee or sublessee is a partnership, the names and addresses of the members of such partnership.

23. ENCUMBRANCES

A. Right to Encumber. During the term of this Lease, Lessee may assign for security purposes only or may encumber Lessee's interest under this Lease and the leasehold estate created hereby in favor of an institutional lender (herein sometimes referred to as the "Leasehold Mortgagee") and in that connection may perform any and all acts and execute any and all instruments necessary or proper to consummate any loan transaction and perfect the security therefor to be given the Leasehold Mortgagee; provided, however, that:

(1) Any such assignment or encumbrance must constitute a first lien on Lessee's leasehold estate and prior to completion of the Buildings called for in Paragraph 6B of this Lease (i) such assignment or encumbrance must be given to secure an indebtedness obtained for the purpose of the development of the Leased Premises, and (ii) all monies secured by such leasehold encumbrance shall be applied to construction of said Buildings on the Leased Premises;

(2) such an assignment or encumbrance shall be an assignment or encumbrance only of the Lessee's interest under this Lease and the leasehold estate created hereby and shall not convey or be a lien upon the City's freehold estate of the City in the leased premises; and

(3) the instruments and agreements evidencing and securing Lessee's indebtedness shall be subject to the prior approval of the City, which approval shall not be unreasonably withheld, and the City hereby agrees to enter into an agreement with such Leasehold Mortgagee, on terms acceptable to each of them, to provide for, among other things, the right of such Leasehold Mortgagee to receive notice of and have opportunity to cure defaults of Lessee under this Lease (or to obtain a substitute lease for the remainder of the term hereof);

provided, however, that no provision of this Lease (or any separate agreement between the City and any Leasehold Mortgagee) shall be construed as resulting in a subordination in whole or in part of the freehold estate of the City to any indebtedness of Lessee.

B. Leasehold Mortgagee Defined. The term "Leasehold Mortgagee" as used in this Paragraph 23 and elsewhere in this Lease shall mean the mortgagee under any mortgage, or the trustee and beneficiary under any deed of trust or indenture of mortgage and deed of trust encumbering the leasehold estate or Lessee's interest therein (including the assignee or successor of any such mortgagee, beneficiary or trustee and the holder of any promissory note or bond secured thereby), and executed by Lessee and delivered for the purpose of securing to such mortgagee, trustee or beneficiary payment of any indebtedness incurred by Lessee and secured by such mortgage, deed of trust or indenture of mortgage and deed of trust.

24. BREACH OR DEFAULT

A. Event of Default. Any of the following shall constitute an event of default ("Event of Default") by Lessee under this Lease:

- (1) failure of Lessee to pay when due the basic minimum rent, or any other sums payable by Lessee under this Lease, and the continuance of such failure for ten (10) days after written notice thereof from the City that such payment is due; or
- (2) the occurrence of an event of default under the instruments or agreements existing or securing the indebtedness held by Leasehold Mortgagee uncorrected for thirty (30) days after written notice thereof from the City; or
- (3) the abandonment or vacation of the leased premises for ten (10) days after written notice thereof from the City; or

(4) the failure of Lessee to perform any other obligation hereunder and continuance of such failure for thirty (30) days after written notice from the City specifying such failure to perform; or

(5) except as otherwise provided by paramount law, the entry of any decree or order for relief by any court with respect to Lessee in any involuntary case under the Federal Bankruptcy Code or any other applicable federal or state law; or the appointment of or taking possession by any receiver, liquidator, assignee, trustee, sequestrator or other similar official, of Lessee or of any substantial part of the property of Lessee or the ordering or winding up or liquidating of the affairs of Lessee and the continuance of such decree or order unstayed and in effect for a period of sixty (60) days; or the commencement by Lessee of a voluntary proceeding under the Federal Bankruptcy Code or any other applicable state or federal law or consent by Lessee to the entry of an order for relief in an involuntary case under any such law, or consent by Lessee to appointment of or taking of possession by a receiver, liquidator, assignee, trustee, sequestrator or other similar official, of Lessee or of any substantial part of the property of Lessee or the making by Lessee of any general assignment for the benefit of creditors; or the failure of Lessee to operate its business for ten (10) business days when such failure is due to any financial difficulty experienced by either of the foregoing; or Lessee taking any other voluntary action related to the dissolution of Lessee or the winding up of Lessee's affairs.

B. City's Remedies.

(1) If an Event of Default by Lessee shall occur and be continuing as aforesaid, then in addition to any other remedies available to the City at law or in equity, the City shall have the immediate option to terminate this Lease, and bring suit against

Lessee or submit the issue of Lessee's default to arbitration and recover as an award in such suit or arbitration proceeding the following:

(a) the worth at the time of award of the unpaid rent and all other sums due hereunder which had been earned at the time of termination;

(b) the worth at the time of award of the amount by which the unpaid rent and all other sums due hereunder which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided;

(c) the worth at the time of award of the amount by which the unpaid rent and all other sums due hereunder for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided;

(d) any other amount necessary to compensate the City for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things could be likely to result therefrom; and

(e) such amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable California law.

(2) The "worth at the time of award" of the amounts referred to in subsections (a) and (b) above shall be computed by allowing interest at the lesser of one and one-half percent (1-1/2%) per month or the maximum allowable rate under applicable law on the date of the award. The "worth at the time of award" of the amount

referred to in subsection (c) is computed 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%).

(3) If an Event of Default shall occur, and the City shall choose not to exercise the option to terminate this Lease as provided for herein, this Lease shall continue in full force and effect for so long as the City chooses not to terminate Lessee's right to possession, and the City may enforce all its rights and remedies under this Lease, including the right to recover rent as it becomes due.

(4) For the purpose of this Subparagraph B, the following do not constitute a termination of the Lessee's right to possession:

(a) acts of maintenance or preservation or effort to relet all or any part of the leased premises; or

(b) the appointment of a receiver upon initiative of the City to protect the City's interest under this Lease.

C. Receipt of Rent Not Waiver of Default. The receipt by the City of any rent payment or any other charges due to the City, with knowledge of any breach of this Lease by Lessee or of any default on the part of Lessee in the observance or performance of any of the conditions or covenants of this Lease, shall not be deemed to be a waiver of any provisions of this Lease. No acceptance by the City of a lesser sum than the full amount of the rent as provided in Paragraph 3 herein, or any other charges then due shall be deemed to be other than on account of the earliest installment of the rent or other charges due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as the rent or charges due be deemed an accord and

satisfaction, and the City may accept such check or payment without prejudice to the City's right to recover the balance of such installment or pursue any other remedy provided in this Lease. No failure on the part of the City to enforce any covenant or provision herein contained, nor any waiver of any right hereunder by the City shall discharge or invalidate such covenant or provision or affect the right of the City to enforce the same in the event of any subsequent breach or default, unless expressly agreed to by the City Manager in writing. The receipt by the City of any rent payment or any other sum of money or any other consideration paid by Lessee after the termination in any manner of the term, or after giving by the City of any notice hereunder to effect such termination, shall not, except as otherwise expressly set forth in this Lease, reinstate, continue, or extend the term hereof, or destroy, or in any manner impair the efficacy of any such notice of termination as may have been given hereunder by the City to Lessee prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by the City Manager. Neither acceptance of the keys nor any other act or thing done by the City or by its agents or employees during the term shall be deemed to be an acceptance of a surrender of the leased premises, excepting only an agreement in writing signed by the City Manager accepting or agreeing to accept such a surrender.

25. COMPLIANCE WITH LAW

Lessee agrees to comply with, and to cause all sublessees to comply with, all statutes, ordinances, rules, laws or regulations of any governmental agency (including, without limitation, those of the City of Torrance) which are applicable to said leased premises or the operation of Lessee or such sublessees on the leased premises.

26. RIGHT OF ENTRY

The City and the City's officers, employees and agents shall at all reasonable times have the right to enter upon the leased premises or any buildings, structures or other improvements thereon for the purpose of inspecting the same and posting notices of nonresponsibility or any other notices the City may reasonably deem necessary or desirable.

27. AVIGATION EASEMENTS

## A. Lessee agrees that:

(1) it will not erect or permit the erection of growth of any building, structure, tree or other object on said premises above any elevation of 250 feet above mean sea level; and

(2) it will not use said premises or permit said premises to be used in any manner which might interfere with the landing and taking off of aircraft from the airport, or which otherwise constitutes an air navigation obstruction, or which creates an interference.

B. The City reserves the following easements from the leasehold estate created hereby:

(1) the right to take any action necessary to prevent the erection or growth of any building, structure, tree or other object into the air space above an elevation of 250 feet above mean sea level, and to remove from such air space, or mark and light as obstructions to air navigation, any and all buildings, structures, trees or other objects that may at any time project or extend above elevation of 250 feet above mean sea level, together with the right

of ingress to, egress from, and passage over the said premises for such purposes;

(2) the right to enter onto the said premises for the purpose of causing the abatement of any interference with the landing and taking off of aircraft from said airport; and

(3) a right of flight for the passage of aircraft in the air space above the surface of the said premises, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of, or flight in the air, using said air space or landing at, or taking off from, or operating at, or on said airport.

C. "Aircraft" as used in this Paragraph 27 includes aircraft now or hereafter developed which utilize the airport or such airspace whether similar or dissimilar to existing aircraft.

D. "Interference" as used in this Paragraph 27 includes without limitation any interference with radar, any electrical or other interference with radio or other communication between airport and aircraft, or any use or activity which makes it difficult for pilots to distinguish between airport and other lights, creates glare or otherwise impairs visibility or which otherwise endangers the landing, taking off or maneuvering of aircraft or the safety of those using the airport, or is hazardous thereto.

E. In the event that the City exercises any of its rights pursuant to the above provisions of Paragraph 27, the City shall not be liable to the Lessee for any damage suffered as a result thereof and the Lessee shall reimburse the City for all reasonable and necessary expenses incurred by the City therefor.

28. QUIET ENJOYMENT

The City covenants that Lessee, upon paying the rent expressly reserved in Paragraph 3 herein and observing and keeping the terms, covenants, and conditions of this Lease on its part to be kept and performed, shall lawfully and quietly hold, occupy and enjoy the leased premises during the term of this Lease.

29. NOTICES

A. Notices of City. All notices hereunder given by Lessee to the City shall be in writing and delivered to the City Clerk of the City at 3031 Torrance Boulevard, Torrance, California 90503, or at such other address or to such other persons as the City may from time to time designate in writing.

B. Notices to Lessee. All notices given by the City to Lessee hereunder shall be in writing and delivered to Lessee at 24050 Madison Street, Suite 108, Torrance, California 90505, or at such other address as Lessee may from time to time designate in writing.

C. Effectiveness. Any such notice may be given by depositing the same in the United States Post Office, properly addressed as aforesaid, postage fully prepaid, for delivery by certified mail. Any notice given hereunder by certified mail shall be deemed, as between the City and Lessee, to have been fully given and delivered for all purposes at the expiration of seventy-two (72)

hours after the same is deposited in the United States Post Office for delivery as aforesaid.

30. AMENDMENTS AND MODIFICATIONS

This lease shall not be amended or modified in any way, and no purported amendment or modification shall be effective, unless same has been (i) approved by the City Council and set forth in a written instrument, expressly purporting to amend this Lease, executed by the Mayor for the City, and (ii) executed by Lessee.

31. APPROVALS BY CITY

No consent, approval or satisfaction of the City provided for hereunder, and no waiver by the City of any provision hereof, shall be effective unless given in writing specifically referring to this Lease and executed by the City Manager or the Mayor for the City; no such consent, approval, satisfaction or waiver under or with respect to this Lease shall be inferred or implied from any other act or omission of the City or any agent or employee thereof. Similarly, unless otherwise expressly provided therein, no approval consent or other action taken by the City under or pursuant to this Lease shall be deemed to waive any other rights or authority of the City in any capacity other than as the lessor under this Lease.

32. GENERAL PROVISIONS

A. Remedies Cumulative. No remedy or election given by any provisions in this Lease shall be deemed exclusive unless so indicated, but it shall whenever possible be cumulative with all other remedies in law or equity except as otherwise herein specifically provided.

B. Provisions as Covenants. Each provision hereof shall be deemed both a covenant and condition and all of the conditions and covenants contained herein shall be covenants running with the land and shall be construed as such.

C. Time. Time is of the essence of this Lease.

D. Headings. The paragraph headings in this Lease contained are for convenience and reference only, and are not intended to and shall not define, govern, limit, modify or in any manner affect the scope, meaning, or intent of any provision in this Lease contained.

E. Successors in Interest. Except as otherwise herein provided, each and every of the terms, covenants and conditions of this Lease shall inure to the benefit of and shall bind, as the case may be, not only the parties hereto but each and every of the heirs, executors, administrators, successors, assigns and legal representatives of the parties hereto.

F. Waivers. The waiver by either Lessee or the City of any breach of any of the covenants, agreements, obligations, conditions or provisions of this Lease shall not be construed to be a waiver of such covenant, agreement, obligation, condition, term or provision upon any subsequent breach of the same or of any other covenant, agreement, obligation, condition, term or provision herein contained.

G. Gender and Number. In this Lease, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the neuter gender includes the masculine and/or feminine, and the singular number includes the plural and the plural includes the singular.

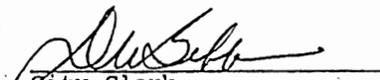
H. Memorandum of Lease. Neither party will suffer or permit this Lease or a copy thereof to be recorded; provided, however, at the request of either party (and at the expense of the requesting party), a memorandum of this Lease in recordable form will be prepared, executed by both parties, and recorded.

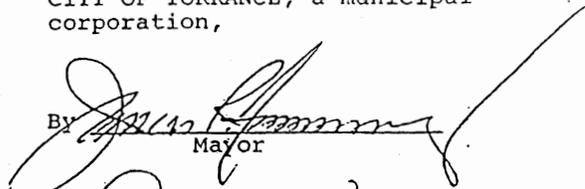
I. No Brokers. Lessee covenants and agrees that no commission or fees are due and owing to any person or entity by reason of the execution of this Lease or the payment of rent hereunder, and Lessee shall indemnify and hold the City harmless from and against any demand, liability, claim or obligation for any such fees or commissions from any person or entity claiming to have dealt with Lessee.

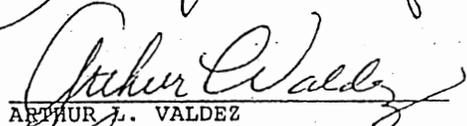
IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

CITY OF TORRANCE, a municipal corporation,

ATTEST:

  
City Clerk

By   
Mayor

  
ARTHUR L. VALDEZ

APPROVED AS TO FORM:

  
ARLEEN VALDEZ

  
STANLEY E. REMELMEYER  
City Attorney

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF LOS ANGELES )

On January 28, 1983, before me, Joyce R. Croft,  
a Notary Public in and for said County and State, personally  
appeared JAMES R. ARMSTRONG, known to me to be the Mayor, and  
DONNA M. BABB, known to me to be the City Clerk of the municipal  
corporation that executed the within instrument, and acknowledged to  
me that they executed and attested the same on behalf of such  
municipal corporation.

WITNESS my hand and official seal.

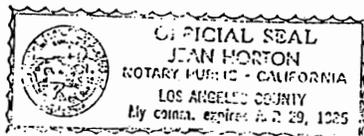


Joyce R. Croft  
Notary Public in and for said  
County and State

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF LOS ANGELES )

On January 4, 1983, before me, Jean Horton,  
a Notary Public in and for said County and State, personally  
appeared ARTHUR L. VALDEZ and G. ARLEEN VALDEZ, known to me to be  
the persons whose names are subscribed to the within instrument  
and acknowledged to me that they executed the same.

WITNESS my hand and official seal.



Jean Horton  
Notary Public in and for said  
County and State

## RESOLUTION NO. 82-282

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE APPROVING AND AUTHORIZING THE EXECUTION OF THAT CERTAIN LEASE BETWEEN THE CITY OF TORRANCE AS LESSOR AND ARTHUR L. VALDEZ AND G. ARLEEN VALDEZ, HUSBAND AND WIFE, AS LESSEE

WHEREAS, the City of Torrance is the owner of a certain vacant parcel of land comprising approximately 2.25 acres located on the south side of Skypark Drive on the north boundary of the Torrance Municipal Airport; and

WHEREAS, Arthur L. Valdez and G. Arleen Valdez, husband and wife, are desirous of leasing said land and constructing an office building thereon; and

WHEREAS, a 50-year lease therefor dated January 1, 1983 has been negotiated between the parties; and

WHEREAS, it is in the public interest that said lease be executed; and

WHEREAS, said property is not required for other city purposes.

NOW, THEREFORE, the City Council of the City of Torrance does hereby resolve as follows:

1. That said lease between the City of Torrance as Lessor and Arthur L. Valdez and G. Arleen Valdez, husband and wife as Lessee, dated January 1, 1983, is hereby approved.
2. That the Mayor and City Clerk are hereby authorized and directed to execute and attest said lease for and on behalf of said City.
3. That the Mayor and City Clerk are further authorized and directed to execute and attest for and on behalf of said City any other documents ancillary thereto when such documents have been approved by the City Attorney.

Introduced, approved and adopted this 14th day of December, 1982.

ATTEST:

/s/ James R. Armstrong  
Mayor of the City of Torrance

/s/ Donna M. Babb  
DONNA M. BABB  
City Clerk

APPROVED AS TO FORM:

STANLEY E. REMELMEYER  
City Attorney

By \_\_\_\_\_

## LEGAL DESCRIPTION

Those portions of Lot 1, Tract No. 9765, in the City of Torrance, County of Los Angeles, State of California, as shown on map filed in Book 170, Pages 10, 11 and 12 of Maps, Records of said County, more particularly described as follows:

## PARCEL "A"

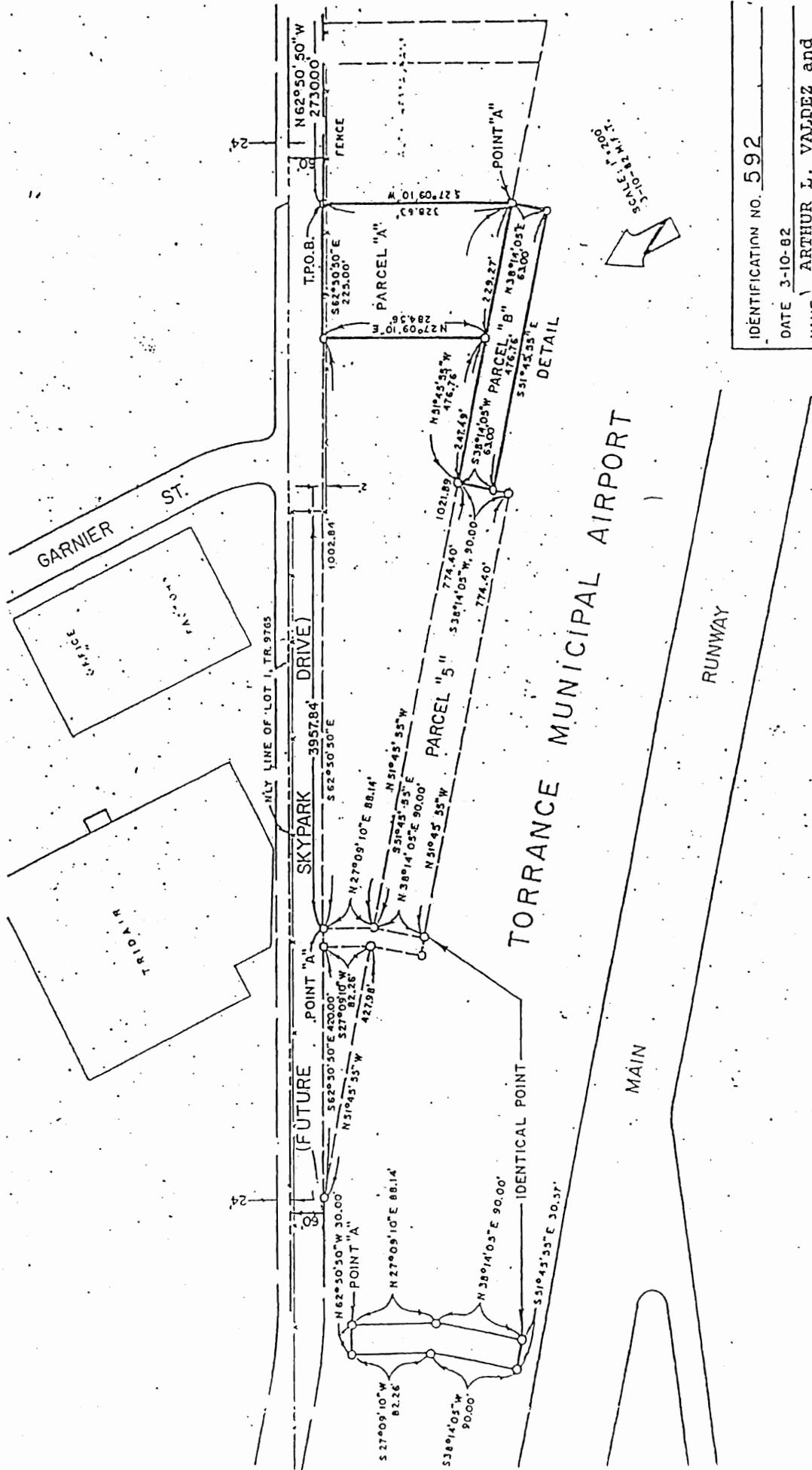
Beginning at a point perpendicularly distant seventy (70) feet Westerly from the centerline of Crenshaw Boulevard, 100 feet wide, as said Boulevard existed on December 21, 1955, and perpendicularly distant sixty (60) feet Southerly from the Northerly line of said Lot 1, Tract No. 9765; thence North  $62^{\circ}50'50''$  West, parallel to the Northerly line of said Lot 1, a distance of 2730.00 feet to the TRUE POINT OF BEGINNING; thence South  $27^{\circ}09'10''$  West, 328.63 feet to a point, being hereinafter referred to as point "A"; thence North  $51^{\circ}45'55''$  West, 229.27 feet; thence North  $27^{\circ}09'10''$  East, 284.56 feet; thence South  $62^{\circ}50'50''$  East, 225.00 feet to the TRUE POINT OF BEGINNING.

## PARCEL "B"

Beginning at said point "A" described in Parcel "A" above; thence North  $51^{\circ}45'55''$  West, 229.27 feet; thence continuing North  $51^{\circ}45'55''$  West, 247.49 feet; thence South  $38^{\circ}14'05''$  West 63.00 feet; thence South  $51^{\circ}45'55''$  East, 476.76 feet; thence North  $38^{\circ}14'05''$  East, 63.00 feet to said Point "A".

ARTHUR L. VALDEZ and  
G. ARLEEN VALDEZ  
Airport Lease

Identification No. 591  
Exhibit "A"  
March 10, 1982



IDENTIFICATION NO. 592  
 DATE 3-10-82  
 NAME ARTHUR L. VALDEZ and  
 G. ARLEEN VALDEZ  
 FILED WITH CITY CLERK  
 CITY MANAGER

EXHIBIT "B"

Recorded May 13, 1948  
 BOOK 27145 Pages 362-368 Incl.

QUITCLAIM DEED

THIS INDENTURE, made this 5th day of March, 1948, between the United States of America, acting by and through the War Assets Administration, and pursuant to Reorganization Plan 1 of 1947 (12 F.R. 4534), and pursuant to the powers and authority contained in the provisions of the Surplus Property Act of 1944 (58 Stat. 765) as amended, and applicable rules, regulations and orders, GRANTOR and the City of Torrance, a municipal corporation under the laws of the State of California, acting by and through its City Council, GRANTEE,

WITNESSETH: That the said Grantor, for and in consideration of the assumption by the Grantee of all the obligations and its taking subject to certain reservations, restrictions, and conditions, and its covenant to abide by certain other reservations, restrictions, and conditions, all as set out hereinafter, has remised, released, and forever quitclaimed, and by these presents does remise, release, and forever quitclaim unto the said Grantee, its successors, and assigns, under and subject to the reservations, restrictions, and conditions, exceptions and rights hereinafter set out, all its right, title, and interest in the following described property situated in the County of Los Angeles, State of California to wit:

That portion of Lot 1 of Tract No. 9765, as per map recorded in Book 170, Pages 10, 11 and 12 of Maps, in the office of the County Recorder of Los Angeles County, in the City of Torrance, County of Los Angeles, State of California, and described as follows:

Beginning at the northeasterly corner of said Lot 1; thence along the East line of said Lot 1, South  $0^{\circ} 03' 45''$  East 4302.77 feet to the center line of the Pacific Coast Highway, 100 feet wide, as described in the deed to the State of California recorded in Book 12743, Page 23 of Official Records of said county; thence along said center line as follows:

South  $89^{\circ} 56' 15''$  West 26.04 feet to the beginning of curve concave northerly and having a radius of 1146.28 feet; thence westerly along the arc of said curve 821.34 feet; thence North  $49^{\circ} 00' 30''$  West 2390.48 feet; thence North  $49^{\circ} 00' 56''$  West 11.96 feet to the beginning of a curve concave northeasterly and having a radius of 14,000 feet; thence along the arc of said curve 777.84 feet; thence North  $45^{\circ} 49' 56''$  West 3481.23 feet to the beginning of a curve concave southwesterly and having a radius of 3000 feet; thence northwesterly along the arc of said curve 400.42 feet to the intersection of said center line with the West line of said Lot 1; thence along said West line North  $0^{\circ} 01' 26''$  West 1783.98 feet; thence South  $51^{\circ} 45' 55''$  East 6984.73 feet; thence North  $38^{\circ} 14' 05''$  East, 550 feet; thence North  $51^{\circ} 45' 55''$  West 6534.21 feet to a point on the northeasterly line of said Lot 1, said last mentioned

Recorded May 13, 1948  
 BOOK 27145 Pages 362-368 Incl.

point being distant along said northeasterly line South  $62^{\circ} 50' 50''$  East, 780.39 feet from the most northerly corner of said Lot 1; thence South  $62^{\circ} 50' 50''$  East along the said northeasterly line of Lot 1, a distance of 5921.76 feet to the northeasterly corner of said Lot 1, the point of beginning, containing 385.463 acres, more or less;

Excepting therefrom:

PARCEL 1-A

An easement for embankment slopes upon, over and across that portion of said Lot 1 of Tract No. 9765, described as follows:

Beginning at the most northerly corner of said Lot 1; thence South  $62^{\circ} 50' 50''$  East along the northeasterly line of said Lot 1, a distance of 780.39 feet; thence South  $51^{\circ} 45' 55''$  East 3334.31 to the TRUE POINT OF BEGINNING OF PARCEL 1-A;

Thence South  $54^{\circ} 37' 40''$  East a distance of 400.50 feet more or less; thence South  $51^{\circ} 45' 55''$  East 2300 feet; thence South  $46^{\circ} 03' 17''$  East 201 feet; thence North  $51^{\circ} 45' 55''$  West 2900 feet to the true point of beginning;

and excepting therefrom:

PARCEL 1-B

An easement for road purposes upon, over and across that portion of said Lot 1 of Tract 9765, included within a strip of land 40 feet wide, being 20 feet on each side of the following described center line:

Beginning at the most northerly corner of said Lot 1; thence South  $62^{\circ} 50' 50''$  East along the northeasterly line of said Lot 1, a distance of 780.39 feet; thence South  $51^{\circ} 45' 55''$  East 6534.31 feet; thence South  $38^{\circ} 14' 05''$  West 230 feet to the TRUE POINT OF BEGINNING OF PARCEL 1-B;

Thence South  $51^{\circ} 45' 55''$  East 159.79 feet; thence southwesterly 133.72 feet along the arc of a curve concave northeasterly and having a radius of 200 feet; thence North  $89^{\circ} 55' 35''$  East 50.37 feet, to a point on the westerly prolongation of the center line of 251st Street, shown as Almond Street on map recorded in Book 17, page 125 of Maps, in the office of the County Recorder of Los Angeles County, State of California, said point being South  $0^{\circ} 03' 45''$  East, 25 feet from the southwest corner of Lot 10 of Tract No. 592 as shown on said map recorded in Book 17, page 125 of Maps;

and excepting therefrom:

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PARCEL 1-C

An easement for drainage facilities upon, over and across that portion of said Lot 1 of Tract No. 9765, included within a strip of land 52 feet wide, being 26 feet on each side of the following described center line:

Beginning at a point on the northeasterly line of said Lot 1, distant thereon, South  $62^{\circ} 50' 50''$  East 3978.62 feet from the most northerly corner of said Lot; thence South  $0^{\circ} 50' 55''$  East, 782.14 feet; thence South  $15^{\circ} 09' 05''$  West 848.57 feet;

Thence southwesterly along a curve concave northwesterly, tangent to last described line and having a radius of 520.60 feet; through an angle of  $49^{\circ} 30'$  and an arc distance of 449.77 feet; thence tangent South  $64^{\circ} 39' 05''$  West, 605 feet to a point in an existing drainage channel:

AND ALSO, an easement for drainage facilities upon, over and across that portion of said Lot 1, included within a strip of land 32 feet wide, being 16 feet on each side of the following described center line:

Beginning at the Southerly terminus of that certain course herein described as having a length of 848.57 feet; thence southeasterly along a curve concave northeasterly, tangent to said course having a length of 848.57 feet and having a radius of 550 feet, through an angle of  $41^{\circ} 00'$ , an arc length of 393.57 feet; thence tangent South  $25^{\circ} 50' 55''$  East, a distance of 574.06 feet; thence southerly along a curve concave Westerly, tangent to last described course and having a radius of 500 feet, through an angle of  $25^{\circ} 39'$ , an arc distance of 223.84 feet; thence tangent South  $0^{\circ} 11' 55''$  East, a distance of 200 feet to a point in an existing drainage channel.

TOGETHER WITH those certain chattel enumerated in Exhibit "B" attached hereto and made a part hereof; and TOGETHER WITH all buildings, structures, and improvements located thereon, except those thirty-four (34) structures hereinafter enumerated, and described in a certain inventory attached hereto and made a part hereof, marked Exhibit "A", and located on that portion of the demised premises more particularly described in said Exhibit "A", being a part of the same property acquired by the United States of America under proceedings in condemnation had in Case No. 2527-PH, Civil, of record in the District Court of the United States, Southern District of California, Central Division.

The above described premises are transferred subject to the following encumbrances: All existing easements for roads, highways, public utilities, railways, and pipe lines; leasehold interest executed by the Grantor as Lessor and by A.P. Wright as

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Lessee, designated as Lease No. W-04-193-Eng.-4974, dated April 17, 1945; and the right of the United States of America to occupy use, and maintain in place, together with reasonable means of ingress and egress without payment to the Grantee, its successors, or assigns, all the buildings and structures enumerated in Exhibit "A", and located on the demised premises.

EXCEPTING, HOWEVER, from this conveyance all right, title and interest in and to all property in the nature of equipment, furnishings, and other personal property which can be removed from the land without material injury to the land or structures located thereon other than those chattels enumerated in Exhibit "B"; and reserving to the Grantor the right of removal from the premises of the personal property excepted hereby within a reasonable period of time after the date hereof, which shall not be construed to mean any period less than one (1) year after the date of this instrument.

AND FURTHER EXCEPTING, from this conveyance and reserving to the GRANTOR, in accordance with Executive Order 9908 approved December 5, 1947 (12 F.R. 8223), all uranium, thorium, and all other materials determined pursuant to section 5 (b) (1) of the Atomic Energy Act of 1946 (60 Stat. 761) to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the lands covered by this instrument, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same, making just compensation for any damage or injury occasioned thereby. However, such land may be used, and any rights otherwise acquired by this disposition may be exercised, as if no reservation of such material had been made; except that, when such use results in the extraction of any such material from the land in quantities which may not be transferred or delivered without a license under the Atomic Energy Act of 1946, as it now exists or may hereafter be amended, such material shall be the property of the United States Atomic Energy Commission, and the Commission may require delivery of such material to it by any possessor thereof after such material has been separated as such from the ores in which it was contained. If the Commission requires the delivery of such material to it, it shall pay to the person mining or extracting the same, or to such other person as the Commission determines to be entitled thereto, such sums, including profits as the Commission deems fair and reasonable for the discovery, mining, development, production, extraction and other services performed with respect to such material prior to such delivery, but such payment shall not include any amount on account of the value of such material before removal from its place of deposit in nature. If the Commission does not require delivery of such material to it, the reservation hereby made shall be of no further force or effect.

AND FURTHER EXCEPTING from this conveyance and reserving to the Grantor all minerals, other than those specifically mentioned in the last paragraph above, and all petroleum in the above described land, together with the exclusive right at any and all times to enter upon the lands and prospect for, mine for, and remove such minerals or petroleum, with all necessary and conven-

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ient means of working and transporting the materials and supplies; and reserving unto the Grantor the exclusive right at any time to drill from adjacent premises into and through the sub-surface of the land hereby transferred, in order to recover, remove, and transport therefrom any minerals or petroleum herein reserved. By accepting this instrument, or any rights hereunder, the said Grantee hereby releases the Grantor from any and all liability for all claims and losses or damage arising out of the exceptions and reservations above.

Said property transferred hereby was duly declared surplus and was assigned to the War Assets Administration for disposal, acting pursuant to the provisions of the above-mentioned Act, as amended, Executive Order 9689, and applicable rules, regulations, and orders.

By the acceptance of this deed or any rights hereunder, the said Grantee, for itself, its successors, and assigns agrees that transfer of the property transferred by this instrument, is accepted subject to the following restrictions set forth in subparagraphs (1) and (2) of this paragraph, which shall run with the land, imposed pursuant to the authority of Article 4, Section 3, Clause 2 of the Constitution of the United States of America, the Surplus Property Act of 1944, as amended, Reorganization Plan 1 of 1947 (12 F.R. 4534), and applicable rules, regulations, and orders:

(1) That all of the property transferred hereby, hereafter in this instrument called the "airport", shall be used for public airport purposes, and only for such purposes, on reasonable terms and without unjust discrimination and without grant or exercise of any exclusive right for use of the airport within the meaning of Section 303 of the Civil Aeronautics Act of 1938.

(2) That the entire landing area, as hereinafter defined, and all structures, improvements, facilities, and equipment of the airport shall be maintained at all times in good and serviceable condition to assure its efficient operation; provided, however, that such maintenance shall be required as to structures, improvements, facilities, and equipment only during the remainder of their estimated life, as determined by the Civil Aeronautics Administration or its successor Government agency. In the event materials are required to rehabilitate or repair certain of the aforementioned structures, improvements, facilities, or equipment they may be procured by demolition of other structures, improvements, facilities, or equipment transferred hereby and located on the above-described premises, which have outlived their use as airport property in the opinion of the Civil Aeronautics Administration or its successor Government agency.

By the acceptance of this deed or any rights hereunder, the said Grantee for itself, its successors, and assigns, also assumes the obligations of, covenants to abide by, and agrees to, and this transfer is made subject to, the following reservation and restrictions set forth in subparagraphs (1) to (6) of this paragraph, which shall run with the land, imposed pursuant to the

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authority of Article 4, Section 3, Clause 2 of the Constitution of the United States of America, the Surplus Property Act of 1944, as amended, Reorganization Plan 1 of 1947 (12 F.R. 4534), and applicable rules, regulations and orders:

(1) That insofar as is within its power and reasonably possible, the Grantee and all subsequent transferees shall prevent any use of land either within or outside the boundaries of the airport, including the construction, erection, alteration, or growth of any structure or other object thereon, which use would be a hazard to the landing, taking-off, or maneuvering of aircraft at the airport, or otherwise limit its usefulness as an airport.

(2) That the building areas and non-aviation facilities, as such terms are hereinafter defined, of or on the airport shall be used, altered, modified, or improved only in a manner which does not interfere with the efficient operation of the landing area and of the airport facilities, as hereinafter defined.

(3) That itinerant aircraft owned by the United States of America (hereinafter sometimes referred to as the "Government") or operated by any of its employees or agents on Government business shall at all times have the right to use the airport in common with others; Provided, however, that such use may be limited as may be determined at any time by the Civil Aeronautics Administration or its successor Government agency to be necessary to prevent interference with use by other authorized aircraft, so long as such limitation does not restrict Government use to less than twenty-five (25) per centum of capacity of the landing area of the airport. Government use of the airport by virtue of the provisions of this subparagraph shall be without charge of any nature other than payment for damage caused by such itinerant aircraft.

(4) That during the existence of any emergency declared by the President of the United States of America or the Congress thereof, the Government shall have the right without charge, except as indicated below, to the full, unrestricted possession, control, and use of the landing area, building areas, and airport facilities, as such terms are hereinafter defined, or any part thereof, including any additions or improvements thereto made subsequent to the declaration of any part of the airport as surplus; Provided, however, that the Government shall be responsible during the period of such use for the entire cost of maintaining all such areas, facilities, and improvements, or the portions used, and shall pay a fair rental for the use of any installations or structures which have been added thereto without Federal aid.

(5) That no exclusive right for the use of any landing area or air navigation facilities, included in or on the airport shall be granted or exercised.

(6) That the property transferred hereby may be successively transferred only with the approval of the Civil Aeronautics Administration or its successor Government agency, and with the proviso that any such subsequent transferee assumes all the obligations imposed upon the Grantee by the provisions of this instrument.

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As used in this Quitclaim Deed, the following terms shall have the following meanings:

(a) "Landing Area" means any land, or combination of water and land, together with improvements thereon and necessary operational equipment used in connection therewith, which is used for landing, take-offs, and parking of aircraft. The term includes but is not limited to, runways, strips, taxiways, and parking aprons.

(b) "Building Area" means any Land other than a landing area, used or necessary for or in connection with the operation or maintenance of an airport.

(c) "Non-aviation facilities" means any building, structures, improvements and equipment located in a building area and used in connection with, but not required for the efficient operation and maintenance of the landing area or the airport facilities.

(d) "Airport facilities" means any buildings, structures improvements and operational equipment other than non-aviation facilities, which are used and necessary for or in connection with the operation and maintenance of an airport.

By acceptance of this instrument or any rights hereunder, the Grantee further agrees with the Grantor as follows:

(1) That upon a breach of any of the aforesaid reservations or restrictions by the Grantee or any subsequent transferee, whether caused by the legal inability of said Grantee or subsequent transferee to perform any of the obligations herein set out, or otherwise, the title, right of possession, and all other rights transferred to the Grantee, or any portion thereof, shall at the option of the Grantor revert to and become the property of the United States of America upon demand made in writing by the War Assets Administration or its successor Government agency at least sixty (60) days prior to the date fixed for the reversion of such title, right of possession, and other rights transferred, or any portion thereof; Provided, that, as to installations or structures which have been added to the premises without Federal aid, the United States of America, shall have the option to acquire title to or use of the same at the then fair market value of the rights therein to be acquired by the United States of America.

(2) That if the construction as covenants of any of the foregoing reservations and restrictions recited herein as covenants, or the application of the same as covenants in any particular instance is held invalid, the particular reservations or restrictions in question shall be construed instead merely as conditions upon the breach of which the Grantor may exercise its option to cause the title, right of possession and all other rights transferred to the Grantee, or any portion thereof, to revert to the United States of America, and the application of such reservations or restrictions as covenants in any other instance and

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the construction of the remainder of such reservations and restrictions as covenants shall not be affected thereby.

TO HAVE AND TO HOLD the said premises, with appurtenances, except those rights excepted and reserved above, and under and subject to the aforesaid reservations, restrictions, and conditions, unto the said Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed as of the day and year first above written.

THE UNITED STATES OF AMERICA  
 Acting by and through  
 WAR ASSETS ADMINISTRATION

By s/ ROBERT P. ALFORD  
 DEPUTY REGIONAL DIRECTOR  
 For Real Property Disposal  
 Los Angeles Regional Office  
 War Assets Administration

WITNESSES:

s/ Devera L. Scholnek

s/ Doris Goodman

FEDERAL AVIATION ADMINISTRATION PROVISIONS

Lessee agrees to observe the following provisions required by the Federal Aviation Administration:

(a) Lessee in the operations to be conducted pursuant to the provisions of this lease and otherwise in the use of the airport, will not discriminate or permit discrimination against any person or class of persons by reason of race, color, creed or national origin in any manner prohibited by Part 15 of the Federal Aviation Regulations or any amendments thereto.

(b) Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit of service: PROVIDED, THAT the Lessee may be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

(c) Lessee shall make its accommodations and/or services available to the public on fair and reasonable terms without unjust discrimination on the basis of race, creed, color or national origin.

(d) Non-compliance with provisions (a), (b) and (c) above shall constitute a material breach thereof and in the event of such non-compliance the City shall have the right to terminate this lease and the estate hereby created without liability therefor or at the election of the City or the United States, either or both said Governments shall have the right to judicially enforce said provisions (a), (b) and (c).

(e) Lessee agrees that it shall insert the above four provisions in any lease by which said Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises herein leased.

(f) The City reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of the Lessee, and without interference or hindrance.

(g) The City reserves the right, but shall not be obligated to the Lessee, to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of the lessee in this regard.

(h) This lease shall be subordinate to the provisions and requirements of any existing or future agreement between the City and the United States, relative to the development, operation or maintenance of the airport.

(i) Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event any future structure or building is planned for the leased premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the leased premises.

(j) It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act.

(k) This lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said airport or the exclusive or non-exclusive use of the airport by the United States during the time of war or national emergency.

12-10-82 asb

## RESOLUTION NO. 82-282

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE APPROVING AND AUTHORIZING THE EXECUTION OF THAT CERTAIN LEASE BETWEEN THE CITY OF TORRANCE AS LESSOR AND ARTHUR L. VALDEZ AND G. ARLEEN VALDEZ, HUSBAND AND WIFE, AS LESSEE

WHEREAS, the City of Torrance is the owner of a certain vacant parcel of land comprising approximately 2.25 acres located on the south side of Skypark Drive on the north boundary of the Torrance Municipal Airport; and

WHEREAS, Arthur L. Valdez and G. Arleen Valdez, husband and wife, are desirous of leasing said land and constructing an office building thereon; and

WHEREAS, a 50-year lease therefor dated January 1, 1983 has been negotiated between the parties; and

WHEREAS, it is in the public interest that said lease be executed; and

WHEREAS, said property is not required for other city purposes.

NOW, THEREFORE, the City Council of the City of Torrance does hereby resolve as follows:

1. That said lease between the City of Torrance as Lessor and Arthur L. Valdez and G. Arleen Valdez, husband and wife as Lessee, dated January 1, 1983, is hereby approved.
2. That the Mayor and City Clerk are hereby authorized and directed to execute and attest said lease for and on behalf of said City.
3. That the Mayor and City Clerk are further authorized and directed to execute and attest for and on behalf of said City any other documents ancillary thereto when such documents have been approved by the City Attorney.

Introduced, approved and adopted this 14th day of December, 1982.

ATTEST:

/s/ James R. Armstrong  
Mayor of the City of Torrance

/s/ Donna M. Babb  
DONNA M. BABB  
City Clerk

APPROVED AS TO FORM:

STANLEY E. REMELMEYER  
City Attorney

I, DONNA M. BABB, City Clerk of the City of Torrance, California, do hereby certify that the foregoing resolution was duly introduced, approved and adopted by the City Council of the City of Torrance at a regular meeting of said Council held on the 14th day of December, 1982, by the following roll call vote:

AYES: COUNCILMEMBERS: Applegate, Geissert, Rossberg, Wilson, Wirth and Armstrong.

NOES: COUNCILMEMBERS: None.

ABSENT: COUNCILMEMBERS: None.

ABSTAIN: COUNCILMEMBERS: Walker.

/s/ Donna M. Babb  
City Clerk of the City of Torrance

WG rs 2-24-84  
#A 77

AMENDMENT "A"

AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE is made and entered into in quadruplicate at Torrance, California, this 13<sup>th</sup> day of March, 1984, by and between the CITY OF TORRANCE, a municipal corporation, as Lessor (hereinafter referred to as "City"), and ARTHUR J. VALDEZ and G. ARLEEN VALDEZ, husband and wife, as Lessee (hereinafter referred to as "Lessee")

W I T N E S S E T H :

WHEREAS, Lessor and Lessee entered into a Lease (C-2399), dated January 1, 1983, for certain lands described therein in the City of Torrance; and

WHEREAS, the Lessor and Lessee now agree that certain terms of the rent provision must be amended,

NOW, THEREFORE, THE LESSOR AND LESSEE AGREE THAT THE SAID LEASE SHALL BE AMENDED AS FOLLOWS:

I

There shall be added to Paragraph 3 of said Lease a new subparagraph F which shall read in its entirety as follows:

"F. Forgiveness and Deferment of Rents

Notwithstanding the provisions of subparagraphs A through E above, and without changing either the amount of monthly rent or the rental periods, Lessor forgives Lessee of the duty to pay said rent during the months of March, April, May and June, 1984; and agrees to defer the payment of the monthly rent for the months of July, August, September, October, November and December, 1984. Lessee shall repay such deferred rents, with interest at the rate of eleven (11%) per annum on or before the end of six (6) months after first occupancy."

C-2399

ORIGINAL

## II

Subparagraph B(3) of Paragraph 6 shall be amended to read in its entirety as follows:

"(3) Subject to the provisions of subparagraph F of this Paragraph 6, said building or buildings and improvements shall be completed within twelve (12) months after the issuance of a building permit, but in no event later than June 30, 1985."

In all other respects the said Lease is reaffirmed and ratified.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to Lease on the day and year first written above.

CITY OF TORRANCE, a municipal corporation,

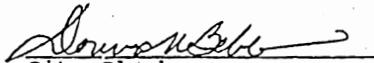
By

  
Mayor

  
ARTHUR L. VALDEZ

  
G. ARLEEN VALDEZ

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

STANLEY E. REMELMEYER  
City Attorney

By

  
WILLIAM G. QUALE  
Assistant City Attorney

STATE OF CALIFORNIA )  
 COUNTY OF LOS ANGELES ) ss  
 CITY OF TORRANCE )

On March 13, 1984, before me,  
MYRIAM A. DOWDY, personally appeared  
 JAMES R. ARMSTRONG, known to me to be the Mayor, and DONNA  
 M. BABB, known to me to be the City Clerk of the City of  
 Torrance, a municipal corporation that executed the within  
 instrument, and acknowledged to me that they executed and  
 attested the same on behalf of such municipal corporation.

WITNESS my hand and official seal.



Myriam A. Dowdy  
 Notary Public in and for said  
 County and State

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE (the "Amendment"), dated June 15, 1984 for reference purposes, is made and entered into at Torrance, California, by and between the CITY OF TORRANCE, a municipal corporation (the "City"), and ARTHUR L. VALDEZ and G. ARLEEN VALDEZ, husband and wife (referred to collectively as "Lessee").

W I T N E S S E T H :

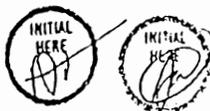
WHEREAS, the City and Lessee have entered into a Lease (C-2399) dated January 1, 1983, as modified by an Amendment to Lease dated March 13, 1984 (collectively the "Lease"), in which the City has leased to Lessee certain real property located in the City of Torrance, County of Los Angeles, State of California, which is more particularly described in Exhibits "A" and "B" to the Lease (the "leased premises"), attached hereto and made a part hereof; and

WHEREAS, Lessee has requested a loan in the principal amount of \$3,700,000 (the "Loan") from National Bank of Long Beach, a national banking association (the "Bank"), for construction of an office building containing approximately 58,000 square feet of rentable space and related improvements (the "Project") on the leased premises, and the Loan will be secured by a first deed of trust (the "Deed of Trust") encumbering Lessee's interest under the Lease; and

WHEREAS, the Lease provides that it may be amended to incorporate such reasonable leasehold financing provisions as may be requested by a prospective institutional lender encumbering Lessee's interest under the Lease; and

WHEREAS, the City and Lessee desire to modify the Lease by executing this Amendment to facilitate the financing to be provided by the Bank to Lessee,

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, THE CITY AND LESSEE HEREBY AMEND THE LEASE AND AGREE AS FOLLOWS:



Original

C-2399

1. USE.

Paragraph 4B of the Lease is amended to read in its entirety as follows:

"B. Parcel B shall be used for the parking of automobiles of customers and employees of Lessee and Lessee's subtenants."

2. COVENANT TO BUILD

If the holder of any mortgage or deed of trust ("Leasehold Mortgagee") encumbering Lessee's leasehold interest in the leased premises acquires Lessee's interest under the Lease by foreclosure or transfer in lieu of foreclosure, such Leasehold Mortgagee shall not be obligated to comply with the provisions of Paragraphs 6B, 13D, and 21C(1) of the Lease; provided that (a) the Leasehold Mortgagee is making a diligent effort to transfer the Lease to a third party who will assume Lessee's obligations to complete or reconstruct the Project in accordance with the terms and conditions of the Lease, and effectuates such transfer within twelve months following such foreclosure or transfer in lieu thereof; and (b) in the case of the destruction or demolition of the Project, the Leasehold Mortgagee is taking such action as may reasonably be required to ensure that the remaining improvements and structures on the leased premises do not constitute a safety hazard, including construction of a security fence or barrier around such improvements or structures. The deed of trust or mortgage of any such Leasehold Mortgagee is referred to as the "Leasehold Mortgagee."

3. LIABILITY

Paragraph 19 of the Lease is amended by the addition of the following clause at the end of Paragraph 19:

"excluding, however, any liability or claims arising out of the gross negligence or willful misconduct of the City or its agents or employees."



4. INSURANCE

Any insurance proceeds paid under any policy of fire and extended coverage or builder's risk insurance covering all or part of the Project shall be delivered to and held by the Leasehold Mortgagee for disbursement for reconstruction of the Project in accordance with Paragraph 20 of the Lease. At the Leasehold Mortgagee's option, such insurance proceeds may be held and disbursed for reconstruction by an insurance trustee or construction disbursement service reasonably acceptable to the City, the Leasehold Mortgagee and Lessee. If a Leasehold Mortgagee elects to hold the proceeds of such insurance for reconstruction of the Project, upon request by the Leasehold Mortgagee, the City shall endorse and deliver to the Leasehold Mortgagee all checks and drafts issued by the insurer under any fire and extended coverage or builder's risk policy of insurance required to be carried by Lessee under Paragraph 20 of the Lease.

5. ASSIGNMENT AND SUBLETTING

Paragraphs 3C(3) and 22A(1)(b) are not intended to benefit and shall not be construed as benefitting any third person or entity, including without limitation subtenants and prospective subtenants of space in the Project, and nothing contained in the Lease shall be deemed to require that Lessee sublease space in the Project on rental terms below the fair market rental value of space in the Project.

6. ASSIGNMENT

Paragraph 22A(3)(c) of the Lease is amended in its entirety to read as follows:

"(c) if Lessee is a corporation, a cumulative change in the ownership (voluntary, involuntary, or by operation of law, or otherwise) of thirty-three and one-third percent (33 1/3%) or more of its capital stock owned as of the date of its acquisition of this Lease, provided, however, that any such transfer as a result of the death, divorce or judicially declared incompetency of any such person may be made without the consent of the City so long as



Arthur L. Valdez or G. Arleen Valdez continues to be the Lessee under the Lease."

7. VESTING

Except as otherwise provided in Paragraph 12J below, the provisions of Paragraph 22B of the Lease shall not apply to any transfer of the Lease described in Paragraph 12J below.

8. EVENTS OF DEFAULT

Paragraph 24A(2) of the Lease is deleted in its entirety.

9. LESSEE'S RIGHT TO CURE

Paragraph 24A(4) of the Lease is amended to read in its entirety as follows:

"(4) the failure of Lessee to perform any other obligation hereunder and continuance of such failure for thirty (30) days after written notice from the City specifying such failure to perform (or if such failure cannot reasonably be cured within such thirty (30) day period, the failure of Lessee to commence a cure within such thirty (30) day period and thereafter to diligently proceed to complete such cure); or"

10. CITY'S REMEDIES

If a Leasehold Mortgagee acquires Lessee's interest under the Lease by foreclosure, transfer in lieu of foreclosure, or otherwise, and if the Leasehold Mortgagee objects to the City's election to submit a dispute or issue of Lessee's default under the Lease to arbitration, the dispute or issue of Lessee's default shall be determined by a court of competent jurisdiction rather than by an arbitration proceeding.

11. AVIGATION EASEMENTS

Paragraph 27B(3) of the Lease is amended by substitution of the phrase "25 feet above the transition zone as defined in applicable Federal Aviation Administration rules and regulations" for the phrase "above the surface of said premises" in the second line of Paragraph 27B(3) of the Lease.



12. FINANCING; ENCUMBRANCE OF LEASEHOLDA. Notices to Leasehold Mortgagee

Copies of all notices given or documents delivered by the City to Lessee under the terms of the Lease, including without limitation notices of Lessee's default under the Lease, shall be concurrently served by the City on the Leasehold Mortgagee by United States mail, postage prepaid, registered or certified mail, return receipt requested, at the address last provided to the City in writing by such Leasehold Mortgagee. No notice given by the City under the Lease shall be effective unless served as provided in this Section.

B. Leasehold Mortgagee's Right to Cure

The City shall provide the Leasehold Mortgagee with written notice specifying Lessee's failure to cure any default under the Lease within the time period allowed by the Lease and the City's intention to terminate the Lease based on such default or on any other event or circumstance which gives the City the right to terminate the Lease. The City shall not terminate the Lease because of any default by Lessee or on the basis of any other event or circumstance which gives the City the right to terminate the Lease if the Leasehold Mortgagee, within ten (10) days after its receipt of such notice from the City in the case of a default which can be cured by the payment of money required to be paid by Lessee under the terms of the Lease, or within thirty (30) days in the case of a nonmonetary default, shall at its election either:

(1) Cure such default if the default can be cured by the payment of money required to be paid by Lessee under the terms of the Lease or, if the default cannot be cured in such a manner, commence to cure the default within such 30-day period and thereafter diligently proceed to complete the cure; or

(2)(a) Institute trustee's sale or judicial foreclosure proceedings under the Leasehold Mortgage and thereafter diligently proceed to complete such proceedings; (b) cure such default if the default can be



cured by the payment of money required to be paid by Lessee under the terms of the Lease; and (c) comply with all of the terms and conditions of the Lease requiring the payment or expenditure of money by Lessee (including but not limited to Paragraph 14 of the Lease in those cases where the Leasehold Mortgagee or its agent has the right of possession of the leased premises) until such time as the Lease has been sold by trustee's sale, judicial foreclosure or transfer in lieu of foreclosure or reconveyed under the Leasehold Mortgage; provided, however, that if the Leasehold Mortgagee fails to comply with at least one of the conditions (1) or (2) of this Paragraph 12B, the City shall be released from the covenant of forbearance contained in this Paragraph.

C. Prosecution of Foreclosure

A Leasehold Mortgagee shall be deemed to be diligently proceeding to complete a trustee's sale or judicial foreclosure notwithstanding the fact that such proceedings or the commencement of such proceedings are stayed by statute, rule, court order, bankruptcy stay, or other similar enactment or action; provided that (a) such Leasehold Mortgagee is at all times during such stay in compliance with the provisions of subparagraphs 12B(2)(a), (b) and (c) hereof; and (b) such Leasehold Mortgagee is diligently attempting to obtain relief from the effect of such statute, rule, court order, bankruptcy stay or similar enactment.

D. New Lease

If the Lease terminates because of a default by Lessee or any other event or circumstance which entitles the City to terminate the Lease, the City shall provide the Leasehold Mortgagee with written notice of such termination. If within 30 days after receiving notice of such termination, the Leasehold Mortgagee by written notice to the City requests that the City enter into a new lease for the leased premises, then the City shall enter into a new lease for the leased premises with the Leasehold Mortgagee within 30 days after the Leasehold Mortgagee's



request, provided that the Leasehold Mortgagee has delivered to the City at the time of such request the Leasehold Mortgagee's written agreement to cure Lessee's defaults under the Lease, insofar as they are reasonably susceptible to being cured by the Leasehold Mortgagee; and provided further that if Lessee has defaulted under Paragraph 6B of the Lease, the Leasehold Mortgagee shall have entered into a written agreement with City pursuant to which such Leasehold Mortgagee has agreed to perform the remaining obligations of Lessee under said Paragraph 6B in a manner and within a time period reasonably satisfactory to City, or obtained the agreement of a third party satisfactory to City to so perform such obligations. The new lease shall commence, and rent and all obligations of the Leasehold Mortgagee shall begin to accrue, as of the date of termination of the Lease. The term of the new lease shall be for the period which would have constituted the remainder of the term of the Lease had the Lease not been terminated, and the new lease shall be upon all of the other terms and conditions of the Lease, as modified by this Amendment and all subsequent amendments, if any, entered into by City and Lessee. The new lease shall be free of all rights of Lessee. Lessee shall provide in all subleases pertaining to the premises that each subtenant of the Premises shall, at the Leasehold Mortgagee's option, attorn to the Leasehold Mortgagee under the new lease, and the Leasehold Mortgagee agrees to accept such an attornment, provided the subtenant is not in default under its sublease at the time of such attornment. Prior to or upon execution of the new lease, the Leasehold Mortgagee shall (a) pay to the City all rent and other amounts owing to the City by Lessee under the Lease as of the date of termination of the Lease; (b) pay to the City all rent and other amounts due under the new lease from the date of commencement of the term of the new lease to the date of execution of the new lease; (c) pay to the City all reasonable costs and expenses incurred by the City in connection with the new lease; and (d) provide in a manner reasonably satisfactory to City for the cure of all nonmonetary defaults of Lessee under the Lease,

INITIAL  
HERE  
[Signature]

INITIAL  
HERE  
[Signature]

insofar as they are reasonably susceptible to being cured by the Leasehold Mortgagee.

E. Performance by Leasehold Mortgagee

The City agrees to accept performance by the Leasehold Mortgagee of Lessee's obligations under the Lease with the same force and effect as if performed by Lessee; provided, however, that the Leasehold Mortgagee shall not become liable for the performance of Lessee's obligations under the Lease unless and until the Leasehold Mortgagee acquires title to the Lease. A Leasehold Mortgagee acquiring title to the Lease shall be liable for the performance of Lessee's obligations under the Lease only for so long as the Leasehold Mortgagee holds title to the Lease. The City agrees that a Leasehold Mortgagee may enter on the leased premises to perform any curative act.

F. Non-Disturbance Agreement

The City shall, at Lessee's request, execute, acknowledge and deliver to Lessee a non-disturbance agreement in form and substance reasonably satisfactory to Lessee which shall assure subtenants of the Project of quiet possession under their subleases, as long as such subtenants are not in default thereunder, in the event that a Leasehold Mortgagee acquires Lessee's interest under the Lease by foreclosure or transfer of the leased premises in lieu of foreclosure. The City's obligation to provide such a nondisturbance agreement with respect to any sublease shall be conditioned on the sublease's compliance with the requirements of the Lease, as modified by this Amendment.

G. No Merger

Without the written consent of the Leasehold Mortgagee, there shall be no merger of the Lease or of the leasehold estate created thereunder with the fee estate in the leased premises by reason of the fact that the Lease or the leasehold estate may be held directly or indirectly by or for the benefit of any person who owns the fee estate in the leased premises or any portion thereof.



H. Estoppel Certificates

The City and Lessee shall at any time and from time to time upon not less than 10 days prior written request by the other, deliver to the requesting party an executed and acknowledged written statement certifying that (a) the Lease is unmodified and in full force and effect (or if the Lease has been modified or if the Lease is not in full force or effect, stating the nature of the modification or the basis on which the Lease has been terminated, whichever is applicable); (b) to its knowledge, the requesting party is not in default under the Lease (or if any such default exists, stating the specific nature and extent of the default); and (c) the dates to which the monthly rent and other monetary obligations under the Lease have been paid in advance. Each certificate delivered pursuant to this Paragraph may be relied upon by any prospective purchaser or transferee of the City's or Lessee's respective interests in the leased premises, including without limitation any prospective Leasehold Mortgagee.

I. No Voluntary Surrender

No voluntary surrender of the Lease by Lessee or amendment or mutual termination of the Lease shall be effective without the prior written consent of the Leasehold Mortgagee.

J. Leasehold Foreclosure

The City's consent shall not be required for a transfer of the Lease by trustee's sale, judicial foreclosure or transfer in lieu of foreclosure to a Leasehold Mortgagee or to a "Third Party Purchaser" (as hereinafter defined) who purchases the Lease and the Lessee's interest in the leased premises at a judicial foreclosure or trustee's sale under a Leasehold Mortgage. Within ten days after a Third Party Purchaser acquires title to the Lease by judicial foreclosure or trustee's sale under a Leasehold Mortgage, such Third Party Purchaser shall provide the City with a written notice containing the statements and information required by subparagraph B of Paragraph 22 of the Lease, and such Third Party Purchaser's failure to do so within such ten day period shall constitute a breach of the Lease. As used herein, the term "Third Party Purchaser" shall mean a bona



vide purchaser for value at a judicial foreclosure or trustee's sale under a Leasehold Mortgage which satisfies all of the following conditions:

- (a) The Third Party Purchaser neither owns nor holds a controlling interest in the Leasehold Mortgagee.
- (b) The Leasehold Mortgagee neither owns nor holds any interest in the Third Party Purchaser.
- (c) The Third Party Purchaser has no agreement or understanding with the Leasehold Mortgagee, either written or oral, relating to the purchase by the Third Party Purchaser at such judicial foreclosure or trustee's sale or relating to the use, occupancy or disposition of the leased premises, the Lease or the Lessee's interest in the leased premises. Nothing contained in this Paragraph 12J shall be deemed to prevent or prohibit the Lessee or a Leasehold Mortgagee from furnishing a Third Party Purchaser with information relating to the Project, the leased premises, the Lease or the Leasehold Mortgagee's judicial foreclosure or trustee's sale, and the receipt of any such information by the purchaser at a judicial foreclosure or trustee's sale shall not be deemed to constitute an agreement or understanding between the Leasehold Mortgagee and such purchaser within the meaning of this Paragraph 12J(c).

**K. Consent to Assignment**

If Lessee requests the City's approval of a proposed assignment of the Lease or subletting of all or part of the leased premises to a third party, the City shall notify Lessee in writing of the City's approval or disapproval of such proposed assignment or subletting within 30 days after the City's receipt of the written notice and information required by Paragraph 22B of the Lease together with a complete copy of the proposed assignment or sublease, whichever is applicable. If the City fails to give notice of its approval or disapproval to Lessee within such 30-day period, the proposed assignment or subletting shall be deemed approved by the City.



13. LEASE STATUS

By execution of this Amendment, the City certifies to the Bank as follows:

A. As of the date of this Amendment, the Lease, together with the Amendment to Lease dated March 13, 1984 and this Amendment, constitute the sole and entire agreement between the City and Lessee relating to the Project and the leased premises, and there are no other modifications, amendments or supplements to the Lease or other agreements relating to the Project or leased premises, either oral or written, between the City and Lessee;

B. As of the date of this Agreement, the Lease is in full force and effect and Lessee is not in default or breach under any of the terms or conditions of the Lease;

C. The monthly rent payable under Paragraph 3 of the Lease has been paid by Lessee, or Lessee's duty to pay such monthly rent has been forgiven, through and including June 30, 1984;

D. The City has received notice from Lessee in accordance with Paragraph 8B of the Lease of Lessee's intention to commence construction of the Project;

E. Pursuant to Paragraph 23A(3) of the Lease, the City has received and approved copies of the promissory note evidencing the Loan, the Deed of Trust, and the other instruments and agreements evidencing and securing the Loan, as delivered to the City by the Bank on or about June 19, 1984 and July 10, 1984;

F. The City has received and approved the loan instructions and disbursement schedules dated June 15, 1984 reflecting the allocation of Loan proceeds, as delivered to the City by the Bank on or about June 19, 1984 and July 10, 1984, and consents to such allocation and such modifications thereto as may be acceptable to Lessee and the Bank, provided that no such modification shall reallocate the proceeds of the Loan for purposes other than the direct and indirect costs of development of the Project, including without limitation Loan interest, construction and permanent lender's fees, taxes, assessments,



commissions, insurance premiums, legal and accounting fees, contingencies, and other similar costs and expenses; and

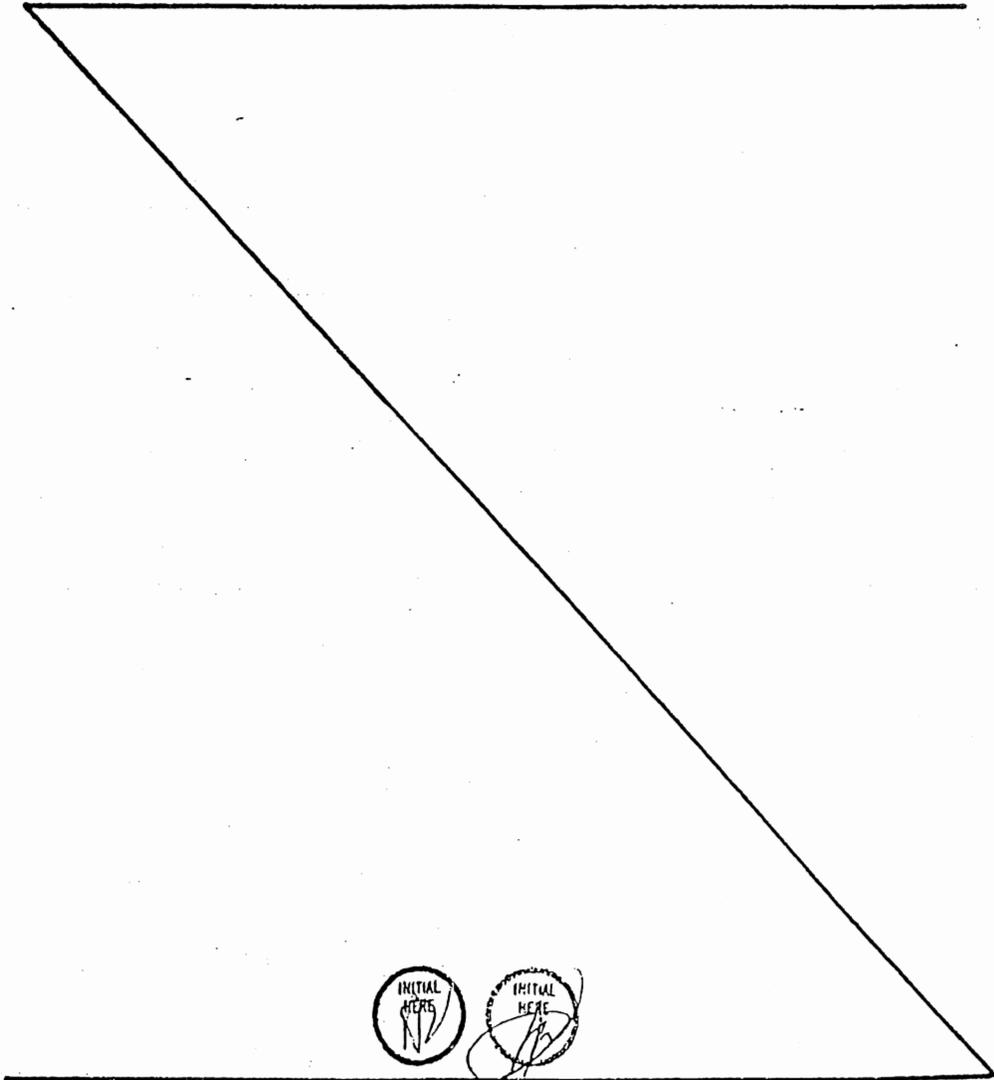
G. The plans and specifications for the Project which have been approved by the Building Department of the City have also been approved by the City Council of the City pursuant to Paragraph 6B(2) of the Lease.

14. AMENDMENT CONTROLLING

If there is a conflict or inconsistency between this Amendment and the Lease, the terms and conditions of this Amendment shall govern and control the rights and obligations of the parties.

15. DESCRIPTIVE HEADINGS

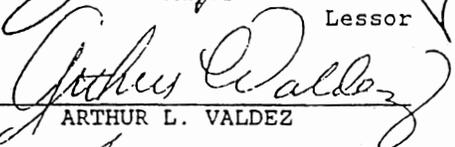
The headings to paragraphs of this Amendment are for convenient reference only and shall not be used in interpreting this Amendment.



IN WITNESS WHEREOF, the parties hereto have executed  
this Second Amendment to Lease as of the day and year first  
written above.

CITY OF TORRANCE, a municipal  
corporation

By:   
Mayor Lessor

  
ARTHUR L. VALDEZ

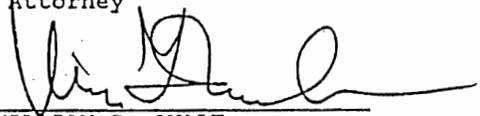
  
G. ARLEEN VALDEZ Lessee

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

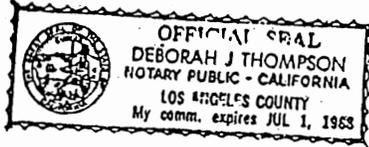
STANLEY E. REMELMEYER  
City Attorney

By:   
WILLIAM G. QUALE  
Assistant City Attorney

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF LOS ANGELES )

On July 30, 1984, 1984, before me, Deborah J. Thompson, a Notary Public in and for said County and State, personally appeared JAMES R. ARMSTRONG, known to me to be the Mayor, and DONNA M. BABB, known to me to be the City Clerk of the municipal corporation that executed the within instrument, and acknowledged to me that they executed and attested the same on behalf of such municipal corporation.

WITNESS my hand and official seal.



Deborah J. Thompson  
Notary Public in and for said  
County and State

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF LOS ANGELES )

On July 30, 1984, before me, Lynette M. Anderson, a Notary Public in and for said County and State, personally appeared ARTHUR L. VALDEZ and G. ARLEEN VALDEZ, known to me or proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

WITNESS my hand and official seal.



Lynette M. Anderson  
Notary Public in and for said  
County and State





THIRD AMENDMENT TO LEASE

THIS THIRD AMENDMENT TO LEASE (this "Amendment"), dated as of January 12, 1987 for reference purposes, is made and entered into at Torrance, California, by and between the CITY OF TORRANCE, a municipal corporation (the "City"), and ARTHUR L. VALDEZ and G. ARLEEN VALDEZ, husband and wife (referred to collectively as "Lessee").

W I T N E S S E T H:

WHEREAS, the City and Lessee have entered into a Lease (C-2399) dated January 1, 1983, as modified by an Amendment to Lease dated March 13, 1984 and a Second Amendment to Lease dated June 15, 1984 (collectively, the "Lease"), in which the City has leased to Lessee certain real property located in the City of Torrance, County of Los Angeles, State of California, which is more particularly described in Exhibits "A" and "B" to the Lease (the "leased premises"), attached hereto and made a part hereof; and

WHEREAS, the City and Lessee desire to modify the Lease by executing this Third Amendment to Lease; and

NOW THEREFORE, FOR VALUABLE CONSIDERATION, THE CITY AND LESSEE HEREBY AMEND THE LEASE AND AGREE AS FOLLOWS

1. DEFINITIONS.

Defined terms, when used in this Amendment, shall have the same meanings as when used in the Lease.

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C-2399

Original

2. ASSIGNMENT.

Paragraph 22A(3) of the Lease is amended in its entirety to read as follows:

" (3) Any of the following shall be deemed an assignment prohibited hereby unless the written consent of the City be first obtained thereto:

(a) if Lessee is a partnership or joint venture, a withdrawal, addition or change (voluntary, involuntary, by operation of law, or otherwise) of any of the partners or adventurers thereof; or

(b) if Lessee is composed of more than one person, a purported assignment or transfer (voluntary or involuntary, by operation of law, or otherwise) from one to any other or others thereof; or

(c) if Lessee is a corporation, a cumulative change in the ownership (voluntary, involuntary, or by operation of law, or otherwise) of thirty-three and one-third percent (33 1/3%) or more of its capital stock owned as of the date of its acquisition of this Lease, provided, however, that the following transfers may be made without the consent of the City: (i) by will or intestate succession, as a result of a death, (ii) to one spouse, as a result of a divorce or, (iii) to a court-appointed conservator or successor, as a result of a judicially-declared incompetency of any such person."

3. LEASEHOLD FORECLOSURE.

Paragraph 12J of the Second Amendment to Lease is amended in its entirety as follows:

" J. Leasehold Foreclosure

The City's consent shall not be required for a transfer of the Lease by trustee's sale, judicial foreclosure or transfer in lieu of foreclosure to a Leasehold Mortgagee, or to a "Third Party Purchaser" (as hereinafter defined). Within ten days after a Third Party Purchaser acquires title to the Lease, such Third Party Purchaser shall provide the City with a written notice containing the statements and information required by subparagraph B of paragraph 22 of the Lease, and such Third Party Purchaser's failure to do so within such 10 day period shall constitute a breach of the Lease. As used herein, the term "Third Party Purchaser" shall mean a bona fide, arm's length, purchaser for value who purchases the Lease and the Lessee's interest in the leased premises from a Leasehold Mortgagee (which Leasehold Mortgagee has acquired Lessee's interest in the leased premises through judicial foreclosure or trustee's sale under a Leasehold Mortgage) and a bona fide, arm's length, purchaser for value who purchases the Lease and the Lessee's interest in the leased premises at a judicial foreclosure or trustee's sale under a Leasehold Mortgage, and which Third Party Purchaser satisfies all of the following conditions:

(a) The Third Party Purchaser neither owns nor holds a controlling interest in the Leasehold Mortgagee.

(b) The Leasehold Mortgagee neither owns nor holds any interest in the Third Party Purchaser.

(c) The Third Party Purchaser has no agreement or understanding with the Leasehold Mortgagee, either written or oral, relating to the purchase by the Third Party Purchaser at such judicial foreclosure or trustee's sale or relating to the use, occupancy or disposition of the leased premises, the Lease or the Lessee's interest in the leased premises. Nothing contained in this Paragraph 12J shall be

deemed to prevent or prohibit the Lessee or a Leasehold Mortgagee from furnishing a Third Party Purchaser with information relating to the Project, the leased premises, the Lease or the Leasehold Mortgagee's judicial foreclosure or trustee's sale, and the receipt of any such information by the purchaser at a judicial foreclosure or trustee's sale shall not be deemed to constitute an agreement or understanding between the Leasehold Mortgagee and such purchaser within the meaning of this Paragraph 12J(c)."

4. BANKRUPTCY.

Paragraph 12 of the Second Amendment to the Lease is amended by adding a new paragraph 12L as follows:

L. Bankruptcy.

Lessee shall not treat the Lease as terminated by any election made under Section 365(h) of the Bankruptcy Code of 1978 or under any similar law or right of any nature, and hereby assigns to the Leasehold Mortgagee any right to acquiesce in any such termination.

5. CONDEMNATION

The Second Amendment to Lease is amended by adding paragraph 16, as follows:

16. CONDEMNATION

A. Award

In the event that all or any part of the Leased Premises or any buildings or improvements thereon shall, during the term of this Lease, be taken or damaged by eminent domain, the total consideration paid in connection with such taking and damage (including both amounts paid for property taken and severance or other damage to the portion of the Leased Premises not taken) shall be paid and applied in the following order of priority:

(1) First, to reimburse the City and the Leasehold Mortgagee for the reasonable costs, fees and expenses incurred by the City and the Leasehold Mortgagee in connection with the collection of such award.

(2) Second, but only if such taking does not result in the termination of this Lease as further provided in this Section, all remaining proceeds, if any, shall be paid to a trustee, reasonably acceptable to the City, Lessee, and the Leasehold Mortgagee who shall disburse the funds for construction purposes as construction progresses to repair any and all damage to the Leased Premises or the buildings or improvements located thereon resulting from such taking, with such safeguards as said trustee may deem to be desirable to assure that workmen and materialmen are paid and that no mechanic's liens may be recorded. If the Leasehold Mortgagee agrees to disburse such proceeds for restoration as aforesaid, such Leasehold Mortgagee shall be acceptable to the City as the trustee for purposes of this provision.

(3) Third, any excess proceeds held by such trustee following completion of the restoration and repair described in subparagraph (2) above, or in the event this Lease is terminated pursuant to the provisions of this Section so that no reconstruction or repair is to be undertaken, the balance of such proceeds, if any, shall be paid and applied in the following order of priority:

(a) First, to the City to the extent of the fair market value of the land of the Leased Premises so taken, which land shall be considered as unimproved and unencumbered except for Lessee's leasehold estate. Such fair market value of the land so taken shall be the value which is established by the parties as a part of any litigation, arbitration or settlement in connection with such taking.

(b) Second, after any payment to the City required by subparagraph (a) above, Leasehold Mortgagee and

Lessee shall receive the remainder of such award, if any, for application to the Loan in accordance with all applicable Loan documents.

(4) If any of Lessee's trade fixtures or any of Lessee's other personal property shall be so taken, and if a separate and distinct award is made in connection therewith, such separate and distinct award (including amounts paid for trade fixtures and personal property taken and severance or other damage to such of Lessee's trade fixtures and other personal property as shall not be taken) shall belong solely to Lessee and Leasehold Mortgagee, for application in accordance with all applicable Loan documents. Lessee's and Leasehold Mortgagee's right to such award shall, however, not diminish or detract in any way from any award or amount due to the City.

B. Settlement of Claims

Neither the City nor Lessee shall settle or adjust any claim for damages resulting from a taking of the Leased Premises or any buildings or improvements thereon without the prior written consent of the other and the Leasehold Mortgagee.

C. Reconstruction and Repairs

If such taking does not result in the termination of this Lease as further provided in this Section, Lessee, whether or not damages, if any, on account of such be sufficient for such purposes, shall at its sole cost and expense, promptly commence and diligently complete the restoration of the Leased Premises and all buildings and improvements located thereon as nearly as possible to their value, condition and character immediately prior to such taking, except only for any reduction in any areas caused or necessitated by such taking; provided, however, that if the total cost to restore the Leased Premises and all buildings and improvements located thereon remaining after said taking is reasonably estimated to exceed the portion of any award made available to Lessee for that purpose by

fifteen percent (15%) of the replacement value of such building, structure or other improvement immediately prior to such damage, Lessee may elect to demolish same, restore the Leased Premises to a neat and clean condition to the reasonable satisfaction of the City and Leasehold Mortgagee, and, if the Leasehold Mortgagee shall consent, terminate this Lease by notifying the City in writing of its intent to do so within thirty (30) days of the date of the award. If Lessee shall elect to cancel this Lease as provided for above, it shall have no further obligation for rental or other payments hereunder from and after the date that such demolition and restoration are completed.

D. Lease Termination

In the event all of the Leased Premises, or so much thereof and/or the buildings and improvements thereon are taken so that the use of the remainder, in the Lessee's reasonable judgment, is economically unfeasible, the term of this Lease shall terminate as of, and the City and Lessee shall be released of all obligations under this Lease arising subsequent to, the date of such taking, subject, however, to the consent of the Leasehold Mortgagee, which consent shall not be unreasonably withheld. If only a part of the Leased Premises are so taken, and this Lease is not terminated as a result thereof, this Lease shall remain in full force and effect as to the portion of the Leased Premises and the buildings and improvements thereon remaining except that the rent then applicable shall be reduced in that proportion or percentage which the fair market value of that portion of the land of the Leased Premises so taken bears to the total fair market value of the land of the Leased Premises immediately preceding such taking."

6. AMENDMENT CONTROLLING.

If there is a conflict or inconsistency between this Amendment and the Lease the terms and conditions of this

Amendment shall govern and control the rights and obligations of the parties.

7. DESCRIPTIVE HEADINGS.

The headings to paragraphs of this Amendment are for convenient reference only and shall not be used in interpreting this Amendment.

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to Lease as of the day and year first above written.

CITY OF TORRANCE, a municipal corporation

By Katy Seissert  
Mayor Lessor

Arthur L. Valdez  
ARTHUR L. VALDEZ

G. Arleen Valdez  
G. ARLEEN VALDEZ Lessee

ATTEST:

Donald E. Huber  
City Clerk

APPROVED AS TO FORM:

STADLEY E. REMELMAYER  
City Attorney

By: W. J. [Signature]

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

On January 16, 1987, before me, Dora Hong, a Notary Public in and for said County and State, personally appeared Katy Geissert, known to me to be the Mayor, and Donald E. Wilson, known to me to be the City Clerk of the municipal corporation that executed the within instrument, and acknowledged to me that they executed and attested the same on behalf of such municipal corporation.

WITNESS my hand and official seal.

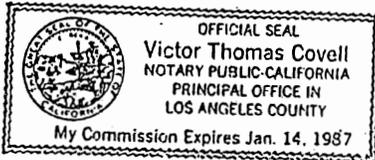


Dora Hong  
Notary Public in and for the  
said County and State

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

On January 13, 1987, before me, VICTOR THOMAS COVELL, a Notary Public in and for said County and State, personally appeared ARTHUR L. VALDEZ and G. ARLEEN VALDEZ, known to me to or proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

WITNESS my hand and official seal.



Victor Thomas Covell  
Notary Public in and for the  
said County and State

Mr. and Mrs. Arthur L. Valdez  
2790 Skypark Drive, Suite 100  
Torrance, CA 90505

Re: Modification of Rental Rate

Dear Mr. and Mrs. Valdez:

Pursuant to your negotiations with the City of Torrance regarding the Executive Quarters office complex lease (No. C-2399) dated January 1, 1983, and as further amended by three amendments, the last of which was dated January 12, 1987, the following agreement is entered into between the City and you, as lessees:

1. Notwithstanding anything contained in the Lease or the three amendments thereto to the contrary, the monthly rental amount shall be fixed at Four Thousand, Five Hundred Dollars (\$4,500) per month commencing December 1, 1993, and ending December 31, 1996. During this period, percentage rent is waived, but Lessee shall continue to prepare and submit annual reports as though percentage rent were due, as provided in Paragraph 3 of the Lease.
2. Commencing January 1, 1997, through the remainder of 1997, the monthly rent rate shall resume at the last amount due the City on December 1, 1993, which sum was Nine Thousand Eight Hundred Fifteen Dollars and Forty Cents (\$9,815.40).

Original

G-2399-1

Mr. and Mrs. Arthur L. Valdez

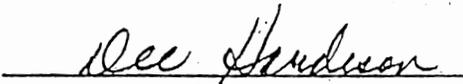
page 2

- 3. Commencing January 1, 1998, the monthly rent of \$9,815.40 shall be increased by the same percentage amount that the Producer's Price Index for October, 1997, has increased over the Producer's Price Index for October, 1997, if at all.

ARTHUR L. AND G. ARLEEN VALDEZ.

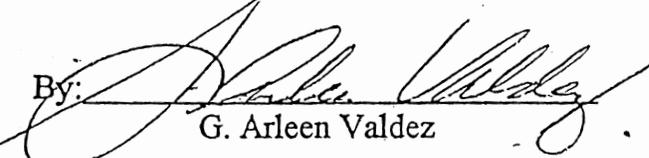
CITY OF TORRANCE

By:   
 Arthur L. Valdez

  
 Dee Hardison, Mayor

Date: 12/22/93

Date: 11/4/94  
 ATTEST:

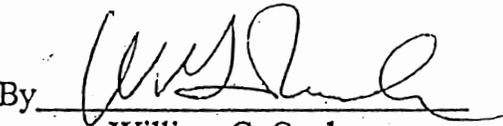
By:   
 G. Arleen Valdez

  
 City Clerk

Date: 12/22/93

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
 City Attorney

By:   
 William G. Quale  
 Assistant City Attorney

## FIFTH AMENDMENT TO LEASE

This Fifth Amendment to Lease is made and entered into as of January 1, 1997, at Torrance, California, by and between the CITY OF TORRANCE, a municipal corporation, as Lessor ("City"), and ARTHUR L. VALDEZ and G. ARLEEN VALDEZ, husband and wife (collectively "Lessee").

### Recitals:

- A. City and Lessee entered into a lease (C-2399), dated January 1, 1983. The original lease was modified by an Amendment to Lease dated March 13, 1984, a Second Amendment to Lease dated June 15, 1984, a Third Amendment to Lease dated January 12, 1987, and a Fourth Amendment to Lease (November 4, 1994). Collectively, the original lease, as amended is referred to as the "Lease"; and
- B. The City and Lessee wish to revise the rental provisions of the Lease.

### Agreement:

1. Paragraph 3 entitled Rent is deleted in its entirety.
2. A new Paragraph 3 is added, to read in its entirety as follows:
  - A. Rent.  
Effective January 1, 1997, the rent will be 6% of the fair market value of the Premises. The parties agree that on January 1, 1997, the fair market value of the Premises is \$890,000. 6% of \$890,000 rounds off to a sum of \$4,500 per month.
  - B. Cost of Living Adjustment.  
Beginning on January 1, 1999, and on each successive anniversary thereafter ("Adjustment Date"), the rent will be increased by 100% of the percentage of increase, if any, shown by the Consumer Price Index for All Urban Consumers Los Angeles Anaheim Riverside, All Items (base years 1982-1984=100) ("Index"), published by the United States Department of Labor, Bureau of Labor Statistics, for the month two months prior to the Adjustment Date as compared with the Index for same month in the immediately preceding calendar year. If the Index is changed so that the base year differs from that in effect on January 1, 1997, the Index will be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the Lease, the government index or computation with which it is

C-2399

replaced will be used to obtain substantially the same result as if the Index had not been discontinued or revised.

C. Fair Market Value Adjustment.

Every fifth year, commencing with January 2003, the rent will be adjusted based on the then existing fair market value of the Premises. 180 days prior to the Adjustment Date, the City and Lessee will attempt, in good faith, to agree on the fair market value of the Premises. If City and Lessee are unable for any reason to agree on the fair market value at least 120 days prior to the Adjustment Date, City and Lessee will each select an appraiser and the two appraisers selected will endeavor to agree upon the fair market value. If they agree upon a fair market value, that value will be binding and conclusive upon both City and Lessee.

If the two appraisers are unable to agree upon the fair market value within thirty days after their selection, they will advise the City and Lessee of their respective determinations of the fair market value. Within fifteen days of receipt of the two appraiser's determinations of fair market value, the final determination of fair market value will be referred to arbitration, before a mutually acceptable arbitrator. The determination of the arbitrator will be limited to the sole issue of whether City's or Lessee's submitted fair market value as determined by that party's appraiser is the closest to the actual fair market value. The submitted fair market value that is determined to be the closest to the actual fair market value will be used by the parties. The cost of arbitration will be paid by the losing party.

The arbitrator must be a licensed real estate appraiser who has been active in the appraisal of commercial properties in the South Bay area over the five-year period preceding the date of his or her appointment as an arbitrator.

D. Place of Payment and Late Payment.

1. Place of Payment. All rent payments will be paid, without deduction or offset, to the City Treasurer's office at 3031 Torrance Blvd., Torrance, California 90503, or at any other place designated by the City in writing.
2. Late Payment. Rent payments are due on the first day of each month. In the event any rent payment is late, Lessee agrees that the following schedule of late charges will be applicable to that portion that is overdue:

- (a) late 10 days, but under 30 days- 2% of the amount due; plus
- (b) for each additional 30 days or fraction thereof over 30 days- an additional 2% for each 30 days or fraction thereof.

- 3. The Fourth Amendment (November 4, 1994) is superseded by this Fifth Amendment.
- 4. In all other respects, the Lease is ratified and reaffirmed and remains in full force and effect.

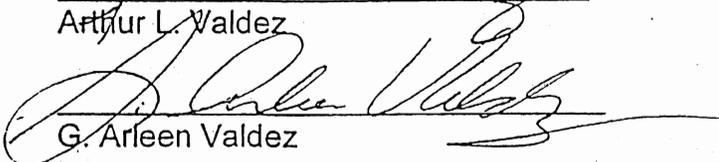
CITY OF TORRANCE,  
a municipal corporation

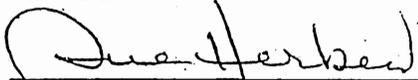
ARTHUR L. VALDEZ and  
G. ARLEEN VALDEZ,  
husband and wife

  
\_\_\_\_\_  
Dee Hardison, Mayor

  
\_\_\_\_\_  
Arthur L. Valdez

ATTEST:

  
\_\_\_\_\_  
G. Arleen Valdez

  
\_\_\_\_\_  
Sue Herbers, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Heather K. Whitham,  
Deputy City Attorney



## VAL-CO

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P.O. BOX 1840, ROSS, CALIFORNIA 94957 (415) 464-0770 FAX (415) 464-0772

December 5, 1997

Mr. Albert Ng  
Assistant City Manager  
City of Torrance  
3031 Torrance Blvd.  
Torrance, CA 90503

Re: Lease # C-2399

Dear Albert:

Thank you for taking the time to meet with Sherry and myself to discuss the above referenced lease and the MAI appraisal submitted for the Executive Quarters land value pursuant to the City Council's direction. I would like to reiterate the basic terms of a revised lease that I believe is fair to both parties.

1. Initial Lease Rate: 6% of the present value of the land. Per the recent Appraisal that would be determined as follows:

$$(6\% \times \$9.00/\text{sq.ft.} \times 98,991 \text{ sq.ft.})/12 = \$4,455 \text{ per month.}$$

Since we have been paying \$4500 per month, I accept that number as the initial rate.

2. Commencement date: January 1, 1997
3. Termination date: December 31, 2046 (50 years)
4. Lease Rate Adjustments: Annual CPI adjustments
5. Periodic Lease Rate Adjustments: Every five (5) years, the lease rate will be adjusted in accordance with the formula in paragraph (1.) i.e. Lease rate will be adjusted to 6% of the then market value of the land.

The above represents a land rental rate of 4.55 cents per sq.ft. which exceeds the lease rates of 2.5 to 3.5 cents per square foot for the Atrium, Robinson Helicopter and Great American.

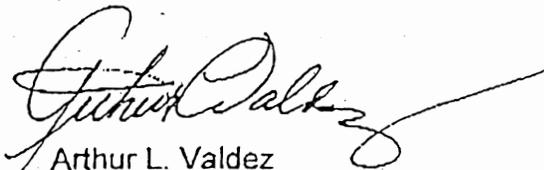
As I pointed out to you in our meeting, Executive Quarters has not provided any cash flow for several years. In 1996, there was a negative cash flow of (\$17,255) with the land rents at \$4,500 per month. This year, through October, there is a negative cash flow of (\$16,397), again with the land at \$4,500 per month. It is simply not feasible to pay a higher land rent.

The issue for the City and myself is, "What is the value of the land?". I hired an MAI appraiser who has done work in the City before to answer that question. The answer was \$9.00 per square foot. The question of value involves the question of use and intensity of use and location. Residential land has a different value than commercial land which has a different value than industrial land. High rise residential and commercial land have a different value than single family and garden office land. You pointed out that Cosco, a high volume retail commercial use, recently signed a lease for the 13.8 acres across from Executive Quarters based on a land value of \$12/sq.ft. This fact supports the Appraiser's opinion of value for Executive Quarters for no one can argue that commercial office land on Skypark Drive is nearly as valuable as high volume retail commercial property with street frontage on Skypark Blvd. and Lomita Blvd. If the Cosco property is worth \$12 per square foot, Executive Quarters property cannot be worth more than \$9 per square foot.

Unfortunately, the value of an existing office building is less than the cost to build the building. Thus, an Appraiser cannot use the residual method to determine the land value for if he subtracts the cost of the building from the current value of the building, he ends up with zero.

I believe the value determined by the Appraiser is a fair value for both sides and I ask that you present the Appraisal to the Council with your recommendation to approve the terms of the lease as I outlined them above. Time is critical as I must refinance the building now and the question of the land lease is crucial.

Sincerely,



Arthur L. Valdez

## SIXTH AMENDMENT TO LEASE

This Sixth Amendment to Lease is made and entered into as of September 24, 2002, at Torrance, California, by and between the CITY OF TORRANCE, a municipal corporation, as Lessor ("City") and Executive Quarters, LLC, a California limited liability company (collectively "Lessee").

### Recitals:

- A. City and Lessee entered into a lease (C-2399), dated January 1, 1983. The original lease was modified by an Amendment to Lease dated March 13, 1984, a Second Amendment to Lease dated June 15, 1984, a Third Amendment to Lease dated January 12, 1987, a Fourth Amendment to Lease (November 4, 1994) and a Fifth Amendment to Lease (January 1, 1997). Collectively, the original lease, as amended is referred to as the "Lease"; and
- B. The City and Lessee wish to revise the Term and Use provisions of the Lease.

NOW THEREFORE, FOR VALUABLE CONSIDERATION, THE CITY AND LESSEE HEREBY AMEND THE LEASE AND AGREE AS FOLLOWS:

### Agreement:

1. Paragraph 2 entitled TERM is deleted in its entirety and a new Paragraph 2 is added, to read in its entirety as follows:

TERM

The term of this Lease shall be extended for a period of an additional 20 years, from that set forth in the Lease, expiring at midnight December 31, 2052. In the event Lessee shall hold over after said date with the consent of the City, such holdover shall be on a month-to-month basis and in accordance with the terms and conditions hereinafter provided."

2. Paragraph 4 entitled USE is deleted in its entirety and a new Paragraph 4 is added, to read in its entirety as follows:

USE

Said leased premises shall be used for the following purposes but for no other purpose or purposes unless the prior written consent of the City Council thereto has been obtained:

C-2399

A. Parcel A shall be used for office building or buildings and related parking. If Lessee applies for and receives a Conditional Use Permit authorizing medical building use, such use shall be an authorized use of the premises under this Lease.

B. Parcel B shall be used for the parking of automobiles of customers and employees of Lessee."

3. Paragraph 14 entitled MAINTENANCE is amended by adding a new Section E which reads in its entirety as follows:

"E. Within one year from the execution of the Sixth Amendment to Lease, Lessee shall invest a minimum of \$125,000 to upgrade the air conditioning and \$250,000 for refurbishment of the building on the leased premises."

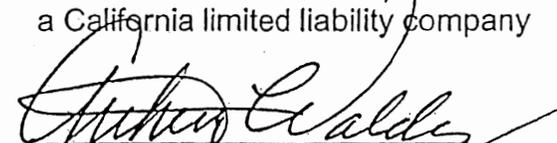
4. If there is a conflict or inconsistency between this Amendment and the Lease, the terms and conditions of this Amendment shall govern and control the rights and obligations of the parties.

5. In all other respects, the Lease is ratified and reaffirmed and remains in full force and effect.

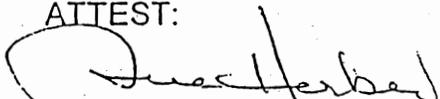
CITY OF TORRANCE,  
a Municipal Corporation

  
Dan Walker, Mayor

Executive Quarters, LLC,  
a California limited liability company

  
Arthur L. Valdez, Manager

ATTEST:

  
Sue Herbers, City Clerk

APPROVED AS TO FORM:

  
Ronald T. Pohl,  
Assistant City Attorney

**EXHIBIT C**  
**APPROVED TENANTS**

SKYPARKTRIUM, LLC  
RENT ROLL  
October 1, 2011

Suite No.	Tenant	Original Lease Date	Lease Commence	Lease Expires	BOMA '98 Suite Size	Leased Suite Size	Monthly Base Rent	Cam Charges	Tenant Pays Electric	Adjusted Monthly Rent	Monthly Rent /sf	Annual Rent /sf	Adj. Type	Date Rent Increase	Options	Security Deposit	Notes
100102	Michael A. McKinnon and his company Peninsula General Insurance Corp.	1/31/1996	4/1/06	3/31/13	2,620	2,620	\$ 5,315.24		\$ 393.00	\$ 5,708.24	\$ 2.18	\$ 24.34	Fixed - 3%	4/1/2011: \$5,315.24 4/1/2012: \$5,474.73		\$ 1,376.10	Original Lease to Robt Schmidt 12/16/1985
103104	Vladimir Katzman dba Advanced Science & Novel Technology	10/22/2004	1/1/07	10/16/12	3,022	3,022	\$ 6,069.69		\$ 453.30	\$ 6,522.99	\$ 2.16	\$ 24.10	Fixed - 3%	10/1/2011: \$6,069.69 10/1/2012: \$2,536.27		\$ 2,654.85	
105	Frank Kenny Real Estate Team, Inc.	9/10/2009	10/6/09	10/31/14	1,286	1,286	\$ 2,462.40			\$ 2,462.40	\$ 1.90	\$ 22.80	Fixed - 3%	11/1/2012: \$2,536.27 11/1/2013: \$2,612.36		\$ -	
106	Paul Markley	9/29/2006	11/1/06	Mo to Mo	921	921	\$ 1,749.90		\$ 138.15	\$ 1,888.05	\$ 2.05	\$ 22.80	Fixed - 3%	11/1/2007: \$1,660.10 11/1/2008: \$1,709.90		\$ 1,709.05	Lease renewal for three year term
108	Vacant				984	984	\$ -		\$ -	\$ -	\$ -	\$ -				\$ -	
109A	Pulse Research Lab, Inc.	1/13/2003	2/1/03	Mo to Mo	769	813	\$ 1,589.73		\$ 100.51	\$ 1,690.24	\$ 2.08	\$ 23.46	Fixed - 3% Mo to Mo	3/1/2011: \$1,589.73 3/1/2012: \$1,637.42		\$ 1,341.45	Tenant gets annual increases - Mo-to-Mo.
109B	Vacant				676	676	\$ -		\$ -	\$ -	\$ -	\$ -				\$ -	
110/112	Power Electronics & System, Inc.	5/4/2005	7/1/05	6/30/14	2,340	2,340	\$ 4,028.90		\$ 351.00	\$ 4,379.90	\$ 1.87	\$ 20.66	Fixed - 3%	7/1/2012: \$4,153.50 7/1/2013: \$4,278.11		\$ 3,900.00	Free Rent 7/11, and 7/12. Half rent 8/11.
115	Vector Scientific	2/7/2006	11/1/06	10/31/12	5,682	5,682	\$ 7,000.00			\$ 7,000.00	\$ 1.23	\$ 14.78	Fixed - 3%	none		\$ 12,500.94	Tenant rent reduction. Landlord has the right to relocate
118	Physicians' Mgmt Solutions, Inc.	2/14/2008	4/1/08	3/31/14	2,366	2,366	\$ 4,258.80			\$ 4,258.80	\$ 1.80	\$ 21.60	Fixed - 3%	4/1/12		\$ 4,765.17	
200	Hartwell Financial Services and Davidson Financial Planning	11/22/1996	1/1/97	4/30/12	2,930	2,930	\$ 6,100.81		\$ 439.50	\$ 6,540.31	\$ 2.23	\$ 24.89	Fixed - 3%	5/1/2010: \$5,623.12 5/1/2011: \$6,100.81		\$ 3,653.75	
201	LB Asset Strategies, Inc.	12/1/2000	8/1/09	12/31/13	971	971	\$ 2,014.97			\$ 2,014.97	\$ 2.08	\$ 24.90	Fixed - 3%	1/1/2012: \$2,075.42 1/1/2013: \$2,137.66		\$ 1,640.00	
202	Kil Uh Kim dba Pacific TBS, Inc.	6/4/1997	1/1/07	2/28/14	1,255	1,255	\$ 2,321.75		\$ 188.25	\$ 2,510.00	\$ 2.00	\$ 22.20	Fixed - 3%	3/1/2012: \$2,391.40 3/1/2013: \$2,463.14		\$ 2,584.35	
203/209	Escape Communication, Inc	9/11/2007	12/1/08	12/9/12	5,231	5,231	\$ 9,938.90		\$ 998.90	\$ 1.90	\$ 22.80	CPI		12/9/2012: \$10,137.66 projected 2% increase		\$ 10,377.69	CPI based on October 2011 / October 2010
204	Vacant - Future Pacific Cove Escrow				1,392	1,392	\$ -		\$ -	\$ -	\$ -	\$ -				\$ -	Second Amendment negotiation to relocate to Suite 204.
205	William Meredith dba Meredith Digital	10/30/2007	1/1/08	12/31/11	1,085	1,095	\$ 2,605.08		\$ 164.25	\$ 2,769.33	\$ 2.53	\$ 28.55		1/1/2012: \$2,400.00 Including electrical		\$ 2,265.29	80 Day Termination Clause
207/208	Medical Asset Management - (Building Management Office and Executive offices)	12/4/2006	2/1/07	1/31/12	3,403	3,404	\$ 3,831.23			\$ 3,831.23	\$ 1.13	\$ 13.51	Fixed - 3%	none		\$ -	1 x 5
210	Vacant - (temporary Bay Cities)				2,888	2,888	\$ -		\$ -	\$ -	\$ -	\$ -				\$ -	Bay Cities Funding moving to Suite 305
215	Vacant				3,399	3,399	\$ -		\$ -	\$ -	\$ -	\$ -				\$ -	
220	Pacific Cove Escrow	1/16/2003	2/1/08	1/31/12	2,235	2,235	\$ 2,780.66			\$ 2,699.67	\$ 1.21	\$ 14.93	CPI	2/1/2010: \$2,699.67 2/1/2011: \$2,780.66		\$ 3,326.00	Pacific Cove Escrow moving to Suite 204
300	Actuarial Benefits Corp	12/21/1998	4/15/99	5/31/2010 Mo To Mo	5,200	5,058	\$ 8,823.88			\$ 8,823.88	\$ 1.74	\$ 20.93	CPI - 3% Max			\$ 6,828.30	Lease negotiation in process. New Lease
305	Bay Cities Funding	10/15/1998	2/1/08	6/30/15	1,922	1,922	\$ 3,459.60			\$ 3,459.60	\$ 1.80	\$ 21.60	Fixed - 3%	7/1/2012: \$3,563.39 7/1/2013: \$3,670.28		\$ 4,620.00	Lease negotiation in process. New Lease
306	M. Fong and L. Fong, dba Rosenthal, Pearson, Fong & Frew, LLP (CPA firm)	11/7/2007	1/1/08	12/31/12	2,333	2,333	\$ 4,971.20			\$ 4,971.20	\$ 2.13	\$ 25.57	Fixed - 3%	1/1/2011: \$4,971.20 1/1/2012: \$5,120.30		\$ 4,549.53	First Amendment signed to relocate to Suite 305 - now under construction.
307	J. Donlou Corp., -Sonia Gaur & R. Meral Corp	9/4/1998	10/1/98	9/31/13	1,640	1,640	\$ 3,293.94			\$ 3,293.94	\$ 2.01	\$ 24.10	Fixed - 3%	10/1/2011: \$3,283.94 10/1/2012: \$3,362.16		\$ 2,506.50	
310	ACTA, Inc.	1/15/1997	10/31/2009 Mo To Mo	10/31/2009 Mo To Mo	7,148	6,927	\$ 12,327.28		\$ 1,000.00	\$ 13,327.28	\$ 1.92	\$ 21.36	CPI - 2% to 5%	10/1/2011		\$ 4,238.10	
<b>TOTALS</b>																<b>\$ 74,843.07</b>	

Notes: 1. Selected Tenants pay reduced rent because they pay their electrical charge directly to local utility. Adjustment made of \$0.15 to lease rate.  
2. Occupancy Date shows the original move in date of Tenant.

## LOAN AGREEMENT

IN CONSIDERATION of the covenants contained in this Agreement, Bank agrees to lend to Borrower, and Borrower agrees to borrow from Bank, up to the full amount of the Loan hereinafter described, on the following terms and conditions.

### ARTICLE 1. FUNDAMENTAL PROVISIONS

1.1 Purpose. This Article 1 sets forth certain fundamental provisions for purposes of this Agreement. The captions of this Article are used as defined terms in this Agreement.

1.2 Date of this Agreement. October 24, 2011.

1.3 Bank. CALIFORNIA BANK & TRUST, a California banking corporation.

1.4 Borrower. SKYPARK ATRIUM, LLC, a California limited liability company.

1.5 Loan. A loan to be made by Bank to Borrower, in the principal amount of up to Five Million Six Hundred Fifty Thousand Dollars (\$5,650,000), together with any additional advances related thereto, subject to the terms of this Agreement and the other Loan Documents.

1.6 Guarantor. NOBUHIRO SOTOWA, individually, and NOBUHIRO SOTOWA AND ANN N. SOTOWA, CO-TRUSTEES OF THE SOTOWA 1989 REVOCABLE LIVING TRUST (collectively, "Sotowa"), MINGWAH A. QUON ("Quon"; referred to with Sotowa as "Individual Guarantors"), and SKYPARK ATRIUM I, LLC, a California limited liability company.

1.7 Loan Fee. A fee for the Loan in the amount of Twenty-Seven Thousand Eight Hundred Dollars (\$28,250) (*i.e.*, 0.50% of the maximum Loan amount).

1.8 Land. That certain real property in which Borrower holds a leasehold estate arising under the Ground Lease, located in Torrance, California, as more particularly described on Exhibit A attached to this Agreement.

1.9 Ground Lease. The Ground Lease between Borrower's processor in interest, Arthur L. Valdez and G. Arleen Valdez, husband and wife ("Original Lessees") and Ground Lessor dated as of January 1, 1983, as amended by the Amendment to Lease between Ground Lessor and Original Lessees dated as of March 13, 1984, the Second Amendment to Lease between Ground Lessor and Original Lessees dated as of June 15, 1984, the Third Amendment to Lease between Ground Lessor and Original Lessees dated as of January 12, 1987, the letter agreement by Ground Lessor to Original Lessees dated as of November 4, 1994, the Fifth Amendment to Lease between Ground Lessor and Original Lessees dated as of January 1, 1997, and the Sixth Amendment to Lease dated as of September 24, 2002 by and between Ground Lessor and Executive Quarters, LLC, a California limited liability company ("EQ"). Original Lessee's interest in the Ground Lease was assigned to EQ pursuant to an Assignment and Assumption of Lease recorded September 25, 1998, as Document No. 98-1738851 in the Official Records of the County of Los Angeles. EQ's interest in the Ground Lease was assigned to SKYPARK ATRIUM I, LLC, a California limited liability company, and NOBUHIRO SOTOWA, as Trustee of the Survivor's Trust under the Sotowa 1988 Revocable Trust, and NOBUHIRO SOTOWA, as Trustee of the Residual Trust under the Sotowa 1988 Revocable Trust, as tenants in common (collectively, "TIC Lessee") pursuant to an Assignment and Assumption of Lease recorded in the Official Records of the County of Los Angeles on July 31, 2006, as Document No. 06-1685224. TIC Lessee's interest in the Ground Lease was assigned to Borrower pursuant to an Assignment and Assumption of Lease dated February 22, 2007, and recorded in the Official Records of the County of Los Angeles on March 26, 2007, as Document No. 20070693185. The Ground Lease has been disclosed by a memorandum recorded in the Official Records of the County of Los Angeles on January 25, 1984 as Document No. 84-97922.

1.10 Improvements. The improvements on the Land, consisting of a 63,718 square foot three story office building, landscaping and associated parking, addressed at 2790 Skypark Drive, Torrance, California.

1.11 Capital Reserve Account. Funds in the amount of Four Hundred Thousand Dollars (\$400,000), disbursed from Loan proceeds into an account maintained at Bank for the payment of the Refurbishment Expenses, subject to the conditions of Paragraph 3.8 below.

1.12 Maturity Date. November 1, 2021.

1.13 Maximum LTV Ratio. Sixty-five percent (65%).

1.14 Title Insurer. Stewart Title of California, Inc.

1.15 Address for Notices to Bank.

California Bank & Trust  
11622 El Camino Real, Suite 200  
San Diego, California 92130  
Attention: Real Estate Loan Department

1.16 Address for Notices to Borrower.

Skypark Atrium, LLC  
2790 Skypark Drive, Suite 207  
Torrance, California 90505  
Attention: Steven Loo

1.17 Borrower's Taxpayer Identification Number (TIN). 74-3204757.

## ARTICLE 2. ADDITIONAL DEFINED TERMS

2.1 Captions as Defined Terms. The captions appearing in Article 1 and in the balance of this Article 2 will be used as defined terms in this Agreement.

2.2 Advance Funding Date. The date, prior to Recordation, on which Bank advances funds into escrow.

2.3 Affiliate. A Person controlling, controlled by, or under common control with the Person in question whether such control is direct or indirect or through one or more intermediaries. The terms "controlling", "controlled" or "control", as used herein, mean (i) with respect to a Person that is a corporation, the right to exercise, directly or indirectly, more than ten percent (10%) of the voting rights attributable to the shares of the controlled corporation, including without limitation, the voting power for the election of the directors of such Person or the direct management or policies of such Person, whether through the ownership of voting securities by contract or otherwise, and (ii) with respect to a Person that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled Person.

2.4 Affiliate Loan. A loan from Bank or an Affiliate of Bank made to or guaranteed by Borrower or an Affiliate of Borrower or Guarantor.

2.5 Business Day. Any day other than a Saturday or Sunday, which is not a legal holiday in the state of California and which is not a date on which national banks in the State of California are authorized to close.

2.6 Conditions to Recordation. The conditions precedent to Recordation specified in Paragraph 3.4.

2.7 Debt Coverage Ratio. The ratio of (i) actual Net Operating Income Available for Debt Service on an annual basis determined based on actual revenues over the trailing twelve (12)-month period as of the date of measurement, to (ii) actual debt service payable under the Note as of the date of measurement on an annual basis.

2.8 Deed of Trust. The Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing of even date herewith made by Borrower as Trustor in favor of Bank as Beneficiary, encumbering the Property, given to secure the Note and other obligations of Borrower related thereto.

2.9 Disbursement. The payment of the Loan proceeds upon Recordation, to be made after satisfaction of the Conditions to Recordation.

2.10 Environmental Indemnity. The Unsecured Environmental Indemnity of even date herewith signed by Borrower in favor of Bank.

2.11 Environmental Laws. Any and all present and future federal, state and local laws, ordinances, regulations, permits, guidance documents, policies, and any other requirements of Governmental Authorities relating to health, safety, the environment or to any Hazardous Substances or Hazardous Substances Activity, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), the Resource Conservation Recovery Act (RCRA), the Hazardous Materials Transportation Act, the Toxic Substance Control Act, the Clean Water Act, the Endangered Species Act, the Clean Air Act, the Occupational Safety and Health Act (OSHA) and the applicable provisions of the California HEALTH AND SAFETY CODE and the California WATER CODE, and the rules, regulations and guidance documents promulgated or published thereunder.

2.12 Estoppel Certificate. A certificate in the form of Exhibit B, to be signed by Borrower and a tenant.

2.13 Event of Default. Any one of the events of default specified in the Article captioned "Default".

2.14 Excess Cash Flow. Net Operating Income Available For Debt Service less regularly scheduled payments due under the Note.

2.15 Financial Statements. Financial statements of Borrower, Guarantor and such other Persons as may be required by Bank, including operating statements, balance sheets and such other financial reports and information as Bank may require.

2.16 Governmental Authority. The United States, the State of California, the County of Los Angeles, the City of Torrance, and any other political subdivision located therein, and any agency, department, commission, board, bureau or instrumentality of any of them.

2.17 Governmental Requirement. Any law, ordinance, order, rule, regulation or requirement of a Governmental Authority.

2.18 Ground Lease Estoppel Certificate and Agreement. An estoppel certificate signed by Borrower as lessee and Ground Lessor as lessor under the Ground Lease, and Bank.

2.19 Ground Lessor. City of Torrance, a municipal corporation.

2.20 Guaranty. The guaranties signed by the Persons named in this Agreement as Guarantor, guaranteeing the performance of all or any portion of Borrower's obligations under the Note, this Agreement or any of the other Loan Documents.

2.21 Hazardous Substance. Any of the following: (i) any chemical, compound, material, mixture or substance that is now or hereafter defined or listed in, or otherwise classified pursuant to, any Environmental Laws as a "hazardous substance", "hazardous material", "hazardous waste", "extremely hazardous waste", "acutely hazardous waste", "radioactive waste", "infectious waste", "biohazardous waste", "toxic substance", "pollutant", "toxic pollutant", "contaminant" as well as any formulation not mentioned herein intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, "EP toxicity" or "TCLP toxicity"; (ii) petroleum, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas) and ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources; (iii) "hazardous substances" as defined in Section 25281(f) of the California HEALTH AND SAFETY CODE; (iv) "waste" as defined in Section 13050(d) of the California WATER CODE; (v) asbestos in any form; (vi) urea formaldehyde foam insulation; (vii) polychlorinated biphenyls (PCBs); (viii) radon; and (ix) any other chemical, material or substance that, because of its quantity, concentration or physical or chemical characteristics, is controlled or regulated for health and safety reasons by any Governmental Authority, or which poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace, atmosphere or soil.

2.22 Hazardous Substance Activity. Any actual, proposed or threatened use, storage, holding, existence, release (including any spilling, leaking, pumping, pouring, emitting, emptying, dumping, disposing into the environment, and the continuing migration into or through soil, surface water or groundwater), emission, discharge, generation, processing, abatement, removal, disposition, handling or transportation to or from the Property of any Hazardous Substances from, under, in, into or on the Property or surrounding property, including, without limitation, the movement or migration of any Hazardous Substance from surrounding property or groundwater in, into or onto the Property and any residual Hazardous Substance contamination on or under the Property.

2.23 Leases. All leases entered into relating to occupancy of all or portions of the Property, other than the Ground Lease.

2.24 Loan Documents. This Agreement, the Note, Deed of Trust, Environmental Indemnity and all other documents, if any, now or hereafter signed by Borrower (but not by Guarantor) in connection with or to evidence or secure the payment of the Loan, any interest, costs and other charges associated therewith, or any performance required by this Agreement or any other such document.

2.25 LTV Ratio. The loan-to-value ratio, which for the purposes of this Agreement shall mean the percentage that the principal amount of the Loan bears to the value of the Property, based on the most recent Bank-approved appraisal of the Property valued on an "as is" basis.

2.26 Monthly Operating Report. Monthly reports, required if the Debt Coverage Ratio for the Property is below 1.25:1, certified by Borrower to be correct, containing a statement of Excess Cash Flow for the month in question, and Rent Rolls, leasing schedules, income statement, statement of cash position, and such other information and reports with respect to the Property and the Leases as Bank may reasonably require, all in form and substance acceptable to Bank.

2.27 Net Operating Income Available For Debt Service. Gross rental income actually generated from Leases during any period, and all other income actually generated by the Property (if any) for the period, after payment of all operating expenses and recurring expenses of the Property (other than debt service) for the same period.

2.28 Non-Disturbance Agreement. A Subordination, Non-Disturbance and Attornment Agreement in the form of Exhibit C.

2.29 Note. The promissory note of even date herewith signed and delivered by Borrower in favor of Bank in the principal amount of the Loan.

2.30 Person. Any individual, general partnership, limited partnership, limited liability company, joint venture, trust, estate, corporation, association or other entity.

2.31 Personal Property. The personal property described as such in the Deed of Trust.

2.32 Preliminary Title Report. A preliminary title report issued by Title Insurer to be provided by Borrower to Bank prior to Recordation, pursuant to Paragraph 3.4.

2.33 Property. Borrower's leasehold estate in the Land arising under the Ground Lease and the Improvements.

2.34 Recordation. The date on which the Deed of Trust is recorded in the Office of the County Recorder of Los Angeles County, California, as a first-priority lien upon the Property.

2.35 Refurbishment Expenses. Expenditures by Borrower for future capital expenditures and Tenant Improvements.

2.36 Remargining Payment. Any payment that may be required of Borrower under Paragraph 3.7 below.

2.37 Rent Roll. A rental schedule listing all of the Leases and containing, as to each Lease, the legal and trade names of the tenant, the date of the Lease, a description of the leased premises including the rentable area, the current rental and any escalations, and such other information as Bank may reasonably require.

2.38 Security Agreement. The security agreement of even date herewith signed and delivered by Borrower in favor of Bank, granting Bank a security interest in the Capital Reserve Account maintained at Bank.

2.39 Skypark I. Skypark Atrium I, LLC, a California limited liability company.

2.40 Tenant Improvements. Those improvements which will be constructed or outfitted to conform to the requirements of individual tenants, as required of Borrower as landlord under a Lease.

2.41 Title Policy. The policy of title insurance issued by Title Insurer to be provided by Borrower to Bank pursuant to Paragraph 7.1, together with all endorsements thereto required under this Agreement or any of the other Loan Documents.

2.42 Title Restrictions. All covenants, conditions, restrictions, reservations, easements, licenses, agreements and other matters, whether or not of record, affecting the condition of title to the Property.

2.43 UCC-1 Financing Statement. A Form UCC-1 financing statement, as promulgated by the Secretary of State of the State of California.

### ARTICLE 3. THE LOAN

3.1 Loan. Bank hereby agrees to lend to Borrower, and Borrower hereby agrees to borrow from Bank, the full amount of the Loan, for business or investment purposes (and not for personal, family or household purposes), upon the terms, conditions, representations, warranties and covenants contained in this Agreement.

3.2 Loan Fees. In consideration of Bank's agreement to make the Loan, the Loan Fee shall be due and payable to Bank upon Borrower's and Bank's signing this Agreement. Bank's agreement to defer collection of the Loan Fee until Recordation shall in no way limit Borrower's obligation to pay the Loan Fee.

3.3 Payment of Costs. Borrower shall bear all costs and expenses required to satisfy the terms and conditions of this Agreement, including, without limitation, the costs and expenses of Bank's counsel in connection with the Loan. Bank is hereby authorized to disburse the same at Recordation and from time to time thereafter, directly to such Persons, including Bank, as may be entitled thereto pursuant to this Agreement.

3.4 Conditions Precedent to Recordation. Prior to Recordation, and as conditions precedent thereto, Bank shall have received:

- 3.4.1 The Note.
- 3.4.2 The Deed of Trust.
- 3.4.3 The Environmental Indemnity.
- 3.4.4 A UCC-1 Financing Statement for filing with the Secretary of State of the State of California.
- 3.4.5 A Guaranty signed by each Guarantor.
- 3.4.6 The Security Agreement.
- 3.4.7 An executed copy of the Ground Lease and all amendments thereto.
- 3.4.8 The Ground Lessor Estoppel Certificate and Agreement, signed by Ground Lessor, Borrower and Bank.
- 3.4.9 A flood certification dated at least ten (10) days before the Date of this Agreement.
- 3.4.10 The Preliminary Title Report issued by Title Insurer showing the condition of title to the Land, with the Land's legal description and a copy of all documents listed as exceptions therein, and showing that title to the leasehold estate in the Land arising under the Ground Lease is vested solely in Borrower.
- 3.4.11 Original insurance policies or certificates satisfactory to Bank for the insurance required by Article 7.
- 3.4.12 If required by Bank, the certificates of occupancy and any other authorizations which may be required by any Governmental Authority in order to occupy the Improvements.
- 3.4.13 If required by Bank, a current ALTA survey of the Property, including dimensions, delineations and locations of all easements thereon, satisfactory to Bank and to Title Insurer.
- 3.4.14 If required by Bank, a copy of the zoning ordinances applicable to the Land, certified by an appropriate official to be true, complete and up to date.
- 3.4.15 If required by Bank, a soils investigation report from a soils engineer acceptable to Bank.
- 3.4.16 An environmental site assessment of the Land from an environmental or hazardous materials consultant acceptable to Bank, reviewed by Bank's environmental risk management staff and approved by Bank at its sole discretion.
- 3.4.17 An appraisal of the Property from an appraiser acceptable to Bank, documenting a minimum value for the Property of \$10,050,000.

3.4.18 Photocopies of each of the Leases.

3.4.19 An Estoppel Certificate from each tenant occupying a rentable area in excess of 2,500 square feet, modified as reasonably required by Bank.

3.4.20 A Non-Disturbance Agreement from each tenant occupying a rentable area in excess of 2,500 square feet, modified as reasonably required by Bank.

3.4.21 Evidence that Borrower has filed a Statement of Information (Form LLC-12) with the Secretary of State of California showing Skypark Atrium I, LLC as the manager of Borrower.

3.4.22 Evidence satisfactory to Bank that there exists no Event of Default (or event or condition which, with the giving of notice and the passage of time, would constitute an Event of Default) as to any Affiliate Loan.

3.4.23 If required by Bank, an opinion from Borrower's counsel addressing the matters set forth in Paragraphs 4.2 through 4.5 of this Agreement.

3.4.24 Certified copies of Borrower's organizational documents, evidence satisfactory to Bank that Borrower has been duly organized and is validly existing, and borrowing authorizations and/or resolutions as specified by Bank.

3.5 Conditions Precedent to Disbursement. Bank shall not be obligated to make any disbursement, or take any other action under the Loan Documents, unless all of the following conditions precedent are satisfied at the time of the proposed action:

3.5.1 All Conditions to Recordation set forth in Paragraph 3.4 shall have been satisfied.

3.5.2 There shall exist no uncured Event of Default or any event, omission or failure of a condition which would constitute an Event of Default after notice or the lapse of time or both.

3.5.3 All representations and warranties of Borrower made in this Agreement or in any of the other Loan Documents shall be true and correct as of the date of the proposed action with the same effect as if made on such date.

3.5.4 Title Insurer shall have issued or committed to issue the Title Policy.

3.5.5 A UCC-1 Financing Statement shall have been filed with the Secretary of State for the State of California.

3.6 Term of Loan. The Loan shall mature, and all amounts due from Borrower to Bank shall be due and payable in full, on the Maturity Date. Borrower acknowledges and agrees that Borrower is and shall be solely responsible for arranging funds necessary to pay Bank in full on or before the Maturity Date.

3.7 Remargining Payments. If at any time during the term of the Loan a new or updated Bank-approved appraisal of the Property reflects an LTV Ratio in excess of the Maximum LTV Ratio, then at Bank's sole election, Borrower shall pay to Bank, in addition to the regular installment payment next required under the Note, a Remargining Payment in the amount (if any) necessary to reduce the LTV Ratio to no more than the Maximum LTV Ratio.

3.8 Use of Capital Reserve Account. Borrower shall use the funds in the Capital Reserve Account for the purposes of paying Refurbishment Expenses upon satisfaction of the following conditions:

3.8.1 There shall exist no uncured Event of Default or any event, omission or failure of a condition which would constitute an Event of Default after notice or the lapse of time or both. Notwithstanding

the foregoing, subject to Bank's prior approval at its sole discretion, a portion of the Capital Reserve may be used to pay Refurbishment Expenses where doing so would cure what would otherwise be an Event of Default.

3.8.2 All representations and warranties of Borrower made in this Agreement or in any of the other Loan Documents shall be true and correct as of the date of the proposed action with the same effect as if made on such date.

3.8.3 Borrower shall have submitted to Bank a written request for a portion of the Capital Reserve Account, signed by Borrower, along with any such other information as Bank may reasonably request.

3.8.4 In the event the Capital Reserve Account balance is reduced below \$100,000, Borrower shall replenish the account by applying a portion of the Net Operating Income, in the amount of \$8,000 per month, until such time as balance of the Capital Reserve Account has been restored to at least \$100,000.

#### ARTICLE 4. BORROWER'S REPRESENTATIONS AND WARRANTIES

4.1 Inducement to Bank. As a material inducement to Bank to enter into this Agreement and to make the Loan to Borrower, Borrower hereby unconditionally represents and warrants to Bank each of the matters set forth in this Article.

4.2 Due Organization. Borrower is duly organized, validly existing and in good standing under the laws of the State of its organization, and is qualified to do business and in good standing in the State in which the Land is located, with full power and authority to consummate the transaction contemplated hereby.

4.3 Borrower's Powers; Due Authorization. Borrower has full power and authority to sign and enter into this Agreement, the Note, the Deed of Trust and all of the other Loan Documents, to undertake and consummate the transactions contemplated thereby, and to pay, perform and observe all of the conditions, covenants, agreements and obligations contained therein. The Loan Documents have all been duly authorized, executed and delivered by Borrower.

4.4 Guaranty. Each Guaranty has been duly authorized, executed and delivered by Guarantor.

4.5 Binding Obligations. This Agreement, the Note, the Deed of Trust, each of the other Loan Documents and each Guaranty constitutes a legal and binding obligation of, and is valid and enforceable against, each party thereto other than Bank, in accordance with the terms thereof.

4.6 Litigation. Except as may have been disclosed to Bank in writing on or before the Date of this Agreement, there are no actions, suits or proceedings pending, or to the best knowledge of Borrower threatened, against or affecting Borrower, the Property or Guarantor, or involving the validity or enforceability of the Deed of Trust, the priority of the lien thereof, or the validity or enforceability of any of the other Loan Documents or any Guaranty, at law or in equity, or before or by any Governmental Authority. To the best of its knowledge, Borrower is not in default with respect to any order, writ, injunction, decree or demand of any court or other Governmental Authority.

4.7 No Violation. The consummation of the transaction contemplated by this Agreement, and the payment and performance of all of the obligations set forth in this Agreement, the Note, the Deed of Trust and the other Loan Documents, will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, contract, loan or credit agreement, corporate charter, bylaws, operating agreement, trust agreement or other instrument to which Borrower is a party or by which Borrower or the Property may be bound or affected.

4.8 No Default. There is no default on the part of Borrower under this Agreement, the Note, the Deed of Trust or any of the other Loan Documents, and no event has occurred and is continuing which with notice or the lapse of time or both would constitute a default thereunder.

4.9 Financial Statements. All Financial Statements delivered to Bank are true and correct in all material respects, have been prepared in accordance with generally accepted accounting principles consistently applied unless otherwise noted therein, and fairly present the respective financial conditions of Borrower and the subjects thereof as of their respective dates. No materially adverse change has occurred in the financial conditions reflected in the Financial Statements, and no additional borrowings have been made by Borrower or the subjects thereof, other than borrowings approved by Bank, since their respective dates.

4.10 Title to Leasehold Estate in Land. Borrower is the sole legal and beneficial owner of the leasehold estate under the Ground Lease, free and clear of all claims, liens and encumbrances other than those shown in the Title Policy.

4.11 Title to Personal Property. All Personal Property granted as security for the Note is vested solely in Borrower, free and clear of all claims, liens and encumbrances, and the security interest of Bank in the Personal Property is a first lien thereon.

4.12 Proper Subdivision. The Land is taxed separately without regard to any other real property. The Land has been properly subdivided or entitled to exemption therefrom so that for all purposes the Land may be mortgaged, conveyed and otherwise dealt with as a separate legal lot or parcel.

4.13 Compliance. The construction, use and occupancy of the Property comply in full with all Governmental Requirements and Title Restrictions. Neither the zoning nor any other right to construct or use the Improvements is to any extent dependent upon or related to any real property other than the Land. All approvals, licenses, permits, certifications, filings and other actions normally accepted as proof of compliance with all Governmental Requirements by prudent lending institutions that make investments secured by real property in the general area of the Land, to the extent available as of the Date of this Agreement, have been duly given or taken. To the extent that such approvals, licenses, permits, certifications, filings and other actions are not available as of the Date of this Agreement, either (i) the Governmental Authority charged with giving or taking the same is under a legal duty to do so, or (ii) Borrower is entitled to have them given or taken as the ministerial act of such Governmental Authority.

4.14 Other Financing. Borrower has not received other financing for either the acquisition of the Land or the financing of the Property, or the entering into the Ground Lease, except as has been specifically disclosed to and approved by Bank in writing prior to Recordation.

4.15 Taxes. Borrower has filed all required Federal, State, County and City tax returns and has paid all taxes due and payable. Borrower knows of no basis for additional assessments with respect to any taxes.

4.16 Broker's Fees. Except for the broker(s) previously disclosed by Borrower to Bank in writing, Borrower has not dealt with any Person who is or may be entitled to any brokerage commission, finder's fee, loan commission or other sum in connection with signing and entering into this Agreement, the consummation of the transaction contemplated hereby or the making of the Loan by Bank to Borrower, and Borrower hereby agrees to indemnify, defend and hold Bank harmless from and against any and all losses, costs, liabilities and expenses, including attorneys' fees, that Bank may suffer or sustain should such representation or warranty prove to be inaccurate in whole or in part.

4.17 Ground Lease. The Ground Lease is in full force and effect. There are no defaults under any of the provisions thereof, no event has occurred which with notice or the lapse of time or both could constitute a default thereunder, and all conditions to the continuing effectiveness thereof required to be satisfied as of the date thereof have been satisfied.

4.18 Leases. The Leases, if any, are in full force and effect. There are no defaults under any of the provisions thereof, no event has occurred which with notice or the lapse of time or both could constitute a default thereunder, and all conditions to the continuing effectiveness thereof required to be satisfied as of the date thereof have been satisfied. Borrower has no actual knowledge of any changes to the financial condition of any tenants of the Leases from that described in any Financial Statements of such tenants delivered to Bank for its review.

4.19 Accuracy. All reports, documents, instruments, information and forms of evidence delivered to Bank concerning the Loan or required by this Agreement or any of the other Loan Documents are accurate, correct and sufficiently complete to give Bank true and accurate knowledge of their subject matter, and do not contain any untrue statement of a material fact or omit any material fact necessary to make the same not misleading.

4.20 Non-Foreign Entity. Section 1445 of the INTERNAL REVENUE CODE OF 1986, as amended, provides a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform Bank that the withholding of tax will not be required in the event of the disposition of the Property pursuant to the Deed of Trust, Borrower hereby certifies, under penalty of perjury, that: (i) Borrower is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the INTERNAL REVENUE CODE and regulations promulgated thereunder); (ii) Borrower's U.S. taxpayer identification number is that set forth in Article 1 above; and (iii) Borrower's principal place of business is at the address set forth in Article 1 above. Borrower understands that this certification may be disclosed to the Internal Revenue Service by Bank and that any false statement contained herein could be punishable by fine, imprisonment, or both. Borrower agrees to execute such further certificates, which shall also be signed under penalty of perjury, as Bank shall reasonably require.

4.21 Nature of Representations and Warranties. Borrower certifies to Bank that all representations and warranties made in this Agreement and all other Loan Documents are true and correct in all material respects and do not contain any untrue statement of a material fact or omit any material fact necessary to make such representations and warranties not misleading. Any such representations and warranties shall remain true and correct in all material respects and shall survive so long as any of Borrower's obligations under this Agreement have not been satisfied or the Loan or any part thereof remains outstanding, and for any applicable statute of limitations period thereafter. Each representation and warranty made in this Agreement, in any other Loan Documents, and in any other document delivered to Bank by Borrower or Guarantor shall be deemed to have been relied upon by Bank, notwithstanding any investigation, inspection or inquiry theretofore or thereafter made by or on behalf of Bank, or any disbursement made by Bank related thereto. The representations and warranties contained in this Agreement which are made to the best knowledge of Borrower have been made after diligent inquiry calculated to ascertain the truth and accuracy of the subject matter of each such representation and warranty.

## ARTICLE 5. HAZARDOUS SUBSTANCES

5.1 Borrower's Representation and Warranty. Before signing this Agreement, Borrower researched and inquired into the previous uses and ownership of the Property. Based on that due diligence, Borrower represents and warrants that to the best of its knowledge, no Hazardous Substances have been discharged, disposed of or released or otherwise exist in, on, under or to the Land or Improvements, except as Borrower has disclosed to Bank in writing.

5.2 Borrower's Indemnity. Borrower shall indemnify, hold harmless, protect and defend Bank and its directors, officers, employees, partners, attorneys, agents, participants, successors and assigns from and against any and all claims, liabilities, judgments, penalties, fines, losses, damages (including foreseeable and unforeseeable consequential damages), costs and expenses (including amounts paid in settlement of claims, consultants' and experts' fees and costs, and attorneys' fees and costs) directly or indirectly arising from, out of or in connection with, or attributable to: (i) any Hazardous Substance Activity that occurs or is alleged to have occurred; (ii) any violation of any applicable Environmental Laws relating to the Property or to the ownership, use, occupancy or operation thereof; (iii) any investigation, inquiry, order, hearing, action, or other proceeding by or before any Governmental Authority in connection with any Hazardous Substance Activity; or (iv) any

claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against Bank which directly or indirectly relates to, arises from or is based on any of the matters described in clause (i), (ii) or (iii), or any allegation of any such matters. Without limiting the scope of the foregoing, the obligations of Borrower pursuant to this Paragraph include: the costs of any repair, cleanup or detoxification of the Property, including the preparation and implementation of any closure, remedial or other required plans; all costs, damages, liabilities and claims arising directly or indirectly from, out of or in connection with actual or alleged injury or damage to persons and property (including property other than the Property); all administrative costs and all other liabilities to governments and Governmental Authorities; and all foreseeable and unforeseeable consequential damages.

5.3 Compliance With Applicable Laws and Regulations. Borrower has complied, and shall comply and cause all occupants of the Land and the Improvements to comply, with all Environmental Laws which apply or pertain to the Land, the Improvements or the uses thereon or therein by Borrower or any tenant or other occupant. Borrower acknowledges that Hazardous Substances may permanently and materially impair the value and use of real property and that breach of this covenant constitutes willful misconduct and intentional waste of the Land.

5.4 Notices to Bank. Borrower shall give immediate written notice to Bank of: (i) any proceeding, inquiry, notice or other communication by or from any Governmental Authority, including, but not limited to, the California State Department of Health Services and the Environmental Protection Agency, regarding the presence, release, discharge or existence of any Hazardous Substance on, under or about the Land or any migration thereof from or to the Property or any actual or alleged violation of any Environmental Laws; (ii) all claims made or threatened against Borrower or the Property relating to any damage, liability, potential liability, loss or injury resulting from or pertaining to any Hazardous Substance Activity or violation of any Environmental Laws; (iii) Borrower's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Land that could cause the Land or the Improvements or any part thereof to be subject to any restrictions on ownership, occupancy, transferability or use, or subject the owner or any person having any interest in the Property to any liability, penalty or disability under any Environmental Law, including, but not limited to, any that could cause the Land or any part thereof to be classified as "border-zone property" under the provisions of California HEALTH & SAFETY CODE Sections 25220 *et seq.* or any regulation thereunder or in connection therewith; and (iv) Borrower's receipt of any notice or discovery of any information regarding any actual, alleged or potential use, manufacture, production, storage, spillage, seepage, release, discharge, disposal or any other presence or existence of any Hazardous Substances on, under or about the Land or Improvements (except as permitted under Paragraph 5.6), or any violation of any Environmental Laws pertaining to Borrower or the Land. Immediately upon receipt of any of the following, Borrower shall deliver copies to Bank: any and all orders, notices, permits, applications, reports and other communications, documents and instruments pertaining to any Hazardous Substance Activity or the violation of any Environmental Laws pertaining to Borrower or the Property. Bank shall have the right, but not the obligation, to join and participate in, as a party if it so elects, any legal proceedings or actions in connection with the Property involving any Hazardous Substance Activity or any Environmental Laws, and Borrower shall reimburse Bank upon demand for all of Bank's reasonable costs and expenses in connection therewith, including reasonable attorneys' fees.

5.5 Site Visits, Observations and Testing. Bank and its agents and representatives shall have the right at any reasonable time, on at least a twenty-four (24) hours' prior notice to Borrower, to enter and visit the Land and the Improvements for the purposes of observing the Land, taking and removing soils or groundwater samples, and conducting tests on any part of the Land or the Improvements. Bank is under no duty, however, to visit or observe the Land or to conduct tests, and any such acts by Bank shall be solely for the purpose of protecting Bank's security and preserving Bank's rights under the Loan Documents. No site visit, observation or testing by Bank shall result in a waiver of any default of Borrower or impose any liability on Bank. In no event shall any site visit, observation or testing by Bank be a representation that Hazardous Substances are or are not present in, on or under the Land or the Improvements, or that there has been or shall be compliance with any law, regulation or ordinance pertaining to Hazardous Substances or any other applicable Governmental Requirement. Neither Borrower nor any other party is entitled to rely on any site visit, observation or testing by Bank. Bank owes no duty of care to protect Borrower or any other party against, or to inform Borrower or any other party of, any Hazardous Substances or any other adverse condition affecting the

Land or the Improvements. Bank shall not be obligated to disclose to Borrower or any other party any report or findings made as the result of, or in connection with, any site visit, observation or testing by Bank. In each instance, Bank shall give Borrower reasonable notice before entering the Land or the Improvements. Bank shall make reasonable efforts to avoid interfering with Borrower's use of the Land or the Improvements in exercising any rights provided in this Paragraph.

5.6 Exception for Ordinary and Reasonable Use of Hazardous Substances Permitted by Law. Nothing in this Article shall preclude the use by Borrower or Borrower's contractors, subcontractors, tenants and agents from using materials that may be classified Hazardous Substances, so long as such use is permitted by applicable law and is of such types and in such quantities as is ordinary and reasonable in the occupancy and operation of the Improvements and the conduct of the business therefrom.

## ARTICLE 6. BORROWER'S COVENANTS

6.1 Maintain Records. Borrower shall keep and maintain full and accurate accounts and records of its operations according to generally accepted accounting principles and practices for its type of business.

6.2 Taxes. Borrower shall pay and discharge all lawful claims, including taxes, assessments and governmental charges or levies, imposed upon Borrower, Borrower's income or profits and upon all properties belonging to Borrower, before the date upon which penalties attach thereto; provided, however, that Borrower shall not be required to pay any such tax, assessment, charge or levy, the payment of which is being contested in good faith and by proper proceedings as provided in the Deed of Trust.

6.3 Notification of Default. Borrower shall promptly notify Bank in writing of the occurrence of any Event of Default as defined in this Agreement, or of any facts then in existence that could become an Event of Default upon the giving of notice or the lapse of time or both.

6.4 Additional Financial Information. Borrower shall deliver to Bank (i) within forty-five (45) days after the end of each fiscal year of the subjects thereof, current signed Financial Statements for Borrower and each Individual Guarantor; (ii) within thirty (30) days after filing the same, copies of Borrower's and each Individual Guarantor's federal income tax returns; (iii) within fifteen (15) days after the end of each calendar month the Monthly Operating Report (due when Borrower cannot show compliance with minimum ratio set forth in Paragraph 6.11 or otherwise, if required to show compliance with minimum ratio set forth in Paragraph 6.12 below); and (iv) within sixty (60) days after request, such other interim or periodic financial information regarding such Persons as Bank may require. In the event that audited Financial Statements are prepared, copies thereof shall be delivered promptly to Bank. All such Financial Statements and other financial information shall be in a form acceptable to Bank, and shall be the most recent that has been prepared by or for the subjects thereof. Bank may rely thereon until otherwise notified in writing by Borrower, and may, but shall not be obligated to, verify the information contained therein. From time to time, Bank may receive financial information about Borrower from others, and may answer questions and requests from others seeking credit and experience information about Borrower and its relationships with Bank.

6.5 Approval of Leases. All Leases shall be upon terms and with tenants approved by Bank in writing prior to Borrower's execution of any such Lease. In submitting a proposed Lease for Bank's approval, Borrower shall include financial statements for the tenant and any guarantors of such Lease. If Borrower proposes to utilize a standard Lease form in leasing the Improvements, the form, and any material deviation from the form, must be approved by Bank in writing prior to Borrower's execution of any such Lease. All Leases shall include the tenant's obligation to sign and deliver a Non-Disturbance Agreement and an Estoppel Certificate, when requested by Borrower or Bank. Borrower shall promptly deliver to Bank an original or executed counterpart of all Leases, whether executed before or after the Date of this Agreement, together with (for Leases containing rentable areas in excess of 2,500 square feet) a Non-Disturbance Agreement signed and acknowledged by the tenant and by Borrower.

6.6 Leasing Reports. In addition to the Monthly Operating Report (due when Borrower cannot show compliance with minimum ratio set forth in Paragraph 6.11 or otherwise, if required to show compliance with minimum ratio set forth in Paragraph 6.12 below), Borrower shall deliver to Bank annual Rent Rolls,

leasing schedules and reports, and operating statements with respect to the Property, in form and substance acceptable to Bank, within thirty (30) days after the end of each of Borrower's fiscal years. In addition, if requested by Bank, Borrower shall deliver to Bank monthly Rent Rolls, leasing schedules and reports, operating statements and such other leasing information as Bank may require with respect to the Property, in form and substance acceptable to Bank, within ten (10) days after the end of each calendar month.

6.7 Compliance. Borrower shall comply promptly with all Governmental Requirements and Title Restrictions, shall cause all conditions in this Agreement to be satisfied at the time and in the manner provided in this Agreement, and if payment of the Note is to be insured or guaranteed by any Governmental Authority or private insurer, shall comply with all statutes, rules, regulations and requirements related thereto or provided in any commitment issued by such Governmental Authority or insurer.

6.8 Conveyance, Lease or Encumbrance. Except in accordance with the Paragraph captioned "Approval of Leases", without the prior written consent of Bank, Borrower shall not sell, convey, transfer, dispose of or further encumber the Land, the Improvements or any portion thereof or interest therein, or enter into a Lease covering all or any portion thereof or interest therein, either voluntarily, involuntarily or otherwise, or enter into an agreement to do so. All easements, declarations, covenants, conditions, restrictions and dedications affecting the Land shall be submitted to Bank for its written approval, accompanied by a drawing or survey showing the precise location thereof, and such approval shall be obtained before Borrower's signing, entering into or granting the same.

6.9 Improvement District. Without Bank's prior written consent, Borrower shall not, directly or indirectly, advocate or assist in the incorporation of any of the Property into any improvement or other assessment district.

6.10 Estoppel Certificates and Non-Disturbance Agreements. Borrower shall use its best efforts to obtain, prior to Recordation, an Estoppel Certificate and a Non-Disturbance Agreement in recordable form from each tenant under each Lease specified by Bank, together with a copy of the Lease described therein. To the extent this has not occurred prior to Recordation and provided Bank has not, at its sole discretion, waived the delivery of such Estoppel Certificate and Non-Disturbance Agreement pursuant to Paragraph 3.4.19 and Paragraph 3.4.20 above, Borrower shall continue its best efforts in good faith following Recordation to obtain such Estoppel Certificates and Non-Disturbance Agreements.

6.11 Additional Financial Covenants - Debt Coverage Ratio. No later than February 15 of each year, Borrower shall demonstrate to Bank's reasonable satisfaction, using Financial Statements for the year that ended the previous December 31, that the Debt Coverage Ratio for the Property is at least 1.25:1. If Borrower cannot demonstrate that it has attained the required ratio, Borrower shall pay to Bank, as a mandatory prepayment on the Note, an amount that will reduce the remaining principal amount of the Loan to a level (after reamortization of the remaining principal amount) that will satisfy the required minimum ratio, based on the most recent Rent Rolls and operating statements.

6.12 Monthly Operating Report - Mandatory Payment. In addition to the minimum requirement set forth above, in the event the Debt Coverage Ratio for the Property is below 1.15:1, then at Bank's election, without any further demand, all Excess Cash Flow shall immediately and without further demand from Bank be delivered by Borrower to Bank as mandatory prepayment(s) on the Note until Borrower can demonstrate for two (2) consecutive calendar months, using Monthly Operating Statements, that the Debt Coverage Ratio for the Property is at least 1.15:1.

6.12.1 Once Borrower can demonstrate for two (2) consecutive calendar months that the Debt Coverage Ratio for the Property is at least 1.15, then all the Excess Cash Flow may be retained by Borrower.

6.13 Indebtedness, Operations and Fundamental Changes of Borrower. Borrower: (a) shall not own any asset other than the Property and incidental personal property necessary for the operation thereof; (b) shall not engage in any business other than the ownership, management and operation of the Property; (c) shall not enter into any contract or agreement with any Affiliate of Borrower or Guarantor, except upon

terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's length basis with third parties other than an Affiliate; (d) shall not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (i) the Loan, (ii) trade payables or accrued expenses incurred in the ordinary course of business of operating the Property, and (iii) loan or advances from any member or other constituent of Borrower, provided that such loans (A) are made in accordance with the operating agreement of Borrower as of the date hereof, (B) shall have no lien rights whatsoever to any portion of the Property, and (C) shall have no rights to receive any payments or consideration during a continuing Event of Default; (e) shall not make any loans or advances to any third party (including any Affiliate of Borrower or Guarantor); (f) shall be solvent and pay its debts from its assets as the same shall become due; (g) shall do all things necessary to preserve its existence and corporate and partnership formalities, and shall not, nor shall any manager thereof, amend, modify or otherwise change its articles of organization, operating agreement, or bylaws in a manner which adversely affects Borrower's existence as a single-purpose, single-asset entity; (h) shall conduct and operate its business as presently conducted and operated; (i) shall maintain books and records and bank accounts separate from those of its Affiliates, including its managers, principals and members; (j) shall be, and at all times shall hold itself out to the public as, a legal entity separate and distinct from any other entity (including any Affiliate thereof); (k) shall maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations; (l) shall not, nor shall any Affiliate, seek the dissolution or winding up, in whole or in part, of Borrower; (m) shall not enter into any transaction of merger or consolidation, or acquire by purchase or otherwise all or substantially all of the business or assets of, or any stock or beneficial ownership of, any entity; (n) shall not commingle the funds and other assets of Borrower with those of any Affiliate or any other Person; (o) shall maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any Affiliate or any other Person; (p) shall continue to observe all legal formalities; (q) shall not hold itself out to be responsible for the debts and obligations of any other person; and (r) upon the commencement of a voluntary or involuntary bankruptcy proceeding by or against Borrower, Borrower shall not seek a supplemental stay or otherwise pursuant to 11 U.S.C. 105 or any other debtor relief law of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, to stay, interdict, condition, reduce or inhibit the ability of Bank to enforce any rights of Bank against Guarantor or any other party liable with respect thereto by virtue of any indemnity, guaranty or otherwise.

## ARTICLE 7. INSURANCE

7.1 Title Insurance. At Recordation, Borrower shall at its expense deliver or cause to be delivered to Bank a Title Policy, which shall be an ALTA lender's policy of title insurance or its equivalent (extended coverage), with a liability limit of not less than the principal amount of the Note, issued by Title Insurer, insuring Bank as to the validity and priority of the Deed of Trust as a first lien on Borrower's leasehold interest in the Land, together with such endorsements and reinsurance or co-insurance agreements as Bank may require. The Title Policy shall contain only such exceptions from its coverage as shall have been approved in writing by Bank. After Recordation, Borrower shall, at its expense, deliver or cause to be delivered to Bank from time to time, within five (5) Business Days after Bank's request therefor, such additional endorsements to the Title Policy as Bank may require. Borrower shall furnish to Title Insurer all surveys and any other information required to enable it to issue the Title Policy and such endorsements.

7.2 Insurance. Before Recordation, Borrower shall procure, and at Recordation deliver to Bank, and thereafter maintain, policies of insurance in form and content and issued by insurers satisfactory to Bank, as follows:

7.2.1 Policies of insurance insuring the Property against loss or damage by risks embraced in coverage of the type now known as the broad form of all-risk, extended coverage in an amount not less than the full replacement cost of the Improvements, and with not more than \$10,000 deductible. The policies of insurance shall contain the "replacement cost endorsement".

7.2.2 Commercial general liability insurance, including coverage for any elevators and escalators occupying a portion of the Improvements, on an "occurrence basis" against claims for "personal injury", including, without limitation, bodily injury or death, or "property damage" occurring on, in or about the

Property or the adjoining streets or sidewalks, or arising from or connected with the use, conduct or operation of Borrower's business or interests, in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate with respect to personal injury, death and property damage. In addition, Borrower shall obtain and maintain in force at least \$2,000,000 in excess and/or umbrella liability insurance for any and all claims, including all legal liability imposed upon Borrower and all court costs and attorneys' fees incurred in connection with the ownership, development, operation and maintenance of the Property. Bank shall have the right from time to time to require an increase in the amount of coverage based on the standard practices in Borrower's industry and the risks involved in Borrower's business, operations or interests.

7.2.3 Workers' compensation insurance to the extent required by law.

7.2.4 Insurance against loss or damage to the Personal Property by fire and other risks covered by insurance of the type now known as the broad form of all-risk, extended coverage.

7.2.5 Insurance against flood damage, including surface waters, if the Land is located in an area considered a flood risk by the United States Department of Housing and Urban Development, in an amount not less than the full replacement cost of the Improvements and the Personal Property.

7.2.6 Such other insurance against such risks or hazards, and in such amounts, as may from time to time be reasonably required by Bank.

7.3 Form of Policies. Each policy of insurance required under the preceding Paragraph shall be with a company approved by Bank, shall contain the "standard non-contributory mortgagee clause" and the "standard lenders' loss-payable clause", or their equivalents, in favor of Bank, and shall provide that it shall not be modified or canceled without thirty (30) days' prior written notice to Bank. Bank shall be furnished with the original or a certified copy of the original of each such policy. Borrower shall also furnish Bank with receipts for the payment of premiums on such policies or other evidence of such payment reasonably satisfactory to Bank. If Borrower does not deposit with Bank a new policy of insurance with evidence of payment of premiums thereon at least thirty (30) days before the expiration of any expiring policy, then Bank may, but shall not be obligated to, procure such insurance, and Borrower shall pay the premiums thereon to Bank promptly upon demand.

7.4 Insurance Responsibility. Bank shall not, by the fact of approving, disapproving, accepting, preventing, obtaining or failing to obtain any such insurance, incur any liability for the form or legal sufficiency of insurance contracts, solvency of insurers or payment of losses, and Borrower hereby expressly assumes full responsibility therefor and all liability related thereto, if any.

7.5 Borrower Acknowledgment. California CIVIL CODE Section 2955.5(a) provides as follows: "No lender shall require a borrower, as a condition of receiving or maintaining a loan secured by real property, to provide hazard insurance coverage against risks to the improvements on that real property in an amount exceeding the replacement value of the improvements on the property." For purposes of the foregoing, (i) the term "hazard insurance coverage" means insurance against losses caused by perils which are commonly covered in policies described as a "Homeowner's Policy," "General Property Form," "Guaranteed Replacement Cost Insurance," "Special Building Form," "Standard Fire," "Standard Fire with Extended Coverage," "Standard Fire with Special Form Endorsement," or comparable insurance coverage to protect the real property against loss or damage from fire and other perils covered within the scope of a standard extended coverage endorsement, and (ii) the term "Improvements" means buildings or structures attached to the real property. Borrower acknowledges having received this disclosure prior to execution of the Note or the Deed of Trust or other security documents to be delivered by Borrower in connection with the Loan.

## ARTICLE 8. DEFAULT

8.1 Events of Default. At the option of Bank, each of the following events shall constitute an Event of Default under this Agreement (including, if Borrower consists of more than one Person, the occurrence of any of such events with respect to any one or more of such Persons).

8.2 Payment. Borrower's failure to pay when due any sum payable under the Note or Borrower's failure to pay, within the time specified, any other sum payable under any of the other Loan Documents, if such failure continues for a period of ten (10) days after written notice by Bank to Borrower of such failure.

8.3 Performance. Borrower's failure to perform any of its obligations under any covenant, condition or agreement set forth in this Agreement, if such failure is not cured within ten (10) days after written notice from Bank (or such longer period as is reasonably determined by Bank to be necessary for completion of the cure, so long as Borrower begins promptly and thereafter diligently continues to cure the failure).

8.4 Other Loan Documents. Borrower's failure to perform any of its obligations under any covenant, condition or agreement set forth in the Note, Deed of Trust or any of the other Loan Documents, if such failure is an event of default thereunder and is not cured within the applicable cure period (if any).

8.5 Governmental Requirements. Borrower's failure to comply with any Governmental Requirements within the applicable cure period (if any).

8.6 Title Restrictions. Borrower's failure to comply with any Title Restrictions within the applicable cure period (if any).

8.7 Representations and Warranties. The failure of any of Borrower's representations or warranties contained in this Agreement or in any of the other Loan Documents to be true, if such failure continues for a period of ten (10) days after written notice by Bank to Borrower of such failure.

8.8 Expiration of Permits. Borrower's neglect, failure or refusal to keep in full force and effect any permit, license, consent or approval with respect to the construction, occupancy or use of the Improvements, if such failure continues for a period of ten (10) days after written notice by Bank to Borrower of such failure.

8.9 Junior Encumbrances. The imposition, voluntarily or involuntarily, of any mortgage, deed of trust, lien or other encumbrance upon the Land without Bank's written consent, unless such encumbrance is released within ten (10) days after the imposition thereof.

8.10 Condemnation. The commencement of proceedings or threat of commencement of proceedings by any Governmental Authority for the condemnation, seizure or appropriation of any material portion of the Property.

8.11 Destruction of Improvements. The demolition, destruction or substantial damage of the Improvements, if Bank determines that the Improvements cannot be restored or rebuilt within a reasonable time, at a cost not exceeding the aggregate amount of the available insurance proceeds and additional funds (if any) advanced by Borrower.

8.12 Uninsured Casualty. The occurrence of an uninsured casualty with respect to any material portion of the Property, unless (i) Bank determines that the Property so affected can be restored or rebuilt within a reasonable time, and (ii) Borrower promptly following the casualty delivers Borrower's Funds in the amount necessary to pay all costs and expenses associated with such restoration or rebuilding.

8.13 Mechanic's Lien. The filing of any mechanic's lien against the Property, if the claim of lien continues for twenty (20) days without discharge, satisfaction or the making of provision for payment to the satisfaction of Bank.

8.14 Attachment. The attachment, levy, execution or other judicial seizure of any portion of the Property or any other collateral provided by Borrower under any of the Loan Documents, which is not released, expunged, discharged or dismissed before the earlier of (i) thirty (30) days after such attachment, levy, execution or seizure, or (ii) the sale of the assets affected thereby.

8.15 Voluntary Bankruptcy. Borrower's filing of a petition for relief under the Bankruptcy Reform Act of 1978, as amended or recodified, or under any other present or future Federal or State law regarding bankruptcy, reorganization or other relief to debtors, or Borrower's insolvency or inability to pay its debts as they mature, or Borrower's making a general assignment for the benefit of the creditors, or Borrower's applying for a receiver, trustee, custodian or liquidator for Borrower or any of its property, or the filing by or against Borrower of a petition or the commencement of any other procedure to liquidate or dissolve Borrower.

8.16 Involuntary Bankruptcy. Borrower's failure to effect a full dismissal of any involuntary petition, under the Bankruptcy Reform Act of 1978, as amended or recodified, or under any other present or future Federal or State law regarding bankruptcy, reorganization or other relief to debtors, that is filed against Borrower or that in any way restrains or limits Borrower or Bank regarding the Loan or the Property, before the earlier of (i) the entry of any order granting relief sought in the involuntary petition, or (ii) thirty (30) days after the date of filing of the petition, or Borrower's filing of any pleading in any such involuntary proceeding which admits the jurisdiction of the court or the petition's material allegations regarding Borrower's insolvency.

8.17 Financial Condition. Any material adverse change in the financial condition of Borrower from the financial condition represented to Bank as of the Date of this Agreement.

8.18 Change in Borrower. The issuance, sale, assignment, pledge, hypothecation, mortgage or transfer of more than ten percent (10%) of any class of corporate stock or assets of Borrower, or if Borrower is a limited liability company, partnership, joint venture or trust, of more than ten percent (10%) of the beneficial interests, capital, profits, losses or assets thereof, without the prior written consent of Bank; or the occurrence of any material management, organizational or other such change in Borrower, including, without limitation, the occurrence of any material partnership or joint venture dispute, which Bank determines, in its reasonable discretion, will have a material adverse effect on the Loan, the Land, or on Borrower's ability to perform its obligations under the Loan Documents; or any amendment or modification of the articles of incorporation, bylaws, operating agreement, partnership agreement, trust agreement or other charter document of Borrower, which Bank determines, in its reasonable discretion, will have a material adverse effect on the Loan, or on Borrower's ability to perform its obligations under the Loan Documents. Notwithstanding anything to the contrary herein, the following transfers of interests in Borrower or in its constituent member entity, Skypark I, shall not constitute an Event of Default, so long as following such transfer Skypark I and Sotowa, directly or indirectly, continue to be responsible for the control and management of Borrower and Sohoo & Quon Investments, Inc., a Washington corporation ("SQI"), continue to be responsible for the control and management of Skypark I, and provided that following any such transfers, Skypark I shall continue to own, directly or indirectly, a majority of interest of Borrower and SQI shall continue to own, directly or indirectly, a majority of interest of Skypark I: (i) a transfer of its interest by a member of Borrower or Skypark I which results from the death of constituent members (individuals or trustees); (ii) a transfer of its interest by a member of Borrower or Skypark I which is made to Borrower's or Skypark I's constituent members immediate family members (parents, spouses and children) or family trusts or other entities solely for the benefit of such immediate family members for estate planning purposes; and (iii) a transfer of its interest by a member of Borrower or Skypark I to an entity owned and controlled by such transferring member or under common control with such transferring member.

8.19 Guarantor. The occurrence of any of the events enumerated in Paragraphs 8.14 through 8.18 with respect to any Guarantor, or the death of any individual Guarantor unless Borrower provides a substitute or replacement guarantor that is of adequate financial strength and otherwise acceptable to Bank, in Bank's reasonable discretion, within sixty (60) days after such death.

8.20 Ground Lease. The occurrence of a default by Borrower as Ground Lessee under the Ground Lease (if not cured within the period specified therein), or the surrender, abandonment, termination or rescission of the Ground Lease, or the breach by Ground Lessor of its obligations under the Ground Lease Estoppel and Agreement.

## ARTICLE 9. REMEDIES

9.1 Optional Remedies. Upon the occurrence of any Event of Default as defined in this Agreement, in addition to its other rights set forth in this Agreement or in any of the other Loan Documents, at law or in equity, Bank may, at its option, without prior demand, exercise any one or more of the following rights and remedies:

9.1.1 Declare the Note and all other sums owing to Bank with respect to the other Loan Documents immediately due and payable in full.

9.1.2 Proceed as authorized at law or in equity with respect to such an Event of Default, and in connection therewith remain entitled to exercise all other rights and remedies described in this Agreement.

9.1.3 Take possession of all funds and deposits of Borrower on hand or on deposit in any account with Bank or any other Person or at any branch of Bank, and apply said funds in satisfaction of Borrower's obligations to Bank, in such order and priority as Bank may elect.

9.1.4 Upon five (5) days' written notice to Borrower, and with or without legal process, take possession of the Property, remove Borrower and all employees, contractors and agents of Borrower therefrom, and market, sell or lease the Property.

9.2 Repayment of Funds Advanced. If Bank spends its funds in exercising or enforcing any of its rights or remedies under the Loan Documents, the amount of funds spent shall be payable to Bank upon demand, together with interest at the rate applicable to the principal balance of the Note, from the date such funds were spent until repaid. Such amounts shall be deemed secured by the Deed of Trust and other applicable Loan Documents.

9.3 Rights Cumulative; No Waiver. All of Bank's rights and remedies provided in this Agreement, in any of the other Loan Documents, at law, in equity or otherwise, are cumulative and may be exercised by Bank at any time. Bank's exercise of any right or remedy shall not constitute a cure of any Event of Default unless all sums then due and payable to Bank under the Loan Documents are repaid and Borrower has cured all other Events of Default. No waiver shall be implied from Bank's failure to take, or delay in taking, any action authorized under the Loan Documents, whether concerning an Event of Default or otherwise, or from any previous waiver of any similar or unrelated action or Event of Default. Any waiver under any of the Loan Documents must be in writing and shall be limited to its specific terms.

9.4 Disclaimer. Whether or not Bank elects to employ any or all of the remedies available to it in connection with an Event of Default, Bank shall not be liable for (i) the construction of or failure to construct, complete or protect the Improvements, (ii) the payment of any expense incurred in connection with the exercise of any remedy available to Bank or the construction or completion of the Improvements, or (iii) the performance or non-performance of any other obligation of Borrower.

9.5 Jury Waiver; Judicial Reference. Borrower and Bank each waive their respective rights to a trial before a jury in connection with any disputes related to this Agreement, the Loan evidenced hereby and any other Loan Documents in connection herewith and therewith. Such disputes include without limitation any claim by Borrower or Bank, claims brought by Borrower as a class representative on behalf of others, and claims by a class representative on Borrower's behalf as a class member (so-called "class action" suits). This provision shall not apply if, at the time an action is brought, Borrower's Loan is funded or maintained in a state where this jury trial waiver is not permitted by law. If a jury trial waiver is not permitted by applicable law and a dispute arises between Borrower and Bank with respect to this Agreement, its enforcement or the transactions contemplated by the related Loan Documents, either of Borrower or Bank may require that it be resolved by judicial reference in accordance with California Code of Civil Procedure, Sections 638, et seq., including without limitation whether the dispute is subject to a judicial reference proceeding. The referee shall be a retired judge, agreed upon by the parties, from either the American Arbitration Association (AAA) or Judicial Arbitration and Mediation Service, Inc. (JAMS). If the parties cannot agree on the referee, the party who

initially selected the reference procedure shall request a panel of ten retired judges from either AAA or JAMS, and the court shall select the referee from that panel. The referee shall be appointed to sit with all of the powers provided by law. The parties agree that time is of the essence in conducting the judicial reference proceeding set forth herein. The costs of the judicial reference proceeding, including the fee for the court reporter, shall be borne equally by the parties as the costs are incurred, unless otherwise awarded by the referee. The referee shall hear all pre-trial and post-trial matters (including without limitation requests for equitable relief), prepare an award with written findings of fact and conclusions of law and apportion costs as appropriate. The referee shall be empowered to enter equitable relief as well as legal relief, provide all temporary or provisional remedies, enter equitable orders that are binding on the parties and rule on any motion that would be authorized in a trial, including without limitation motions for summary judgment or summary adjudication. Judgment upon the award shall be entered in the court in which such proceeding was commenced and all parties shall have full rights of appeal. This provision will not be deemed to limit or constrain Bank's right of offset, to obtain provisional or ancillary remedies, to interplead funds in the event of a dispute, to exercise any security interest or lien Bank may hold in property or to comply with legal process involving Borrower's accounts or other property.

9.6 Full Recourse; Payments. The Loan shall be full recourse against Borrower, but except as provided below, shall be nonrecourse to the limited partners, members, shareholders, agents or manager of Borrower ("Borrower's Constituent Members") or their respective assets other than their interest in Borrower, and Bank agrees not to seek, take or obtain against any of Borrower's Constituent Members any deficiency judgments for amounts remaining unpaid under the Loan Documents after all collateral for the Loan and all other amounts collected or collectible from Borrower has been applied to payment of all amounts owed to Bank under the Loan Documents, except as permitted under applicable law for any fraudulent transfer, alter ego or other related claim. Nothing in this provision, however, shall be construed to limit any claim or right which Bank may otherwise have at any time against any Guarantor, indemnitor and/or any other person arising from any source other than this Agreement, including any claim any guaranty and/or indemnity agreement. In specific, but not by way of limitation, the rights of Bank under the Guaranty and/or indemnity agreement shall not be affected by any provision of the Loan Documents (if any) limiting Borrower's Constituent Members' recourse or limiting any Borrower's Constituent Member's liability for the Loan as provided herein if any Borrower's Constituent Member is a Guarantor and/or indemnitor under any such Guaranty and/or indemnity agreement given in connection with this Loan. All amounts payable by Borrower on or with respect to the Loan, or pursuant to the terms of any Loan Documents, shall be paid in lawful money of the United States of America to Bank at Central Note Department, P.O. Box 518, Lawndale, California 90260-0518, in same-day funds (i.e., funds that are available for transfer or withdrawal the same day as presented and collected), not later than 11:00 a.m. (Pacific time) on the date due.

## ARTICLE 10. MISCELLANEOUS PROVISIONS

10.1 Authentication of Financing Statements. With respect to any security interests granted herein or in any of the Loan Documents, Borrower authorizes Bank to authenticate, sign and/or file any such financing statements or amendments without the need for further signature or authentication by Borrower.

10.2 Expenses. Borrower shall pay to Bank, within thirty (30) days after demand by Bank or within such shorter period of time as may be provided elsewhere in this Agreement, all reasonable and necessary expenses incurred by Bank incidental to the Loan, including, without limitation, commitment fees, architectural and engineering review expenses, appraisal fees and attorneys' fees. The foregoing expenses shall be payable whether the labor, materials or services giving rise to such expenses are provided by Bank's employees, by its agents or by independent contractors; provided, however, that if provided by Bank's employees, the amount payable by Borrower shall in each case not be in excess of the amount that would be charged by a third-party provider of the same service. Any amounts not timely paid by Borrower shall thereafter bear interest at the rate applicable to the principal balance under the Note, from the date such expenses were paid by Bank until repaid.

10.3 Indemnity. Borrower hereby agrees to defend, indemnify and hold Bank and its directors, officers, employees, partners, attorneys, agents, participants, successors and assigns harmless from and against all losses, damages, liabilities, claims, actions, judgments, costs and attorneys' fees which may be

imposed upon, incurred by or asserted against Bank and the other indemnified parties as a direct or indirect consequence of: (i) the construction of the Improvements on the Land; (ii) any capital improvements, other work or things done in, on or about the Property or any part thereof; (iii) any use, nonuse, misuse, possession, occupation, alteration, operation, maintenance or management of the Property or any part thereof, or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto; (iv) any negligence or willful act or omission on the part of Borrower or its agents, contractors, servants, employees, licensees or invitees; (v) any accident, injury (including death) or damage to any person or property occurring in, on or about the Property or any part thereof; (vi) any lien or claim which may be alleged to have arisen on or against the Property or any part thereof under the laws of the local or state government or any other governmental or quasi-Governmental Authority or any liability asserted against Bank with respect thereto; (vii) any tax attributable to the execution, delivery, filing or recording of the Deed of Trust or the Note; (viii) any contest due to Borrower's actions or failure to act, permitted pursuant to the provisions of the Loan Documents; (ix) any Event of Default; or (x) any claim by or liability to any contractor or subcontractor performing work or any party supplying materials in connection with the Improvements or the Land. Borrower shall pay immediately upon Bank's demand any amounts owing under this indemnity, together with interest from the date the indebtedness arises until paid at the rate of interest applicable to the principal balance of the Note. Borrower's duty to indemnify Bank shall survive the release and cancellation of the Note and the reconveyance or partial reconveyance of the Deed of Trust.

10.4 Bank Right to Re-Appraise Property. Bank shall have the right to appraise the Property, or to cause the Property to be appraised, (i) at Borrower's expense once during each successive twelve (12) month period following Recordation, and at such other and additional times as an Event of Default may exist, and (ii) at Bank's expense at such other and additional times as Bank may determine. In the event any Bank-approved appraisal should reflect an LTV Ratio greater than the Maximum LTV Ratio, Bank shall have the right to require a Remargining Payment pursuant to Paragraph 3.7 above.

10.5 Further Assurances. At Bank's request and at Borrower's expense, Borrower shall execute, acknowledge and deliver all other instruments and perform all other acts necessary, desirable or proper to carry out the purposes of the Loan Documents or to perfect and preserve any liens created by the Loan Documents.

10.6 Form of Documents. The form and substance of all documents, instruments and forms of evidence to be delivered to Bank under the terms of any of the Loan Documents shall be subject to Bank's approval, and shall not be modified, superseded or terminated in any respect without Bank's prior written approval.

10.7 Not Assignable. Neither this Agreement nor any rights of Borrower to receive any sums, proceeds or disbursements under this Agreement or under the Note may be assigned, pledged, hypothecated or otherwise encumbered by Borrower, without the prior written consent of Bank. Subject to the foregoing restrictions, this Agreement shall inure to the benefit of Bank, its successors and assigns, and shall bind Borrower and its permitted heirs, executors, administrators, successors and assigns.

10.8 Attorneys' Fees. If Bank refers this Agreement or any of the other Loan Documents to an attorney to enforce, construe or defend the same, or as a consequence of any Event of Default as defined in this Agreement, with or without the filing of any legal action or proceeding, Borrower shall pay to Bank, immediately upon demand, the amount of all attorneys' fees and costs incurred by Bank in connection therewith, together with interest thereon from the date of such demand at the rate of interest applicable to the principal balance of the Note. The reference to "attorneys' fees" in this Paragraph, elsewhere in this Agreement and in all of the other Loan Documents shall include, without limitation, fees charged by Bank for the services furnished by attorneys who are in its employ, at rates not exceeding those that would be charged by outside attorneys for comparable services.

10.9 Participations and Pledges. Bank may at any time sell or grant participations in, or otherwise dispose of in any way, all or any part of the Loan. Bank shall provide Borrower with notice of any such participations or dispositions. Borrower shall, on Bank's request, sign and deliver such further instruments as may in Bank's reasonable opinion be necessary or advisable to effect such disposition, including, without

limitation, new notes to be issued in exchange for any note(s) required under this Agreement. If Bank does elect to sell participations in the Loan, Bank may forward to each participant and prospective participant all documents and information related to the Loan in Bank's possession, including, without limitation, all Financial Statements, whether furnished by Borrower or otherwise. In addition to the foregoing, Bank shall at all times have the right to grant security interests in, to pledge and/or to hypothecate all or any portion of its interest in the Loan, including without limitation as collateral in connection with discount window advances, extensions of daylight credit or master account activity, or other programs of the Federal Reserve System or any Federal Reserve Bank.

10.10 Notices. All notices and demands under this Agreement shall be in writing, and shall be deemed served upon delivery, or if mailed, upon the first to occur of receipt thereof or three (3) days after deposit thereof in the United States Postal Service, certified mail, postage prepaid, addressed to the address of Borrower or Bank appearing in Article 1. Notices of change of address may be given in the same manner. Notices and demands under the other Loan Documents shall be given and shall be deemed served in the same manner as notices and demands under this Agreement, except as may otherwise be specifically provided therein.

10.11 Bank's Agents. Bank may upon written notice to Borrower designate agents or independent contractors to exercise any of Bank's rights under the Loan Documents. Any reference to Bank in any of the Loan Documents shall include Bank's employees, agents and independent contractors.

10.12 Integration and Interpretation. The Loan Documents contain or expressly incorporate by reference the entire agreement of the parties with respect to the matters contemplated in this Agreement and supersede all prior negotiations. The Loan Documents shall not be modified except by written instrument signed by Borrower and Bank. Any reference to the Property in any of the Loan Documents shall include all or any portion thereof. Any reference to the Loan Documents themselves in any of the Loan Documents shall include all amendments, renewals or extensions approved by Bank.

10.13 Governing Law. The Loan Documents shall be governed by and construed in accordance with the laws of the State of California, except to the extent preempted by Federal law. Borrower and all Persons and entities in any manner obligated to Bank under the Loan Documents hereby consent to the jurisdiction of any Federal or State court within the State of California and also consent to service of process by any means authorized by California or Federal law.

10.14 No Third Parties Benefited. No Person other than Bank and Borrower and their permitted successors and assigns shall have any right of action under any of the Loan Documents.

10.15 Time of the Essence. Time is hereby declared to be of the essence of this Agreement and of every part of this Agreement.

10.16 Supplement to Loan Documents. The provisions of this Agreement are not intended to supersede the provisions of any other Loan Documents, but shall be construed as supplemental thereto.

10.17 Severability. If any provision of the Loan Documents is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, that portion shall be deemed severed from the Loan Documents, and all remaining parts shall continue in full force as though the invalid, illegal or unenforceable portion had never been part of the Loan Documents.

10.18 Joint and Several Obligations. If Borrower consists of more than one Person, the obligations of Borrower shall be the joint and several obligations of all such Persons. Any married Person who executes this Agreement agrees that recourse may be had against his or her separate property for satisfaction of his or her obligations under this Agreement.

10.19 Gender. When the context and construction so require, all words used in the singular in this Agreement shall be deemed to have been used in the plural, the masculine shall include the feminine and neuter, and vice versa.

10.20 Headings. All headings appearing in any of the Loan Documents are for convenience only and shall be disregarded in construing the Loan Documents.

10.21 Consent. Whenever the consent or approval of either party is required pursuant to this Agreement, such consent or approval shall not be unreasonably delayed, nor (except where a provision of this Agreement expressly refers to sole discretion) shall such consent or approval be unreasonably conditioned or withheld.

10.22 Incorporation. The following Exhibits attached to this Agreement are incorporated in this Agreement by this reference:

- A Legal Description of the Land
- B Form of Estoppel Certificate
- C Form of Non-Disturbance Agreement

**IN WITNESS WHEREOF**, the parties have signed and entered into this Agreement as of the day and year first above written.

**BANK:** CALIFORNIA BANK & TRUST, a California banking corporation

By \_\_\_\_\_  
Title \_\_\_\_\_

By \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:** SKYPARK ATRIUM, LLC, a California limited liability company

BY: SKYPARK ATRIUM I, LLC, a California limited liability company, Manager

By \_\_\_\_\_  
Steven Loo, Manager

## EXHIBIT A

Legal Description

Real property located in the State of California, County of Los Angeles, City of Torrance, described as follows:

Those portions of Lot 1 of Tract No. 9765, in the City of Torrance, County of Los Angeles, State of California, as shown on Map filed in Book 170 Pages 10 to 12 inclusive of Maps, in the office of the County Recorder of said County, more particularly described as follows:

Parcel "A":

Beginning at a point perpendicularly distant 70 feet Westerly from the centerline of Crenshaw Boulevard, 100 feet wide, as said Boulevard existed on December 21, 1955, and perpendicularly distant 60 feet Southerly from the Northerly line of said Lot 1 of Tract No. 9765; thence North 62° 50' 50" West, parallel to the Northerly line of said Lot 1, a distance of 2730.00 feet to the true point of beginning; thence South 27° 09' 10" West 328.63 feet to a point, being hereinafter referred to as Point "A"; thence North 51° 45' 55" West, 229.27 feet; thence North 27° 09' 10" East 284.56 feet; thence South 62° 50' 50" East 225.00 feet to the true point of beginning.

Parcel "B":

Beginning at said point "A" described in Parcel "A" above; thence North 51° 45' 55" West 229.27 feet; thence continuing North 51° 45' 55" West 247.49 feet; thence South 38° 14' 05" East 63.00 feet to said Point "A".

Except all minerals, and all petroleum in said land, together with the exclusive right at any and all times to enter upon the lands and prospect for, mine for, and remove such minerals or petroleum, with all necessary and convenient means of working and transporting materials and supplies, as reserved in the Deed from the United States of America, recorded on May 13, 1948 in Book 27145 Page 362 Official Records.

All right of surface entry and subsurface entry lying above a depth of 500 feet from the surface thereof were terminated by Quitclaim Deed dated May 14, 1958, under the terms therein provided, executed by United States of America, acting by and through the Administrator of General Services, as Disclosed in Deed recorded June 6, 1958 in Book D120 Page 527 and in Book D1237 Page 838 both of Official Records.

Also except all uranium, thorium and all other materials determined pursuant to Section 5(B) (1) of the Atomic Energy Act of 1946 (60 Stat. 761) to be peculiarly essential to the production of Fissionable material, contained, in whatever concentration, in deposits in the lands covered by this instrument, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine and remove the same, making just compensation for any damage or injury occasioned thereby. However such land may be used, and any rights otherwise acquired by this disposition may be exercised, as if no reservation of such materials had been made, except that, when such use results in the extraction of any such material from the land in quantities which may not be transferred or delivered without a license under the Atomic Energy Act of 1946, as it now exists or may hereafter be amended, such material shall be the property of The United States Atomic Energy Commission, and the commission may require delivery of such material to it by any possessor thereof after such material has been separated as such from the ores in which it was contained. If the commission requires the Delivery of such material to it. It shall pay to the person mining or extracting the same, or to such other person as the commission determines to be entitled thereto, such sums including profits as the commission deems, fair and reasonable for the discovery, mining, development, production, extraction and other service, performed with respect to such material prior to such delivery, but such payment shall not include any amount on account of the value of such material before removal from its place of deposit in nature. If the commission does not require delivery of such material to it. The reservation hereby made shall be of no further force or effect, as reserved by The United States of America, in Book 27145 Page 382 Official Records.

(End of Legal Description)

**EXHIBIT B****Form of Estoppel Certificate****ESTOPPEL CERTIFICATE**

THIS ESTOPPEL CERTIFICATE ("Certificate") is made as of \_\_\_\_\_, by and among SKYPARK ATRIUM, LLC, a California limited liability company, whose address is 2790 Skypark Drive, Suite 207, Torrance, California 90505 ("Landlord"), and \_\_\_\_\_, whose address is \_\_\_\_\_ ("Tenant"); for the benefit of CALIFORNIA BANK & TRUST, a California banking corporation, whose address is 11622 El Camino Real, Suite 200, San Diego, California 92130, Attention: Real Estate Loan Department ("Bank").

**RECITALS:**

A. Landlord (or Landlord's predecessor in interest) and Tenant have entered into lease agreement dated \_\_\_\_\_ ("Lease") with respect to that certain real property in Torrance, California, which is more particularly described on Exhibit A attached hereto ("Property"), a portion of which does now or shall in the future constitute the demised premises ("Leased Premises"), for the term and on the conditions set forth in the Lease.

B. Landlord has executed, is executing or will execute a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing ("Deed of Trust") for the benefit of Bank, encumbering Landlord's fee interest in the Property and appurtenant easements as security for repayment of a loan made by Bank to Landlord ("Loan"). The Loan is evidenced by a promissory note ("Note"), made by Landlord in favor of Bank.

C. For the reliance of Bank, Tenant and Landlord wish to state as follows with respect to certain matters:

**CERTIFICATE:**

Tenant (with respect to Tenant) and Landlord (with respect to Landlord) hereby state as follows:

1. Attached hereto is a complete, true and correct copy of the Lease (including all exhibits, riders, addenda and amendments, if any). There are no modifications, amendments, supplements or understandings, oral or written, amending, supplementing or changing the terms of the Lease other than as attached hereto.

2. The Lease is in full force and effect, having been duly executed and delivered by Landlord and Tenant.

3. The Lease is for a term of \_\_\_\_\_ (\_\_\_) months (unless sooner terminated as provided under the terms of the Lease), plus \_\_\_\_\_ (\_\_\_) extension option(s), each for an extension period of \_\_\_\_\_ (\_\_\_) years.

4. The undersigned has accepted and now occupies the Premises, and is and has been open for business since \_\_\_\_\_. The Lease Term began \_\_\_\_\_, and the rent for the Premises has been paid to and including \_\_\_\_\_, 20\_\_\_. No rent has been prepaid for more than two (2) months. The fixed minimum rent being paid as above is \$\_\_\_\_\_ per month. The minimum monthly rent is subject to adjustment only as set forth in Section \_\_\_\_\_ of the Lease. Tenant has not prepaid rent or been given any concessions such as free rent, reduced rent or deferred commencement of rent.

5. As of the date hereof, to the best of Tenant's knowledge:

(a) There are no offsets, deductions or credits against payment of rents or other charges due from Tenant under the Lease;

(b) Tenant has no claims or causes of action against Landlord, and there is no default, nor existing conditions upon which giving notice or lapse of time or both would constitute a default, under the Lease on the part of Tenant or Landlord;

(c) Neither Tenant nor Landlord have given any notice of default under the Lease to the other party.

6. As of the date hereof, Tenant has no claim against Landlord for any security, rental, cleaning or other deposits.

7. As of the date hereof, Tenant has not entered into any sublease, assignment, hypothecation, encumbrance or other agreement transferring any of its interest in the Lease or the Leased Premises.

8. Except as expressly set forth in the Lease, Tenant has no options to renew or extend the term of the Lease, no right of first offer or right of first refusal to lease or occupy any other space within the Leased Premises, and no right to cancel or reduce the term of the Lease.

9. Tenant has no option or right of first refusal to purchase the Leased Premises or the Property or any portion thereof.

10. No actions, whether voluntary or otherwise, are pending against the undersigned under the bankruptcy laws of the United States or any state thereof.

11. The undersigned acknowledges that all the interest of Landlord in and to the above-mentioned Lease is being duly assigned to CALIFORNIA BANK & TRUST ("Bank") by an assignment of rents set forth in the Deed of Trust, and that pursuant to the terms thereof, all rental payments under the Lease shall continue to be paid to Landlord in accordance with the terms of the Lease unless and until Tenant is otherwise notified in writing by Bank, or its successors or assigns.

12. The undersigned also acknowledges that: (i) under the provisions of the Deed of Trust and other documents evidencing or securing the Loan, except as specified in the Lease, the Lease cannot be terminated (either directly or by the exercise of any option which could lead to termination) or modified in any of its material terms, or consent be given to the release of any party having liability thereon, without the prior written consent of Bank, or its successors and assigns, and without such consent no rent may be collected or accepted more than one month in advance; (ii) the interest of Landlord in the Lease has been assigned to Bank for the purposes specified in the Deed of Trust, and Bank, or its successors and assigns, assumes no duty, liability or obligation whatever under the Lease or any extension or renewal thereof; and (iii) any notices sent to Bank or its affiliates should be sent by certified mail and addressed to CALIFORNIA BANK & TRUST, 11622 El Camino Real, Suite 200, San Diego, California 92130, Attention: Real Estate Loan Department.

13. Tenant and Landlord acknowledge that Bank shall make a loan to Landlord in reliance upon the statements of Tenant and Landlord as set forth above.

**IN WITNESS WHEREOF**, Landlord and Tenant have made this Certificate as of the day and year first written above.

**Landlord:**

**Tenant:**

SKYPARK ATRIUM, LLC, a California limited liability company

\_\_\_\_\_  
a \_\_\_\_\_

BY: SKYPARK ATRIUM I, LLC, a California limited liability company, Manager

By \_\_\_\_\_  
Name \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Steven Loo, Manager

By \_\_\_\_\_  
Name \_\_\_\_\_  
Its \_\_\_\_\_

**Exhibit A**

**Legal Description**

[To be attached.]

ATTACHMENT TO ESTOPPEL CERTIFICATE

Copy of Lease

[To be attached.]

## EXHIBIT C

Form of Non-Disturbance Agreement

Recording Requested By

When Recorded Mail To:

CALIFORNIA BANK & TRUST  
 11622 El Camino Real, Suite 200  
 San Diego, California 92130  
 Attention: Real Estate Loan Department

**SUBORDINATION, NON-DISTURBANCE AND  
 ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("Non-Disturbance Agreement"), is made as of \_\_\_\_\_, among SKYPARK ATRIUM, LLC, a California limited liability company, whose address is 2790 Skypark Drive, Suite 207, Torrance, California 90505 ("Landlord"), and \_\_\_\_\_, whose address is \_\_\_\_\_ ("Tenant"); for the benefit of CALIFORNIA BANK & TRUST, a California banking corporation, whose address is 11622 El Camino Real, Suite 200, San Diego, California 92130, Attention: Real Estate Loan Department ("Bank"), with reference to the following

**RECITALS:**

A. Landlord (or Landlord's predecessor in interest) and Tenant have entered into lease agreement dated \_\_\_\_\_ ("Lease") with respect to that certain real property in Torrance, California, which is more particularly described on Exhibit A attached hereto ("Property"), a portion of which does now or shall in the future constitute the demised premises ("Leased Premises"), for the term and on the conditions set forth in the Lease.

B. Landlord has executed, is executing or will execute a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing ("Deed of Trust") for the benefit of Bank, encumbering Landlord's fee interest in the Property and appurtenant easements as security for repayment of a loan made by Bank to Landlord ("Loan"). The Loan is evidenced by a promissory note ("Note"), made by Landlord in favor of Bank.

C. Tenant and Bank wish to expressly subordinate the leasehold estate under the Lease to the lien of the Deed of Trust, and to establish certain rights, safeguards, obligations and priorities with regard to their respective interests by means of this Non-Disturbance Agreement.

**TERMS OF THE AGREEMENT**

IN CONSIDERATION of the mutual covenants of the parties and other good and valuable consideration, Bank and Tenant agree as follows:

1. No material amendment or modification of the Lease extending or terminating the Lease, or any provision regarding the rent due and payable thereunder, or the respective rights and obligations of the parties in case of casualty or condemnation or the use or disposition of proceeds of insurance or

condemnation, shall be effective without the prior written consent of Bank. Tenant shall not prepay any rent under the Lease more than one month in advance without the prior written consent of Bank unless required under the terms of the Lease.

2. Tenant hereby subordinates its leasehold interest in the Property and all of Tenant's rights under the Lease to the lien of the Deed of Trust and all extensions, renewals, modifications, consolidations and replacements of the Note and Deed of Trust, to the full extent of all obligations secured by the Deed of Trust; and the Deed of Trust shall unconditionally be and at all times remain a lien or charge on the Property, prior to and superior to the Lease and leasehold interest of Tenant.

3. Notwithstanding anything in Paragraph 2 above to the contrary, so long as no Event of Default (as defined in the Lease) has occurred and remains uncured, then:

(a) Tenant's rights under the Lease shall not be affected and Tenant's possession of the Leased Premises under the Lease, or any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, shall not be diminished or interfered with by Bank, prior to or after any foreclosure sale, or sale under private power pursuant to the Deed of Trust, provided that Tenant complies with the provisions of Paragraph 4 below;

(b) Bank or such other purchaser or successor-in-interest shall recognize the leasehold estate of Tenant under all of the terms, covenants and conditions of the Lease for the remaining balance of the term with the same force and effect as if Bank or such other purchaser or successor-in-interest were the landlord under the Lease; and

(c) The succession of Bank or such other purchaser or successor-in-interest to the interest of Landlord under the Lease shall not interfere or otherwise interrupt Tenant in its use and quiet enjoyment of the Leased Premises pursuant to the Lease.

4. In consideration of Bank's covenants under Paragraph 3 above, in the event Bank or any other purchaser as a foreclosure sale or sale under private power contained in the Deed of Trust, succeeds to the interest of Landlord under the Lease by reason of any foreclosure of the Deed of Trust or the acceptance by Bank of a deed in lieu of foreclosure or by any other method, it is agreed that Tenant shall recognize and be bound to Bank or such other purchaser, and to any and all successors-in-interest to Bank or such other purchaser, under all the terms, covenants and conditions of the Lease for the remaining balance of the term of the Lease, with the same force and effect as if Bank or such other purchaser or successor-in-interest were the landlord under the Lease, and Tenant does hereby agree to attorn to Bank or to such other purchaser or successor-in-interest as its landlord; and such attornment shall be effective and self-operative without the execution of any further instruments on the part of any parties to this Non-Disturbance Agreement, immediately upon Bank's or other purchaser's or successor-in-interest's succeeding to the interest of Landlord under the Lease.

5. Tenant agrees to pay to Bank as assignee of the rents and other payments under the Lease which come due to Landlord under the terms of the Lease after the time Tenant receives written notice from Bank requesting that such sums be paid to Bank. Such payment to Bank by Tenant will continue, subject to the terms and conditions and rights of Tenant under the Lease, until the first to occur of the following: (i) no further amounts are payable by Tenant under the Lease; (ii) Bank gives Tenant written notice that the rents and other payments be paid to Landlord; or (iii) Bank gives Tenant written notice that a purchaser has succeeded to the interests of Landlord and Bank under the Lease, after which time the rents and other payments will be paid as directed by such purchaser. Landlord specifically consents to the foregoing.

6. Landlord agrees that Tenant will be entitled to rely on the notices given by Bank and further agrees that Tenant will be entitled to full credit under the Lease for any rents and other payments made in accordance with Paragraph 5 of this Non-Disturbance Agreement to the same extent as if such payments were made directly to Landlord.

7. Tenant shall not exercise any abatement, offset or deduction from rent or other sums payable by Tenant under the Lease, or exercise any right to terminate the Lease, unless and until (i) Tenant has delivered to Bank the same written notice delivered to Landlord at substantially the same time such notice is delivered to Landlord, describing with reasonable specificity each event of default claimed by Tenant to exist and requesting Bank to cure such event of default; and (ii) such event of default is not cured within the cure period, if any, specified in the Lease.

8. The above provisions shall be self-operative and effective without the execution of any further instruments on the part of either party. However, Tenant agrees to execute and deliver to Bank (or to any person to whom Tenant agrees to attorn) such other instruments as either shall reasonably request in order to comply with these provisions, without modifying or jeopardizing Tenant's rights under the Lease.

9. Nothing in this Non-Disturbance Agreement is intended to constitute an agreement by Bank to perform any obligation of Landlord as landlord under the Lease prior to the time Bank obtains title to the Property by power of sale, judicial foreclosure or transfer in lieu thereof.

10. Landlord and Tenant acknowledge that Bank shall make a loan to Landlord in reliance upon the statements of Landlord and Tenant as set forth above.

11. The provisions of this Non-Disturbance Agreement shall be binding upon and shall inure to the benefit of the parties to this Non-Disturbance Agreement and their respective heirs, representatives, successors and assigns.

12. Landlord and Tenant each shall serve upon Bank a copy of any notice given to the other party under the Lease, in the same manner provided for notice under the Lease. With respect to notices given under this Non-Disturbance Agreement, all notices to Bank, Landlord or Tenant shall be sent by personal delivery, or by certified U.S. mail, return receipt requested, or by Federal Express or other nationally recognized overnight commercial mail service, to the address given for each such party at the beginning of this Non-Disturbance Agreement, and shall be deemed given upon personal delivery, or three (3) days after such deposit in the U.S. mail, postage prepaid, as the case may be, or on the date of scheduled delivery if sent by Federal Express or other nationally recognized commercial mail service.

13. This Non-Disturbance Agreement may be executed in counterparts, each of which will be deemed an original document, but all of which will constitute a single document.

14. Neither this Non-Disturbance Agreement nor any of the provisions hereof can be changed, waived, discharged or terminated, except by an instrument in writing signed by Tenant and Bank.

15. The recitals and all exhibits attached hereto and referred to herein are true and correct and are hereby incorporated herein by reference.

16. This Non-Disturbance Agreement shall be executed in recordable form and shall be recorded in the Official Records of the County in which the Property is located at the request of Tenant or Bank.

To indicate their agreement to the above, the parties or their authorized representatives or officers have signed this document.

**Bank:**

**Tenant:**

CALIFORNIA BANK & TRUST, a California banking corporation

\_\_\_\_\_  
a \_\_\_\_\_

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

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

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

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

**ACKNOWLEDGMENT BY LANDLORD**

Landlord as trustor under the Deed of Trust acknowledges and agrees that this Non-Disturbance Agreement does not constitute a waiver by Bank of any of its rights under the Loan or the Deed of Trust and/or in any way release Landlord from its obligations to comply with the terms, covenants and conditions of the Loan or the Deed of Trust.

**Landlord:**

SKYPARK ATRIUM, LLC, a California limited liability company

BY: SKYPARK ATRIUM I, LLC, a California limited liability company, Manager

By \_\_\_\_\_  
Steven Loo, Manager

[Add acknowledgments]

## Exhibit A

### Legal Description

Real property located in the State of California, County of Los Angeles, City of Torrance, described as follows:

Those portions of Lot 1 of Tract No. 9765, in the City of Torrance, County of Los Angeles, State of California, as shown on Map filed in Book 170 Pages 10 to 12 inclusive of Maps, in the office of the County Recorder of said County, more particularly described as follows:

Parcel "A":

Beginning at a point perpendicularly distant 70 feet Westerly from the centerline of Crenshaw Boulevard, 100 feet wide, as said Boulevard existed on December 21, 1955, and perpendicularly distant 60 feet Southerly from the Northerly line of said Lot 1 of Tract No. 9765; thence North 62° 50' 50" West, parallel to the Northerly line of said Lot 1, a distance of 2730.00 feet to the true point of beginning; thence South 27° 09' 10" West 328.63 feet to a point, being hereinafter referred to as Point "A"; thence North 51° 45' 55" West, 229.27 feet; thence North 27° 09' 10" East 284.56 feet; thence South 62° 50' 50" East 225.00 feet to the true point of beginning.

Parcel "B":

Beginning at said Point "A" described in Parcel "A" above; thence North 51° 45' 55" West 229.27 feet; thence continuing North 51° 45' 55" West 247.49 feet; thence South 38° 14' 05" West, 63.00 feet; thence South 51° 45' 55" East, 476.76 feet; thence North 38° 14' 05" East, 63.00 feet to said Point "A".

Except all minerals, and all petroleum in said land, together with the exclusive right at any and all times to enter upon the lands and prospect for, mine for, and remove such minerals or petroleum, with all necessary and convenient means of working and transporting materials and supplies, as reserved in the Deed from the United States of America, recorded on May 13, 1948 in Book 27145 Page 362 Official Records.

All right of surface entry and subsurface entry lying above a depth of 500 feet from the surface thereof were terminated by Quitclaim Deed dated May 14, 1958, under the terms therein provided, executed by United States of America, acting by and through the Administrator of General Services, as Disclosed in Deed recorded June 6, 1958 in Book D120 Page 527 and in Book D1237 Page 838 both of Official Records.

Also except all uranium, thorium and all other materials determined pursuant to Section 5(B) (1) of the Atomic Energy Act of 1946 (60 Stat. 761) to be peculiarly essential to the production of Fissionable material, contained, in whatever concentration, in deposits in the lands covered by this instrument, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine and remove the same, making just compensation for any damage or injury occasioned thereby. However such land may be used, and any rights otherwise acquired by this disposition may be exercised, as if no reservation of such materials had been made, except that, when such use results in the extraction of any such material from the land in quantities which may not be transferred or delivered without a license under the Atomic Energy Act of 1946, as it now exists or may hereafter be amended, such material shall be the property of The United States Atomic Energy Commission, and the commission may require delivery of such material to it by any possessor thereof after such material has been separated as such from the ores in which it was contained. If the commission requires the Delivery of such material to it. It shall pay to the person mining or extracting the same, or to such other person as the commission determines to be entitled thereto, such sums including profits as the commission deems, fair and reasonable for the discovery, mining, development, production, extraction and other service, performed with respect to such material prior to such delivery, but such payment shall not include any amount on account of the value of such material before removal from its place of deposit in nature. If the commission does not require delivery of such material to it. The reservation hereby made shall be of no further force or effect, as reserved by The United States of America, in Book 27145 Page 382 Official Records.

(End of Legal Description)

# **LOAN AGREEMENT**

**Between**

**CALIFORNIA BANK & TRUST,  
a California banking corporation  
("Bank")**

**And**

**SKYPARK ATRIUM, LLC,  
a California limited liability company  
("Borrower")**

**PROMISSORY NOTE**  
(Variable Rate)

PRINCIPAL	LOAN DATE	MATURITY	LOAN NO.	CALL	COLLATERAL	ACCOUNT	OFFICER	INITIALS
\$5,650,000	10/24/2011	11/1/2021			REL			
References in the shaded area are for Bank's use only and do not limit the applicability of this document to any particular loan or item.								

**Borrower:** Skypark Atrium, LLC  
2790 Skypark Drive, Suite 207  
Torrance, California 90505  
Attention: Steven Loo

**Bank:** California Bank & Trust  
11622 El Camino Real, Suite 200  
San Diego, California 92130  
Attention: Real Estate Loan Department

1. **Fundamental Provisions.** The following terms will be used as defined terms in this Note:

**Date of this Note:** October 24, 2011.

**Borrower:** SKYPARK ATRIUM, LLC, a California limited liability company.

**Bank:** CALIFORNIA BANK & TRUST, a California banking corporation.

**Principal Amount:** Five Million Six Hundred Fifty Thousand Dollars (\$5,650,000).

**Applicable Interest Rate:** Initially, the rate per annum which is the greater of four and 1/10 percent (4.1%) or three hundred basis points (300 bps) above Bank's five (5)-year LIBOR/Swap Rate as of the date of Recordation (or, if earlier, as of the date Bank funds any Loan proceeds into escrow). The Applicable Interest Rate shall remain fixed until the Interest Adjustment Date, on which date the Applicable Interest Rate shall be adjusted to the rate which is the greater of four and 1/10 percent (4.1%) or three hundred basis points (300 bps) above Bank's five (5)-year LIBOR/Swap Rate as of the Interest Adjustment Date, whereupon the Applicable Interest Rate shall again remain fixed until the Maturity Date.

**Interest Adjustment Date:** November 1, 2016.

**Bank's LIBOR/Swap Rate:** The rate per annum for United States dollar deposits quoted by Bank as Bank's five(5)-year LIBOR/Swap Rate, for an amount approximately equal to the Principal Amount, based on quotes from the London Interbank Offered Rate from British Bankers Association Interest Settlement Rates, as quoted for U.S. Dollars by Bloomberg, or other comparable services selected by Bank. This definition of Bank's LIBOR/Swap Rate is to be strictly interpreted and is not intended to serve any purpose other than providing an index to determine the Applicable Interest Rate used herein. Bank's LIBOR/Swap Rate may not necessarily be the same as the quoted offered side in the Eurodollar time deposit market by any particular institution or service applicable to any interest period. It is not the lowest rate at which Bank may make loans to any of its borrowers, either now or in the future.

**Default Rate:** Five percent (5.0%) per annum above the Applicable Interest Rate. The Default Rate shall change from time to time as and when the Applicable Interest Rate changes.

**Loan Agreement:** The Loan Agreement between Bank and Borrower dated the same as this Note. Terms defined in the Loan Agreement and not otherwise defined herein are used herein with the meanings defined for those terms in the Loan Agreement.

**Maturity Date:** November 1, 2021.

**Property:** The real property located in Torrance, California, as more particularly described in the Deed of Trust (defined in the Loan Agreement).

2. **Promise to Pay.** For good and valuable consideration, Borrower promises to pay to Bank, or order, the Principal Amount, or so much of the Principal Amount as may be advanced under this Note, with interest from the date of each such advance at the Applicable Interest Rate, or at the Default Rate as hereinafter provided, until paid in full in accordance with the terms contained herein.
3. **Loan.** The loan from Bank to Borrower evidenced by this Note ("Loan") is made pursuant to the Loan Agreement. This is the Note referred to in the Loan Agreement, and any holder hereof is entitled to all of the rights, remedies, benefits and privileges provided for in the Loan Agreement as originally executed or as it may from time to time be supplemented, modified or amended. The Loan Agreement, among other things, contains provisions for acceleration of the maturity hereof upon the happening of certain stated events upon the terms and conditions therein specified.
4. **Payment.** Borrower shall pay regular monthly payments of principal and interest, in the amount set forth below, beginning on the first day of the calendar month following the month in which the Disbursement occurs, and all subsequent payments are due on the first day of each month after that through the Maturity Date, on which date all outstanding principal plus accrued unpaid interest on the Loan shall be due and payable in full. Each monthly installment shall be in the amount that would fully amortize the original Principal Amount, with interest at the Applicable Interest Rate, over the period ending on November 1, 2036 ("Amortization Base Date"). The amount of the monthly installment shall be recalculated as of the Interest Adjustment Date, based on the then-current principal balance (without taking into account any optional prepayments of principal), to reflect any change in the Applicable Interest Rate. Interest on this Note is computed on a 365/360 simple interest basis, *i.e.*, by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. Unless otherwise agreed or required by applicable law, payments will be applied first to unpaid collection costs and late charges, then to accrued unpaid interest, and any remaining amount to principal. Principal may be prepaid at any time, subject to the possible application of the Paragraph below captioned "Prepayment", but no optional prepayment shall affect the amount of the monthly installment of principal and interest due hereunder. If any mandatory prepayment of principal is made to satisfy the required minimum Debt Coverage Ratio pursuant to Paragraph 6.11 of the Loan Agreement, the monthly installment of principal and interest due shall be recalculated to the amount that would fully amortize the principal balance outstanding after such mandatory prepayment, with interest at the Applicable Interest Rate, over the period remaining until the Amortization Base Date.
5. **Place and Manner of Payment.** All payments shall be made to Bank at California Bank & Trust, Central Note Department, P.O. Box 518, Lawndale, California 90260-0518, or at such other place as the holder of this Note may from time to time designate. All payments shall be made in lawful money of the United States. Checks will constitute payment only when collected.
6. **Term Loan.** The Loan is a non-revolving term loan. Once the total Principal Amount has been advanced, Borrower is not entitled to further loan disbursements. The unpaid principal balance owing on this Note at any time may be evidenced by endorsements on this Note or by Bank's internal records, including daily computer print-outs.
7. **Late Charges.** If Borrower fails to make any payment of principal or interest within ten (10) days after the date on which the same is due and payable, a late charge constituting damages shall be immediately due and payable. Borrower recognizes that a default in making the payments herein agreed to be made as and when due will result in Bank's incurring additional expenses in servicing this Note, in loss to Bank of the use of the money due, and in frustration to Bank in meeting its other commitments, but that it is extremely difficult and impractical to ascertain the

extent of such damages. Accordingly, Borrower agrees that the late charge for any such payment described above that is not paid within the period specified above after the date when due shall be an amount equal to five cents (\$.05) for each dollar (\$1.00) of each payment which becomes so delinquent, as a reasonable estimate of the damages to Bank, which sum shall be immediately due and payable.

8. **Default Interest Rate.** Commencing on the earlier of the maturity of this Note or the occurrence of an Event of Default, and continuing thereafter until this Note has been paid in full, all amounts due and owing under this Note shall bear interest at the Default Rate. The provisions of this paragraph shall not limit Bank's right to compel prompt performance hereunder.
9. **Acceleration on Transfer.** Borrower acknowledges that (i) the financial stability and managerial and operational ability of Borrower were and are a substantial and material consideration to Bank, and in reliance thereon, Bank agreed to make the Loan to Borrower evidenced by this Note and the Loan Agreement, and (ii) the transfer of possession of the Property or any portion thereof or interest therein, or a change in the person or entity operating and managing either the Property or Borrower, may significantly and materially alter or reduce Bank's security for this Note. Accordingly, as a material inducement to Bank to enter into the transaction contemplated by the Loan Agreement, Borrower agrees that it shall not transfer the Property or any portion thereof or interest therein without the prior written consent of Bank, except as provided under the Loan Agreement. As used herein, "transfer" shall mean any event described in the paragraph of the Loan Agreement captioned "Conveyance, Lease or Encumbrance" or any change in Borrower described in the paragraph thereof captioned "Change in Borrower". In the event of any such transfer, Bank shall have the right to declare the entire principal balance, plus interest and other charges due hereunder or under the Loan Agreement, immediately due and payable in full.
10. **Event of Default.** At the option of Bank, it shall be an "Event of Default" hereunder if (i) Borrower fails to pay when due any sum payable under this Note, or (ii) Borrower fails to perform any obligation or commits a breach of any agreement set forth in this Note, if such failure is not cured within five (5) days after written notice from Bank, or (iii) any default or Event of Default occurs under the Deed of Trust or the Loan Agreement.
11. **Acceleration on Default.** Upon the occurrence of an Event of Default, at the option of Bank, the entire sum of principal, interest and all other charges due under this Note shall become immediately due and payable.
12. **Attorneys' Fees.** If Bank refers this Note to an attorney to enforce, construe or defend any provision hereof, or as a consequence of any Event of Default hereunder, with or without the filing of any legal action or proceeding, Borrower shall pay to Bank upon demand the amount of all attorneys' fees, costs and other expenses incurred by Bank in connection therewith, together with interest thereon from the date of demand at the rate applicable to the principal balance of this Note.
13. **No Waiver.** No delay or omission of Bank in exercising any rights or remedies under this Note, including those arising in connection with any Event of Default, shall be construed as a waiver thereof or as an acquiescence therein, nor shall any single or partial exercise thereof preclude any further exercise thereof. Bank may, at its option, waive any of the conditions herein and no such waiver shall be deemed to be a waiver of Bank's rights hereunder, but rather shall be deemed to have been pursuant to this Note and not in modification thereof. No waiver of any Event of Default shall be construed to be a waiver of or acquiescence in or consent to any preceding or subsequent Event of Default.
14. **Waiver of Notices.** Borrower, all endorsers, all guarantors and all persons liable or to become liable on this Note, waive presentment, protest, demand, notice of protest, dishonor or non-payment of this Note, and any and all other notices or matters of a like nature, consent to any and all renewals and extensions of the time of payment hereto, and agree further that at any time and from time to time without notice, the terms of payment hereof may be modified by agreement between Borrower and Bank, or the security described in the Loan Agreement at any time securing this Note may be released in whole or in part, or increased, changed or exchanged by agreement between the holder hereof and any owner of the Property or other collateral affected thereby, without in any way affecting the liability of any party to this Note, any endorser, any guarantor or any person liable or to become liable with respect to any indebtedness evidenced hereby.

15. **Jury Waiver; Judicial Reference.** Borrower and Bank each waive their respective rights to a trial before a jury in connection with any disputes related to this Note, the Loan and any other Loan Documents. Such disputes include without limitation any claim by Borrower or Bank, claims brought by Borrower as a class representative on behalf of others, and claims by a class representative on Borrower's behalf as a class member (so-called "class action" suits). This provision shall not apply if, at the time an action is brought, Borrower's loan is funded or maintained in a state where this jury trial waiver is not permitted by law. If a jury trial waiver is not permitted by applicable law and a dispute arises between Borrower and Bank with respect to this Note, its enforcement or the transactions contemplated by the related loan documents, either of Borrower or Bank may require that it be resolved by judicial reference in accordance with California Code of Civil Procedure, Sections 638, et seq., including without limitation whether the dispute is subject to a judicial reference proceeding. The referee shall be a retired judge, agreed upon by the parties, from either the American Arbitration Association (AAA) or Judicial Arbitration and Mediation Service, Inc. (JAMS). If the parties cannot agree on the referee, the party who initially selected the reference procedure shall request a panel of ten retired judges from either AAA or JAMS, and the court shall select the referee from that panel. The referee shall be appointed to sit with all of the powers provided by law. The parties agree that time is of the essence in conducting the judicial reference proceeding set forth herein. The costs of the judicial reference proceeding, including the fee for the court reporter, shall be borne equally by the parties as the costs are incurred, unless otherwise awarded by the referee. The referee shall hear all pre-trial and post-trial matters (including without limitation requests for equitable relief), prepare an award with written findings of fact and conclusions of law and apportion costs as appropriate. The referee shall be empowered to enter equitable relief as well as legal relief, provide all temporary or provisional remedies, enter equitable orders that are binding on the parties and rule on any motion that would be authorized in a trial, including without limitation motions for summary judgment or summary adjudication. Judgment upon the award shall be entered in the court in which such proceeding was commenced and all parties shall have full rights of appeal. This provision will not be deemed to limit or constrain Bank's right of offset, to obtain provisional or ancillary remedies, to interplead funds in the event of a dispute, to exercise any security interest or lien Bank may hold in property or to comply with legal process involving Borrower's accounts or other property.
16. **Miscellaneous Provisions.** No provision of this Note may be amended, modified, supplemented, changed, waived, discharged or terminated unless Bank consents thereto in writing. In case any one or more of the provisions contained in this Note should be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. This Note shall be binding upon and inure to the benefit of Borrower, Bank and their respective successors and assigns. Time is of the essence of this Note and the performance of each of the covenants and agreements contained herein. This Note shall be governed by and construed in accordance with the laws of the State of California. If Borrower consists of more than one person or entity, the obligations of Borrower shall be the joint and several obligations of all such persons or entities, and any married person who executes this Note agrees that recourse may be had against his or her separate property for satisfaction of his or her obligations hereunder.
17. **Prepayment.** Borrower acknowledges that Bank was willing to extend the Loan on the terms set forth above only on the basis and assumption that Bank would receive the installment payments described above for the full term of this Loan. Accordingly, except for Permitted Prepayments (defined below), Borrower shall pay to Bank, at the time of and as a condition to the acceptance by Bank of any partial or total prepayment of principal, a premium ("Prepayment Premium") equal during the following periods to the following percentage of the original principal on the Note:

Dates	Premium
Through 10/31/12 11/1/16 – 10/31/17	3.0%
11/1/12 – 10/31/13 11/1/17 – 10/31/18	2.0%
11/1/13 – 10/31/14 11/1/18 – 10/31/19	1.0%

11/1/14 – 10/31/15	0.5%
11/1/19 – 10/31/20	
11/1/15 – 10/31/16	0.0%
11/1/20 – 10/31/21	

Notwithstanding the foregoing, no Prepayment Premium shall be payable in connection with any of the following ("Permitted Prepayments"): (i) any prepayment in full made during the last twelve (12) months before the Interest Adjustment Date or the Maturity Date; (ii) partial prepayments that in the aggregate over any consecutive twelve-month period do not exceed ten percent (10%) of the original principal balance of the Note; (iii) any mandatory prepayments required under the Loan Agreement, including those under Paragraphs 3.7 and 6.11 of the Loan Agreement (other than those in connection with the acceleration of the Note); or (iv) any reduction in principal resulting from Bank's election to apply any insurance or condemnation proceeds to the Loan. Early payments will not, unless agreed to in advance by Bank at its sole discretion, relieve Borrower of its obligation to continue making installment payments in the scheduled amount; rather, early payments will reduce the principal balance outstanding hereunder. In the event that Bank exercises any option to declare the entire unpaid principal balance and accrued interest due and payable in full, then Borrower specifically agrees that the Prepayment Premium, determined as set forth above, shall be due and payable in addition to the unpaid principal balance and accrued interest. The Prepayment Premium shall be calculated as of the date on which Bank exercises its option to declare the entire unpaid principal balance and accrued interest due and payable in full.

\_\_\_\_\_  
Initials of Borrower

IN WITNESS WHEREOF, Borrower has executed this Note as of the Date of this Note.

**BORROWER:**

SKYPARK ATRIUM, LLC, a California limited liability company

BY: SKYPARK ATRIUM I, LLC, a California limited liability company,  
Manager

By \_\_\_\_\_  
Steven Loo, Manager



RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

California Bank & Trust  
 11622 El Camino Real, Suite 200  
 San Diego, California 92130  
 Attention: Real Estate Loan Department

Space Above For Recorder's Use

**DEED OF TRUST,  
 ASSIGNMENT OF RENTS, SECURITY AGREEMENT  
 AND FIXTURE FILING**

This DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING is made as of October 24, 2011, by and among SKYPARK ATRIUM, LLC, a California limited liability company ("Trustor"), whose place of business is 2790 Skypark Drive, Suite 207, Torrance, California 90505; STEWART TITLE OF CALIFORNIA, INC. ("Trustee"); and CALIFORNIA BANK & TRUST, a California banking corporation ("Beneficiary"), whose place of business is 11622 El Camino Real, Suite 200, San Diego, California 92130.

**ARTICLE 1  
 GRANT IN TRUST AND SECURED OBLIGATIONS**

1.1 **Grant in Trust.** For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Trustor hereby irrevocably and unconditionally grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, all estate, right, title and interest which Trustor now has or may later acquire in and to the following property (all or any part of which, or interest therein, as the context may require, may be referred to herein as the "Property"):

(a) That certain real property, located in Torrance, California, more particularly described on Exhibit A attached hereto ("Land");

(b) Any and all buildings, structures and improvements now or hereafter erected on the Land ("Improvements"), and Trustor's right, title and interest in and to all other improvements that may now or hereafter be constructed upon the Land, including, but not limited to, the fixtures, attachments, appliances, equipment, machinery and other articles attached to said buildings and improvements;

(c) All right, title and interest of Trustor relating to the Land arising under that certain Ground Lease between Trustor's predecessor in interest and the City of Torrance, a municipal corporation, dated as of January 1, 1983, as disclosed by a memorandum recorded in the Official Records of the County of Los Angeles on January 25, 1984 as Document No. 84-97922 ("Ground Lease");

(d) All right, title and interest of Trustor in and to all leases, subleases, subtenancies, licenses, occupancy agreements and concessions covering the Land or the Improvements or any portion thereof or space therein now or hereafter existing, and all right, title and interest of Trustor under the same, including, without limitation, all cash or security deposits, advance rentals and deposits or payments of similar nature ("Leases");

\* (e) All rents, issues, profits, royalties, revenues, income and other proceeds and benefits derived from the Land or the Improvements;

(f) Any and all building permits, land use entitlements, development rights, sewer capacity, map approvals, trip generation rights, density allocations and other rights or approvals relating to or authorizing the development of the Land;

(g) All right, title and interest of Trustor in and to all options to purchase or lease the Land or any portion or interest of or in the Land, and any greater estate in the Land owned or hereafter acquired;

(h) Any and all interests, estate or other claims, both in law and in equity, which Trustor now has or may hereafter acquire in the Land;

(i) Any and all easements, parking rights, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto, and all water rights and shares of stock evidencing the same;

(j) All right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right of way of any street, open or proposed, adjoining the Land, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Land;

(k) All right, title and interest of Trustor in and to all tangible personal property owned by Trustor now or at any time hereafter located on or at the Land or the Improvements and primarily used in connection therewith, including, but not limited to, all building materials, goods, machinery, tools, insurance proceeds, equipment (including fire sprinklers and alarm systems, door bell, telephone, air conditioning, heating, refrigerating, electronic monitoring, entertainment, recreational, window or structural cleaning rigs, maintenance, exclusion of vermin or insects, removal of dust, refuse or garbage, and all other equipment of every kind), indoor and outdoor furniture (including beds, tables, chairs, planters, desks, sofas, counters, planters, shelves, lockers and cabinets), plumbing fixtures (including pipes, bathtubs, showers, sinks and faucets), wall beds, wall safes, furnishings, appliances (including ice boxes, refrigerators, fans, heaters, stoves, water heaters, dishwashers, trash compactors, ovens of all types, washing machines, dryers, other kitchen and laundry equipment, and incinerators), linens, washing machines and dryers, bar and restaurant equipment, furniture and supplies (including tables, chairs, cutlery, glassware, china, linens, and cleaning supplies), inventory, rugs, carpets and other floor coverings, draperies and drapery rods and brackets, mirrors and mantles, awnings, window shades, Venetian blinds, curtains, lamps, chandeliers and other lighting fixtures, maintenance and other supplies, and trees, shrubs and other landscaping and lawn care and landscaping vehicles and equipment;

(l) All intangible property and rights relating to the Land or Improvements or the operation thereof, including, without limitation, all service marks, trademarks, trade names, advertising campaigns and marketing or promotional materials;

(m) All rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by Trustor with third parties (including all utility deposits), contract rights (including any and all guaranties and warranties relating to the construction of the Improvements, and the manufacture and installation of fixtures and other personal property, Trustor's rights under listing agreements with licensed real estate brokers and Trustor's rights as seller under executory purchase and sale agreements and related escrow instructions), development and use rights, governmental permits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, drafts and letters of credit (other than letters of credit in favor of Beneficiary), which arise from or relate to construction on the Land or to any business now or later to be conducted on it, or to the Land and Improvements generally;

(n) All books and records pertaining to the Land, the Improvements, and all of the other Property, including computer-readable media and any computer hardware or software necessary to access and process such media;

(o) All proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, Improvements or the other Property into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Land, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud or concealment of a material fact; and

(p) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the foregoing.

1.2 **Secured Obligations.** Trustor makes the foregoing grant, conveyance, transfer and assignment in trust, and makes the assignment of rents set forth in Article 2 and grants the security interest set forth in Article 3, for the purpose of securing the following obligations (collectively, "Secured Obligations"), in any order of priority as Beneficiary may choose:

(a) Payment of indebtedness in the total principal amount of Five Million Six Hundred Fifty Thousand Dollars (\$5,650,000), with interest thereon, evidenced by that certain promissory note of even date herewith, signed by Trustor, which has been delivered to and is payable to the order of Beneficiary, and which by this reference is hereby made a part hereof, and any and all modifications, extensions and renewals thereof and substitutions therefor ("Note");

(b) Performance of all obligations of Trustor under that certain Loan Agreement of even date herewith between Beneficiary as "Bank" and Trustor as "Borrower" ("Loan Agreement");

(c) Payment and performance of all obligations of Trustor under this Deed of Trust;

(d) Payment of all sums advanced by Beneficiary to protect the Property as permitted herein, with interest thereon at the rate per annum in effect from time to time under the Note;

(e) Payment of all other sums, with interest thereon, which may hereafter be loaned to Trustor or its successors or assigns by Beneficiary, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust; and

(f) Payment and performance of all modifications, amendments, extensions and renewals, however evidenced, of any of the Secured Obligations.

This Deed of Trust, the Note, the Loan Agreement and any other instrument (other than a guaranty) given to evidence or further secure the payment and performance of any of the Secured Obligations may sometimes hereafter be referred to collectively as the "Loan Documents". All initially capitalized terms not otherwise defined herein shall have the same meanings as in the Loan Agreement.

## ARTICLE 2 ASSIGNMENT OF RENTS

2.1 **Assignment of Rents.** Trustor hereby irrevocably, absolutely, presently and unconditionally assigns and transfers to Beneficiary all the rents, royalties, issues, profits, revenue, income and proceeds of the Property, whether now due, past due or to become due, including all prepaid rents, security deposits and lease early termination payments (collectively, the "Rents"), and hereby gives to and confers upon Beneficiary the right, power and authority to collect the Rents. This assignment of the Rents is intended to be an absolute assignment from Trustor to Beneficiary and not an assignment for security or the granting of a security interest therein. Trustor shall on demand execute such further assignments to Beneficiary of leases or subleases or rents as Beneficiary may require from time to time.

2.2 **Grant of License.** Beneficiary hereby confers upon Trustor a license ("License") to collect and retain the Rents as they become due and payable, so long as no Event of Default, as defined in Section 6.1, shall exist and be continuing. If an Event of Default has occurred and is continuing, Beneficiary shall have the right, which it may choose to exercise in its sole discretion, to terminate this License without notice to or demand upon Trustor, and without regard to the adequacy of Beneficiary's security under this Deed of Trust.

2.3 **Collection of Rents.** Subject to the License granted to Trustor under Section 2.2, Beneficiary has the right, power and authority to collect any and all Rents. Trustor hereby appoints Beneficiary its attorney-in-fact to perform any and all of the following acts, if and at the times when Beneficiary in its sole discretion may so choose:

- (a) Demand, receive and enforce payment of any and all Rents; or
- (b) Give receipts, releases and satisfactions for any and all Rents; or
- (c) Sue either in the name of Trustor or in the name of Beneficiary for any and all Rents.

(d) Beneficiary's right to the Rents does not depend on whether or not Beneficiary takes possession of the Property as permitted under Article 6. Beneficiary may choose to collect the Rents, in its sole, absolute and unfettered discretion, either with or without taking possession of the Property.

2.4 **Application of Rents Collected.** Beneficiary shall apply all Rents collected by it first, to pay any costs and expenses of operation of the Property or collection of the Rents that may be incurred by Beneficiary, Trustee or any receiver; and thereafter, to pay all other Secured Obligations in any order and proportions as Beneficiary in its sole discretion may choose. Beneficiary shall have no liability for any funds it does not actually receive.

2.5 **No Loss or Waiver of Remedies.** If an Event of Default occurs while Beneficiary is in possession of all or part of the Property or is collecting and applying Rents as permitted under this Deed of Trust, Beneficiary, Trustee and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Deed of Trust and at law and in equity, including the right to exercise the power of sale granted under Section 1.1 and Subsection 6.2(d).

2.6 **Beneficiary Not Responsible.** Under no circumstances shall Beneficiary have any duty to produce Rents from the Property. Regardless of whether or not Beneficiary, in person or by agent, takes actual possession of the Land and Improvements, Beneficiary is not and shall not be deemed to be:

- (a) A "mortgagee in possession" for any purpose; or
- (b) Responsible for performing any of the obligations of the lessor under any lease; or
- (c) Responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property; or
- (d) Liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it.

### ARTICLE 3 GRANT OF SECURITY INTEREST

3.1 **Creation of Security Interest.** Trustor as debtor hereby grants Beneficiary as secured party a security interest in all of the Property described in Section 1.1 which under applicable law is personal property (collectively, "Personal Property"), to secure payment and performance of the Secured Obligations. This Deed of Trust constitutes a security agreement under the California UNIFORM COMMERCIAL CODE, covering all such

Personal Property. If an Event of Default occurs, Beneficiary shall have all the rights, powers and remedies of a secured party under the California UNIFORM COMMERCIAL CODE. All of the rights, powers and remedies of Beneficiary under this Article shall be in addition to all rights, powers and remedies given to Beneficiary by any statute or rule of law, other provision of this Deed of Trust or any other of the Loan Documents or other agreement, shall be cumulative and may be exercised successively or concurrently without impairing or in any way affecting Beneficiary's security interest in the Personal Property.

3.2 **Financing Statements.** Trustor shall execute one or more financing statements and such other documents as Beneficiary may from time to time require to perfect or continue the perfection of Beneficiary's security interest in any Property. Trustor shall pay all fees and costs that Beneficiary may incur in filing such documents in public offices and in obtaining such record searches as Beneficiary may reasonably require. In case Trustor fails to execute any financing statements or other documents for the perfection or continuation of any security interest, Trustor hereby appoints Beneficiary as its true and lawful attorney-in-fact to execute any such documents on its behalf. In addition, Trustor authorizes Beneficiary to authenticate, sign and/or file any such financing statements or amendments without the need for further signature or authentication by Trustor.

3.3 **Fixture Filing.** This Deed of Trust constitutes a financing statement filed as a fixture filing pursuant to the California UNIFORM COMMERCIAL CODE, as amended or recodified from time to time, covering any Property which is now or may later become fixtures attached to the Land or the Improvements. This filing is to be recorded in the real estate records of the county where the Property is located. In that connection, the following information is provided:

Name of Debtor:	Trustor
Address of Debtor:	See page 1 hereof
Debtor's State of Organization:	California
Debtor's Organizational Number:	CA200703410081
Name of Secured Party:	Beneficiary
Address of Secured Party:	See page 1 hereof

#### ARTICLE 4 RIGHTS AND DUTIES OF THE PARTIES

4.1 **Representations and Warranties of Trustor.** Trustor represents, warrants and covenants that, except as previously disclosed to Beneficiary in a writing making reference to this warranty:

(a) Trustor lawfully possesses and holds a leasehold estate in the Land pursuant to the Ground Lease as of the date this Deed of Trust is recorded;

(b) Trustor has or will have good title to all Property other than the Land and Improvements;

(c) Trustor has the full and unlimited power, right and authority to encumber the Property and assign the Rents;

(d) This Deed of Trust creates a first and prior lien on Trustor's leasehold estate in the Land under the Ground Lease;

(e) The Property includes all property and rights which may be reasonably necessary or desirable to promote the present and any reasonably future beneficial use and enjoyment of the Land and Improvements;

(f) Trustor owns the Personal Property, and any other Property which under applicable law is personal property, free and clear of any security agreements, reservations of title or conditional sales

contracts, and there is no financing statement affecting such Personal Property on file in any public office, other than removal of prior debt paid off by the Loan; and

(g) Trustor's place of business, or its chief executive office if it has more than one place of business, is located at the address specified above.

4.2 **Payment and Performance of Secured Obligations.** Trustor shall pay when due the principal of and the interest on the indebtedness evidenced by the Note, charges, fees and all other sums as provided in the Loan Documents, and the principal of and interest on any future advances secured by this Deed of Trust. Trustor shall promptly perform each other Secured Obligation in accordance with its terms.

4.3 **Maintenance, Repair, Alterations.** Trustor shall keep the Property in good condition and repair, and shall not remove, demolish or substantially alter (except such alterations as may be required by laws, ordinances or regulations) any of the Improvements; shall complete promptly and in good and workmanlike manner any building or other improvement which may be constructed on the Land and promptly restore in like manner any Improvements which may be damaged or destroyed, and shall pay when due all claims for labor performed and materials furnished therefor; shall comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Property, or any part thereof, or requiring any alterations or improvements; shall not commit or permit any waste or deterioration of the Property; shall keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair; shall comply with the provisions of applicable lease(s), if this Deed of Trust encumbers a leasehold(s); shall not commit, suffer or permit any act to be done in or upon the Property in violation of any law, ordinance or regulation.

4.4 **Management of the Property.** If at any time the Property is managed other than by Trustor or by an entity controlled by Trustor, Beneficiary shall have the right reasonably to approve the selection of such management, and Trustor shall submit the proposed management contract, and such other information about the manager as Beneficiary reasonably requests, to Beneficiary for its review at least twenty (20) days prior to Trustor's signing and entering into the management contract. If at any time when the Property is being managed other than by Trustor or an entity controlled by Trustor, Beneficiary reasonably determines that the management is not satisfactory for the protection of the Property, Beneficiary shall have the right to require Trustor to change such management so as to be reasonably satisfactory to Beneficiary.

4.5 **Required Insurance.** Trustor shall at all times provide, maintain and keep in force the policies of insurance required in the Loan Agreement.

4.6 **Delivery of Policies; Payment of Premiums.** Trustor shall furnish Beneficiary with an original, or a copy certified by an authorized agent of the insurer, of all policies of required insurance, and an original certificate of insurance of all such policies, setting forth the coverage as to the Property, the limits of liability as to the Property, the name of the carrier, the policy number and the expiration date. Trustor may provide any of the required insurance through blanket policies carried by Trustor and covering more than one location, upon satisfying Beneficiary that such blanket policies meet all the requirements hereof. At least twenty (20) days prior to the expiration of each such policy, Trustor shall furnish Beneficiary with evidence satisfactory to Beneficiary of the payment of premium and the re-issuance of a policy continuing insurance in force as required by this Deed of Trust. All such policies shall contain a provision that such policies will not be canceled or materially amended, which terms shall include any reduction in the scope or limits of coverage, without at least thirty (30) days prior written notice to Beneficiary. In the event Trustor fails to provide, maintain, keep in force or deliver and furnish to Beneficiary the policies of insurance required by this Deed of Trust, then, such failure shall be a default hereunder and Beneficiary may, if such failure is not cured within ten (10) days after delivery of notice to Trustor (which notice shall not be necessary where doing so would result in any lapse in coverage), procure such insurance or single-interest insurance for such risks covering Beneficiary's interest, and Trustor will pay all premiums thereon promptly upon demand by Beneficiary, and until such payment is made by Trustor the amount of all such premiums, together with interest thereon at the rate per annum in effect from time to time under the Note, shall be secured by this Deed of Trust. At the request of Beneficiary, Trustor shall deposit with Beneficiary, in monthly installments, an amount equal to one-twelfth (1/12th) of the estimated aggregate annual insurance premiums on all policies of insurance required by this

Deed of Trust; provided, however, that Beneficiary shall make no such request for monthly deposits unless and until such time (if ever) as an Event of Default (as defined in Section 6.1 below) has occurred and continues uncured. Once Beneficiary has determined that an Event of Default has been cured, at Lender's sole discretion, all such deposits with Beneficiary may be returned to Borrower. Trustor further agrees, upon Beneficiary's request, to cause all bills, statements or other documents relating to the foregoing insurance premiums to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents, and providing Trustor has deposited sufficient funds with Beneficiary pursuant to this Section, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time and for any reason the funds deposited with Beneficiary are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary shall notify Trustor and Trustor shall immediately deposit an amount equal to such deficiency with Beneficiary. Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section. Beneficiary may commingle said reserve with its own funds and Trustor shall be entitled to no interest thereon.

#### 4.7 Damages and Insurance and Condemnation Proceeds.

(a) Trustor hereby absolutely and irrevocably assigns to Beneficiary, and authorizes the payor to pay to Beneficiary, the following claims, causes of action, awards, payments and rights to payment: (i) all awards of damages and all other compensation payable directly or indirectly because of a condemnation, proposed condemnation or taking for public or private use which affects all or part of the Property or any interest in it; and (ii) all other awards, claims and causes of action, arising out of any warranty affecting all or any part of the Property, or for damage or injury to or decrease in value of all or part of the Property or any interest in it; and (iii) all proceeds of any insurance policies payable because of loss sustained to all or part of the Property; and (iv) all interest which may accrue on any of the foregoing.

(b) Trustor shall immediately notify Beneficiary in writing if: (i) any damage occurs or any injury or loss is sustained in any amount to all or part of the Property, or any action or proceeding relating to any such damage, injury or loss is commenced; or (ii) any offer is made, or any action or proceeding is commenced, which relates to any actual or proposed condemnation or taking of all or part of the Property. If Beneficiary chooses to do so, it may in its own name appear in or prosecute any action or proceeding to enforce any cause of action based on warranty, or for damage, injury or loss to all or part of the Property, and it may make any compromise or settlement of the action or proceeding. Beneficiary, if it so chooses, may participate in any action or proceeding relating to condemnation or taking of all or part of the Property, and may join Trustor in adjusting any loss covered by insurance.

(c) All proceeds of these assigned claims, other property and rights which Trustor may receive or be entitled to shall be paid to Beneficiary. In each instance, Beneficiary shall apply those proceeds first toward reimbursement of all of Beneficiary's costs and expenses of recovering the proceeds, including attorneys' fees.

#### 4.8 Use of Proceeds by Trustor.

(a) If, in any instance, each and all of the following conditions are satisfied in Beneficiary's reasonable judgment, Beneficiary shall permit Trustor to use the balance of the proceeds assigned under the preceding Section ("Net Claims Proceeds") to pay costs of repairing or reconstructing the Property in the manner described below:

(i) The plans and specifications, cost breakdown, construction contract, construction schedule, contractor and payment and performance bonds for the work of repair or reconstruction must all be reasonably acceptable to Beneficiary.

(ii) Beneficiary must receive evidence satisfactory to it that after repair or reconstruction, the outstanding balance of all Secured Obligations will not exceed seventy-five percent (75%) of the value of the Property.

(iii) The Net Claims Proceeds must be sufficient in Beneficiary's determination to pay for the total cost of repair or reconstruction, including all associated development costs and interest projected to be payable on the Secured Obligations until the repair or reconstruction is complete; or Trustor must provide its own funds in an amount equal to the difference between the Net Claims Proceeds and a reasonable estimate, made by Trustor and found acceptable by Beneficiary, of the total cost of repair or reconstruction.

(iv) No Event of Default shall have occurred and be continuing.

(b) If the foregoing conditions are met, Beneficiary shall hold the Net Claims Proceeds in an interest-bearing account and shall disburse them to Trustor to pay costs of repair or reconstruction, on such terms and subject to such conditions as are reasonably established by Beneficiary to govern disbursement of funds, including without limitation providing evidence of costs, percentage completion of repair or reconstruction, application of payments and satisfaction of mechanic's liens. However, if Beneficiary finds that one or more of the foregoing conditions are not satisfied, it shall apply the Net Claims Proceeds to pay or prepay (without premium) some or all of the Secured Obligations in such order and proportions as it in its sole, absolute and unfettered discretion may choose.

(c) Trustor hereby specifically, unconditionally and irrevocably waives all rights of a property owner granted under California CODE OF CIVIL PROCEDURE Section 1265.225(a), which provides for allocation of condemnation proceeds between a property owner and a lienholder, and any other law or successor statute of similar import.

(d) Nothing herein contained shall be deemed to excuse Trustor from repairing or maintaining the Property as provided in Section 4.3 hereof or restoring all damage or destruction to the Improvements, regardless of whether or not there are insurance proceeds available or whether any such proceeds are sufficient in amount, and the application or release by Beneficiary of any insurance proceeds shall not cure or waive any default or notice of default under this Deed of Trust or invalidate any act done pursuant to such notice.

4.9 **Assignment of Insurance Policies Upon Foreclosure.** In the event of foreclosure of this Deed of Trust or other transfer of title or assignment of the Property in extinguishment, in whole or in part, of the debt secured hereby, all right, title and interest of Trustor in and to all policies of insurance required by this Deed of Trust shall inure to the benefit of and pass to the successor in interest of Trustor, or the purchaser or grantee of the Property.

4.10 **Indemnification; Subrogation; Waiver of Offset.**

(a) If Beneficiary is made a party defendant to any litigation concerning this Deed of Trust or the Property or any part thereof or interest therein, or the occupancy thereof by Trustor, then Trustor shall indemnify, defend and hold Beneficiary harmless from all liability by reason of said litigation, including reasonable attorneys' fees and expenses incurred by Beneficiary in any such litigation, whether or not any such litigation is prosecuted to judgment. If Beneficiary commences an action against Trustor to enforce any of the terms hereof or because of the breach by Trustor of any of the terms hereof, or for the recovery of any sum secured hereby, Trustor shall pay to Beneficiary reasonable attorneys' fees and expenses, and the right to such attorneys' fees and expenses shall be deemed to have accrued on the commencement of such action, and shall be enforceable whether or not such action is prosecuted to judgment. If Trustor breaches any term of this Deed of Trust, Beneficiary may employ an attorney or attorneys to protect its rights hereunder and, in the event of such employment following any breach by Trustor, Trustor shall pay Beneficiary reasonable attorneys' fees and expenses incurred by Beneficiary, whether or not an action is actually commenced against Trustor by reason of breach. Notwithstanding the foregoing, if an action is actually commenced by either party and such action proceeds to final judgment in favor of Trustor, then (i) Trustor shall have no obligation to pay Beneficiary's attorneys' fees and expenses, and (ii) Beneficiary shall pay Trustor reasonable attorneys' fees and expenses incurred by Trustor in connection with such action.

(b) Trustor waives any and all right to claim or recover against Beneficiary, its officers, employees, agents and representatives, for loss of or damage to Trustor, the Property, Trustor's other property or the property of others under Trustor's control from any cause insured against or required to be insured against by the provisions of this Deed of Trust.

(c) All sums payable by Trustor hereunder shall be paid without notice (except as expressly provided herein), demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Trustor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of, or any condemnation or similar taking of, the Property or any part thereof; (ii) any restriction or prevention of or interference with any use of the Property or any part thereof; (iii) any title defect or encumbrance or any eviction from the Land or the Improvements or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary or Trustor, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary or Trustor, or by any court, in any such proceeding; (v) any claim which Trustor has or might have against Beneficiary; (vi) any default or failure on the part of Beneficiary to perform or comply with any of the terms hereof or of any other agreement with Trustor, or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether or not Trustor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, Trustor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Trustor.

#### 4.11 Taxes and Impositions.

(a) Trustor shall pay, prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, including, without limitation, non-governmental levies or assessments such as maintenance charges, owner association dues or charges or fees, levies or charges resulting from covenants, conditions and restrictions affecting the Property, which are assessed or imposed upon the Property, or become due and payable, and which create, may create or appear to create a lien upon the Property, or any part thereof, or upon any personal property, equipment or other facility used in the operation or maintenance thereof (all of which taxes, assessments and other governmental and non-governmental charges of like nature are hereinafter referred to as "Impositions"); provided, however, that if, by law, any such Imposition is payable, or may at the option of the taxpayer be paid, in installments, Trustor may pay the same, together with any accrued interest on the unpaid balance of such Imposition, in installments as the same become due and before any fine, penalty, interest or cost may be added thereto for the nonpayment of any such installment and interest.

(b) If at any time after the date hereof there shall be assessed or imposed (i) a tax or assessment on the Property in lieu of or in addition to the Impositions payable by Trustor pursuant to the preceding Subsection, or (ii) a license fee, tax or assessment imposed on Beneficiary and measured by or based in whole or in part upon the amount of the outstanding obligations secured hereby, then all such taxes, assessments or fees shall be deemed to be included within the term "Impositions" as defined herein, and Trustor shall pay and discharge the same as herein provided with respect to the payment of Impositions or, at the option of Beneficiary, all obligations secured hereby, together with all accrued interest thereon, shall immediately become due and payable. Anything to the contrary herein notwithstanding, Trustor shall have no obligation to pay any franchise, estate, inheritance, income, excess profits or similar tax levied on Beneficiary or on the obligations secured hereby.

(c) Subject to the provisions of Subsection (d) below, Trustor covenants to furnish Beneficiary, within thirty (30) days after the date upon which any such Imposition is due and payable by Trustor, official receipts of the appropriate taxing authority, or other proof satisfactory to Beneficiary, evidencing the payments thereof.

(d) Trustor shall have the right before any delinquency occurs to contest or object to the amount or validity of any such Imposition by appropriate legal proceedings, but this shall not be deemed or construed as in any way relieving, modifying or extending Trustor's covenant to pay any such Imposition at the

time and in the manner provided in this Section, unless Trustor has given prior written notice to Beneficiary of Trustor's intent to so contest or object to an Imposition, and unless, at Beneficiary's sole option, Trustor either (i) furnishes a good and sufficient bond as requested by and satisfactory to Beneficiary, or (ii) provides a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of such proceedings.

(e) At the request of Beneficiary, Trustor shall pay to Beneficiary, on the day monthly installments of principal and/or interest are payable under the Note, until the Note is paid in full, an amount equal to one-twelfth (1/12th) of the annual Impositions reasonably estimated by Beneficiary as necessary to pay the installment of taxes next due on the Property; provided, however, that Beneficiary shall make no such request for monthly deposits unless and until such time (if ever) as an Event of Default (as defined in Section 6.1 below) has occurred and continues uncured. In such event, Trustor further agrees to cause all bills, statements or other documents relating to Impositions to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents, and providing Trustor has deposited sufficient funds with Beneficiary pursuant to this Section, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time and for any reason the funds deposited with Beneficiary are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary shall notify Trustor and Trustor shall immediately deposit an amount equal to such deficiency with Beneficiary. Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section. Beneficiary shall not be obliged to pay or allow any interest on any sums held by Beneficiary pending disbursement or application hereunder, and Beneficiary may impound or reserve for future payment of Impositions such portion of such payments as Beneficiary may in its reasonable discretion deem proper, applying the balance to the principal of or interest on the Secured Obligations. If Trustor fails to deposit with Beneficiary (exclusive of that portion of said payments which has been applied by Beneficiary on the principal or interest on the indebtedness secured by the Loan Documents) sums sufficient to fully pay such Impositions at least thirty (30) days before delinquency thereof, Beneficiary may, at Beneficiary's election, but without any obligation so to do, advance any amounts required to make up the deficiency, which advances, if any, shall be secured hereby and shall be repayable to Beneficiary as herein elsewhere provided, or, at the option of Beneficiary, the latter may, without making any advance whatever, apply any sums held by it upon any obligation of Trustor secured hereby. If any default occurs or exists on the part of Trustor in the payment or performance of any of Trustor's obligations under the terms of the Loan Documents, Beneficiary may, at any time and at Beneficiary's option, apply any sums or amounts in its hands received pursuant hereto, or as rents or income of the Property or otherwise, upon any indebtedness or obligation of Trustor secured hereby in such manner and order as Beneficiary may elect. The receipt, use or application of any such sums paid by Trustor to Beneficiary hereunder shall not be construed to affect the maturity of any indebtedness secured by this Deed of Trust or any of the rights or powers of Beneficiary or Trustee under the terms of the Loan Documents or any of the obligations of Trustor under any of the Loan Documents. Once Beneficiary has determined that an Event of Default has been cured, at Beneficiary's sole discretion, all such impositions deposited with Beneficiary may be returned to Borrower.

(f) Trustor covenants and agrees to use its best efforts to prevent the joint assessment of the real and personal property, or any other procedure whereby the lien of the real property taxes and the lien of the personal property taxes shall be assessed, levied or charged to the Property as a single lien.

4.12 **Utilities.** Trustor shall pay when due all utility charges which are incurred by Trustor for the benefit of the Property or which may become a charge or lien against the Property for gas, electricity, water or sewer services furnished to the Property and all other assessments or charges of a similar nature, whether public or private, affecting the Property or any portion thereof, whether or not such taxes, assessments or charges are liens thereon.

4.13 **Actions Affecting Property.** Trustor shall appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and Trustor shall pay all costs and expenses, including cost of evidence of title and attorneys' fees, in any such action or proceeding in which Beneficiary or Trustee may appear.

4.14 **Ground Lease.** Trustor agrees not to amend, change, terminate or modify the Ground Lease or any interest therein without the prior written consent of Beneficiary. Consent to one amendment, change, agreement or modification shall not be deemed to be a waiver of the right to require consent to other, future or successive amendments, changes, agreements or modifications. Trustor agrees to perform all obligations and agreements under the Ground Lease and shall not take any action or omit to take any action which would effect or permit the termination of the Ground Lease. Trustor agrees to promptly notify Beneficiary in writing with respect to any default or alleged default by any party thereto and to deliver to Beneficiary copies of all notices, demands, complaints or other communications received or given by Trustor with respect to any such default or alleged default. Beneficiary shall have the option to cure any such default and to perform any or all of Trustor's obligations thereunder. All sums expended by Beneficiary in curing any such default shall be secured hereby and shall be immediately due and payable without demand or notice and shall bear interest from the date of expenditure at the Default Rate.

4.15 **Actions by Trustee and/or Beneficiary to Preserve Property.** If Trustor fails to make any payment or to do any act as and in the manner provided in any of the Loan Documents, Beneficiary and/or Trustee, each in its own absolute and unfettered discretion, without obligation so to do and without notice to or demand upon Trustor except as expressly provided for herein, and without releasing Trustor from any obligation, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. In connection therewith (without limiting their general powers), Beneficiary and/or Trustee shall have and are hereby given the right, but not the obligation, (i) to enter upon and take possession of the Property; (ii) to make additions, alterations, repairs and improvements to the Property which they or either of them may reasonably consider necessary or proper to keep the Property in good condition and repair; (iii) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Beneficiary or Trustee; (iv) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of either may affect or appears to affect the security of this Deed of Trust or be prior or superior hereto; and (v) in exercising such powers, to pay necessary expenses, including employment of counsel or other necessary or desirable consultants. Trustor shall, immediately upon demand therefor by Beneficiary, pay all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing rights, including, without limitation, costs of evidence of title, court costs, appraisals, surveys and attorneys' fees.

4.16 **Survival of Warranties.** Trustor shall fully and faithfully satisfy and perform the obligations of Trustor contained in any of the Loan Documents. All representations, warranties and covenants of Trustor contained therein or incorporated by reference shall survive the close of escrow and funding of the loan evidenced by the Note, and shall remain continuing obligations, warranties and representations of Trustor during any time when any portion of the obligations secured by this Deed of Trust remain outstanding.

4.17 **Additional Security.** In the event Beneficiary at any time holds additional security for any of the obligations secured hereby, Beneficiary may after an Event of Default (as defined in Section 6.1 below) enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently herewith or after a sale is made hereunder.

4.18 **Appointment of Successor Trustee.** Beneficiary may, from time to time, by a written instrument executed and acknowledged by Beneficiary, mailed to Trustor and recorded in the County in which the Property is located, and by otherwise complying with the provisions of the applicable law of the State of California, substitute a successor or successors to the Trustee named herein or acting hereunder.

4.19 **Successors and Assigns.** This Deed of Trust applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Beneficiary" shall mean the owner and holder of the Note, whether or not named as Beneficiary herein.

4.20 **Inspections.** Beneficiary, or its agents, representatives or workmen, are authorized to enter at any reasonable time, on a twenty-four (24) hours' notice to Trustor, upon or in any part of the Property for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Loan Documents.

4.21 **Liens**. If any claim of lien is recorded which affects the Property, Trustor shall, within twenty (20) days after such recording or service, (i) pay and discharge the same, (ii) effect the release thereof by recording or delivering to Beneficiary a surety bond in form and amount satisfactory to Beneficiary, or (iii) provide Beneficiary with other assurance which Beneficiary, in its sole discretion, deems to be satisfactory for the payment of such lien and for the full and continuous protection of Beneficiary from the effect thereof. If Trustor fails to remove any lien on the Property, and fails to provide satisfactory security in lieu of removal of such lien as provided in (ii) above, Beneficiary may pay such lien, or may contest the validity thereof, paying all costs and expenses of contesting the same, including attorneys' fees, and Trustor shall reimburse Beneficiary on demand for all payments made and costs and expenses incurred by Beneficiary in doing so.

4.22 **Trustee's Powers**. Trustee may, at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note secured hereby for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of the Property, (i) reconvey any part of the Property, (ii) consent in writing to the making of any map or plat thereof, (iii) join in granting any easement thereon, or (iv) join in any extension agreement or any agreement subordinating the lien or charge hereof.

4.23 **Beneficiary's Powers**. Beneficiary, without affecting the liability of any other person liable for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Land not then or theretofore released as security for the full amount of all unpaid obligations, may from time to time and without notice (i) release any person so liable, (ii) extend the maturity or alter any of the terms of any such obligation, (iii) grant other indulgences, (iv) release or reconvey, or cause to be released or reconveyed at any time at Beneficiary's option, any parcel, portion or all of the Property, (v) take or release any other additional security for any obligation herein mentioned, or (vi) make compositions or other arrangements with debtors in relation thereto, or (vii) advance additional funds to protect the security hereof and pay or discharge the obligations of Trustor hereunder or under the Loan Documents, and all amounts so advanced, with interest thereon at the rate per annum in effect from time to time under the Note, shall be secured hereby.

4.24 **Financial Statements**. Trustor shall cause to be delivered to Beneficiary, at the times and in the formats prescribed in the Loan Agreement, the financial statements described in the Paragraph of the Loan Agreement captioned "Additional Financial Information". In addition, Trustor shall each year deliver to Beneficiary an annual operating statement for the Property, showing all income received from each tenant and expenses of the Property during the preceding fiscal year, together with a rent roll as of the end of each such fiscal year on such forms as may be prescribed from time to time by Beneficiary which, among other things, shall include the name of each tenant, a description of its leased premises (including square footage, suite number, designation according to rental plan, etc.), the monthly rent paid and the expiration date of each such tenant's lease, certified as to accuracy by Trustor. Unless specified to the contrary in the Loan Agreement, the financial statements and the operating statement shall be prepared in accordance with generally accepted accounting principles, in form reasonably acceptable to Beneficiary, and shall be certified as to accuracy by Trustor. Beneficiary shall have the right from time to time to cause Trustor's books of account and records to be audited by a certified public accountant chosen by Beneficiary, in order to determine the accuracy of statements delivered to Beneficiary pursuant to this Section. Unless such an audit determines the statement(s) being examined to be materially inaccurate in any respect, then the cost of such audit shall be borne by Beneficiary; otherwise, the cost of such audit shall be borne by Trustor.

4.25 **Trade Names**. At the request of Beneficiary, Trustor shall execute a certificate in form satisfactory to Beneficiary listing the trade names under which Trustor operates or intends to operate the Property, and representing and warranting that Trustor does business under no other trade names with respect to the Property. Trustor shall immediately notify Beneficiary in writing of any change in said trade names and will, upon request of Beneficiary, execute any additional financing statements and other certificates revised to reflect the change in trade name.

4.26 **Reconveyance by Trustee**. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and

retention and upon payment by Trustor of Trustee's fees, Trustee shall reconvey to Trustor, or the person or persons legally entitled thereto, without warranty, any portion of the Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto".

4.27 **Leasing.** All leases of the Land, the Improvements or any portion thereof shall be upon terms and with tenants approved by Beneficiary in writing prior to Trustor's signing any such lease. Copies of all new leases which affect any portion of the Land or Improvements, together with a statement on Beneficiary's prescribed form signed by the tenant, shall be promptly furnished to Beneficiary. Without Beneficiary's prior written consent, and except to the extent otherwise provided in the paragraph of the Loan Agreement captioned "Approval of Leases", Trustor shall not:

- (a) Accept any deposit or prepayment of rent for any rental period exceeding one (1) month;
- (b) Grant any material lease concessions, except as the same are expressly set forth in the lease and approved in advance by Beneficiary; or
- (c) Amend or allow premature termination of any existing lease to the Land or Improvements or any portion of either.

4.28 **Change in Composition of Trustor.** Without the prior written consent of Beneficiary, Trustor shall abstain from, and shall not cause or permit, to the extent it may do so, any change or transfer of interest in Trustor described in the Paragraph of the Loan Agreement captioned "Change in Borrower".

## ARTICLE 5 ACCELERATION OF MATURITY

### 5.1 **Acceleration on Sale.**

(a) Trustor understands that in making the loan evidenced by the Note, Beneficiary is relying to a material extent upon the business expertise and net worth of Trustor and upon the continuing interest which Trustor has in the Property. Accordingly, except as expressly provided to the contrary herein or in the Loan Agreement, in the event that Trustor, without the prior written consent of Beneficiary, directly or indirectly, voluntarily or involuntarily, sells, assigns, transfers, disposes of or agrees to sell, assign, transfer or dispose of all or any portion of or any interest in the Land or the Improvements (other than a lease in the ordinary course of Trustor's business), or in the event that any partner of Trustor (at any tier) sells, assigns, transfers or disposes of any such partner's interest in Trustor, then the same shall be deemed to increase the risk of Beneficiary, and Beneficiary may then, or at any time thereafter, declare the entire indebtedness secured hereby immediately due and payable, and may exercise all rights and remedies provided herein.

(b) For purposes of this Section, and except for transfers expressly authorized herein or in the Loan Agreement, (i) the terms "sell" and "transfer" shall include, in addition to the common and ordinary meaning of those terms and without limiting their generality, transfers made to subsidiary or affiliated entities, transfers made to a reconstituted partnership, transfers by any partnership (at any tier) to the individual partners or vice versa, transfers by any corporation (at any tier) to its shareholders or vice versa, any corporate merger or consolidation, and any "change in ownership" as that term is used from time to time in California real property taxation law; and (ii) the term "transferee" shall mean purchaser, assignee, grantee or subsequent owner of all or any part of the Land or of any interest in Trustor. Beneficiary's options pursuant to Section 5.1(a) may be exercised at any time after the occurrence of any such event, and the acceptance of one or more installments from any person thereafter shall not constitute a waiver of Beneficiary's option. Beneficiary's approval of any sale, assignment, transfer, pledge or disposition or failure to exercise said option with respect thereto shall not be construed as a waiver of the provisions hereof with regard to any subsequent transaction.

(c) Beneficiary may condition its consent to a sale or transfer upon the fulfillment of certain requirements, including, but not limited to, the following (collectively, "Conditions of Transfer"): (i) that the proposed transferee meet Beneficiary's then-existing credit and other standards with respect to similar loans; (ii) that the transferee specifically assume personal liability for the outstanding balance of the indebtedness secured hereby and the obligations to be performed under the obligation and this Deed of Trust; (iii) that an assumption fee be paid to Beneficiary at the time of the transfer; (iv) that the interest rate payable under the obligation be increased; (v) that a new policy of beneficiary's title insurance be obtained; (vi) that new financing statements be filed; (vii) that the proposed transferee agree to restrictions on further transfers; and (viii) that endorsements to existing policies or new insurance policies be obtained. Beneficiary shall in no event be obligated to consent to any transfer of less than the entire Property (other than a lease in the ordinary course of Trustor's business), or to any transfer in any form, including, but not limited to, a sale and leaseback, which has the effect of creating additional expenses to or charges against the Property.

5.2 **Acceleration on Insolvency of Trustor.** In the event (i) Trustor fails to pay its debts generally as they come due or files any petition or action for relief under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors; (ii) an involuntary petition is filed against Trustor under any bankruptcy or similar statute and such petition is not set aside or withdrawn or is still in effect within ten (10) days from the date of such filing (or such longer period as is reasonably necessary, provided Trustor promptly commences, and diligently and continuously pursues thereafter, its efforts to have the petition set aside or withdrawn); or (iii) a custodian, receiver or trustee (or other similar official) is appointed to take possession, custody or control of any of the properties of Trustor; or (iv) the Property becomes subject to the jurisdiction of a Federal Bankruptcy Court or successor to that court, or any similar state court; or (v) Trustor makes an assignment for the benefit of Trustor's creditors; or (vi) any portion of Trustor's assets is attached, executed upon or judicially seized in any manner, and such seizure is not discharged within thirty (30) days, Beneficiary at its option and to the extent permitted by applicable law may, without prior notice, declare all sums secured by this Deed of Trust, irrespective of their stated due date(s), immediately due and payable and may exercise all rights and remedies provided in this Deed of Trust.

## ARTICLE 6 DEFAULT; REMEDIES

6.1 **Events of Default.** Trustor will be in default under this Deed of Trust upon the occurrence of any one or more of the following events (some or all collectively, "Events of Default"; any one singly, an "Event of Default"):

(a) Trustor fails to pay any money as required under this Deed of Trust and does not cure that failure within five (5) days after written notice from Beneficiary or Trustee; or

(b) Trustor fails to perform any obligation arising under this Deed of Trust other than one to pay money, and does not cure that failure within five (5) days after written notice from Beneficiary or Trustee (or such longer period as is reasonably determined by Beneficiary to be necessary for completion of the cure, so long as Trustor begins promptly and thereafter diligently continues to cure the failure); or

(c) Trustor, as lessee under the Ground Lease, fails to perform its obligations thereunder within the notice and cure periods specified therein; or

(d) The surrender, abandonment, termination, rescission or subordination of the Ground Lease; or

(e) A default occurs under any of the Secured Obligations and is not cured within the applicable cure period, if any.

Notwithstanding the notice and cure periods set forth in this Section, if Beneficiary has provided to Trustor any such notice of default hereunder (whether as to monetary or non-monetary default) or under the Note within the preceding twelve (12) months, then no further notice nor cure period shall be required with respect to any subsequent Events of Default.

6.2 **Acceleration Upon Default; Additional Remedies.** At any time after any Event of Default, Beneficiary may declare all indebtedness secured hereby to be due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter, Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Property, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Property, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection (including attorneys' fees) upon any indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of such rents, issues and profits, and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Property or the collection, receipt and application of rents, issues or profits, Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Loan Documents or by law upon the occurrence of any Event of Default, including the right to exercise the power of sale.

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, and/or specifically enforce any of the covenants hereof.

(c) Exercise any or all of the remedies available to a secured party under the California UNIFORM COMMERCIAL CODE, including, but not limited to:

(i) Either personally or by means of a court appointed receiver, take possession of all or any of the Personal Property and exclude therefrom Trustor and all others claiming under Trustor, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Trustor with respect to the Personal Property or any part thereof; provided, however, Beneficiary shall not obtain control of the Personal Property until such time as Beneficiary is eligible or is within ten (10) days of becoming eligible to record a Notice of Sale pursuant to Section 6.3 and applicable law. In the event Beneficiary demands or attempts to take possession of the Personal Property in the exercise of any rights under any of the Loan Documents, Trustor promises and agrees to promptly turn over and deliver complete possession thereof to Beneficiary.

(ii) Without notice to or demand upon Trustor, make such payments and do such acts as Beneficiary may deem necessary to protect its security interest in the Personal Property, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and, in exercising any such powers or authority, pay all expenses incurred in connection therewith;

(iii) Require Trustor to assemble the Personal Property or any portion thereof at a place designated by Beneficiary and reasonably convenient to both parties, and promptly to deliver such Personal Property to Beneficiary, or an agent or representative designated by it. Beneficiary and its agents and representatives shall have the right to enter upon any or all of Trustor's premises and property to exercise Beneficiary's rights hereunder;

(iv) Sell, lease or otherwise dispose of the Personal Property at public sale, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as Beneficiary may determine. Beneficiary may be a purchaser at any such sale.

Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary shall give Trustor at least ten (10) days prior

written notice of the time and place of any public sale of the Personal Property or other intended disposition thereof. Such notice may be mailed to Trustor at the address set forth at the beginning of this Deed of Trust.

(d) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Property to be sold, which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of the County in which the Property is located.

6.3 **Foreclosure by Power of Sale.** If Beneficiary elects to foreclose by exercise of power of sale under Subsection 6.2(d), Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

(a) Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and Election to Sell as then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Property at the time and place of sale fixed by it in said Notice of Sale, either as a whole, or in separate lots or parcels or items as Trustee shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale and Trustor hereby covenants to warrant and defend the title of such purchaser or purchasers.

(b) After deducting all costs, fees and expenses of Trustee, including costs of evidence of title in connection with sale, Trustee shall apply the proceeds of sale first to payment of all sums expended under the terms hereof, not then repaid, with accrued interest at the rate per annum in effect from time to time under the Note, then to payment of all other Secured Obligations, and the remainder, if any, to the person or persons legally entitled thereto.

(c) Trustee may postpone the sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement or subsequently noticed sale, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.

(d) The power of sale under this Deed of Trust shall not be exhausted by any one or more sales (or attempts to sell) as to all or any portion of the Property remaining unsold, but shall continue unimpaired until all of the Property has been sold by exercise of the power of sale herein contained and all indebtedness of Trustor to Beneficiary under the Deed of Trust, the Note or other Loan Documents has been paid in full.

6.4 **Appointment of Receiver.** If an Event of Default has occurred and is continuing, Beneficiary as a matter of right and without notice to Trustor or anyone claiming under Trustor, and without regard to the then value of the Property or the interest of Trustor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Property, and Trustor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided in Section 6.2(a) above, and shall continue as such and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated.

6.5 **Remedies Not Exclusive.** Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any of the Secured Obligations and to exercise all rights and powers under this Deed of Trust or under any Loan Document or other agreement or any laws now or hereafter in

force, notwithstanding that some or all of the Secured Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to Trustee or Beneficiary, or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary, and either of them may pursue inconsistent remedies.

6.6 **Request for Notice.** In accordance with California CIVIL CODE Section 2924b, Trustor hereby requests a copy of any notice of default and that any notice of sale hereunder be mailed to it at the address set forth in the first Section of this Deed of Trust.

6.7 **Environmental Provision.** Without limiting any of the remedies provided in this Deed of Trust or the other Loan Documents, Trustor acknowledges and agrees that the provisions of the Article of the Loan Agreement captioned "Hazardous Substances", the separate Unsecured Environmental Indemnity delivered by Trustor and Section 4.3 of this Deed of Trust, all constitute environmental provisions (as defined in California CODE OF CIVIL PROCEDURE Section 736(f)(2)) made by Trustor relating to the real property security ("Environmental Provisions"), and that Trustor's failure to comply with the Environmental Provisions is a breach of contract such that Beneficiary shall have the remedies provided under California CODE OF CIVIL PROCEDURE Section 736 ("Section 736") for the recovery of damages and for the enforcement of the Environmental Provisions. Pursuant to Section 736, Beneficiary's action for recovery of damages or enforcement of the Environmental Provisions shall not constitute an action within the meaning of California CODE OF CIVIL PROCEDURE Section 726(a) nor shall it constitute a money judgment for a deficiency or a deficiency judgment within the meaning of California CODE OF CIVIL PROCEDURE Section 580a, 580b, 580d or 726(b). Other than the remedy provided under Section 736, all remedies provided for by the Loan Documents are separate and distinct causes of action that are not abrogated, modified, limited or otherwise affected by the remedies provided under California CODE OF CIVIL PROCEDURE Section 736(a).

## ARTICLE 7 MISCELLANEOUS

7.1 **Governing Law.** This Deed of Trust shall be governed by the laws of the State of California. In the event that any provision or clause of any of the Loan Documents conflicts with applicable laws, such conflicts shall not affect other provisions of such Loan Documents which can be given effect without the conflicting provision, and to this end the provisions of the Loan Documents are declared to be severable. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

7.2 **Trustor Waiver of Rights.** Trustor waives (i) the benefit of all laws now existing or that hereafter may be enacted providing for any appraisalment before sale of any portion of the Property; (ii) any applicable statute of limitations; and (iii) the benefit of all laws that may hereafter be enacted in any way extending the time for the enforcement of the collection of the Note or the debt evidenced thereby or creating or extending a period of redemption from any sale made in collecting said debt. To the full extent Trustor may do so, Trustor agrees that Trustor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisalment, valuation, stay, extension or redemption, and Trustor, for Trustor, Trustor's heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming any interest in the Property, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisalment, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and marshaling in the event of foreclosure of the liens

hereby created. If any law referred to in this Section and now in force, of which Trustor, Trustor's heirs, devisees, representatives, successors and assigns or other person might take advantage despite this Section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section. Trustor expressly waives and relinquishes any and all rights and remedies which Trustor may have or be able to assert by reason of the laws of the State of California pertaining to the rights and remedies of sureties.

7.3 **Usury.** If the limits on interest imposed by Article XV of the California Constitution are judicially determined to be applicable to the Note or any other amount secured hereby by the non-appealable order or judgment of a court with competent jurisdiction, then the total liability for the payments deemed to be interest shall not exceed the maximum interest allowed by Article XV of the California Constitution.

7.4 **Statements of Trustor.** Trustor, within ten (10) days after being given notice by mail, shall furnish to Beneficiary a written statement confirming the unpaid principal of and interest on the Note and any other amounts secured by this Deed of Trust, and stating whether any offset or defense exists against such principal and interest.

7.5 **Notices.** All notices and demands under this Deed of Trust shall be in writing, and shall be deemed served upon delivery, or if mailed, upon the first to occur of receipt thereof or three (3) days after deposit thereof in the United States Postal Service, certified mail, postage prepaid, addressed to the address of Beneficiary or Trustor appearing at the beginning of this Deed of Trust. Notices of change of address may be given in the same manner.

7.6 **Acceptance by Trustee.** Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

7.7 **Captions.** The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

7.8 **Invalidity of Certain Provisions.** If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Property, the unsecured or partially secured portion of the debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the debt which is not secured or not fully secured by the lien of this Deed of Trust. If any provision of the Loan Documents shall be deemed void or unenforceable, it shall not affect the validity of the remaining provisions thereof which shall be considered severable.

7.9 **Subrogation.** To the extent that proceeds of the Note or advances under this Deed of Trust are used to pay any outstanding lien, charge or prior encumbrance against the Property, such proceeds or advances have been or will be advanced by Beneficiary at Trustor's request and Beneficiary shall be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released.

7.10 **No Merger.** If both the lessor's and lessee's estates under any lease or any portion thereof which constitutes a part of the Property shall at any time become vested in one owner, this Deed of Trust and the lien created hereby shall not be destroyed or terminated by application of the doctrine of merger and, in such event, Beneficiary shall continue to have and enjoy all of the rights and privileges of Beneficiary as to the separate estates. In addition, upon the foreclosure of the lien created by this Deed of Trust on the Property pursuant to the provisions hereof, any leases or subleases then existing and created by Trustor shall not be destroyed or terminated by application of the law of merger or as a matter of law or as a result of such foreclosure unless Beneficiary or any purchaser at any such foreclosure sale shall so elect. No act by or on behalf of Beneficiary or any such purchaser shall constitute a termination of any lease or sublease unless Beneficiary or such purchaser shall give written notice thereof to such tenant or subtenant.

7.11 **Non-Waiver.** The acceptance by Beneficiary of any sum after the same is due shall not constitute a waiver of the right either to require prompt payment when due of all other sums hereby secured or to declare a default as herein provided. The acceptance by Beneficiary of any sum in an amount less than the sum then due shall be deemed an acceptance on account only and upon the condition that it shall not constitute a waiver of the obligation of Trustor to pay the entire sum then due, and Trustor's failure to pay said entire sum then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid, and Beneficiary or Trustee shall be at all times thereafter and until the entire sum then due shall have been paid, and notwithstanding the acceptance by Beneficiary thereafter of further sums on account, or otherwise, entitled to exercise all rights in this instrument conferred upon them, or either of them, upon the occurrence of a default, and the right to proceed with a sale under any notice of default, and election to sell, shall in no way be impaired, whether any of such amounts are received prior or subsequent to such notice. Consent by Beneficiary to any transaction or action of Trustor which is subject to consent or approval of Beneficiary hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive transactions or actions. At any time and from time to time, without liability therefor and without notice, and without releasing or otherwise affecting the liability of any person for payment of any indebtedness hereby secured: (i) Beneficiary at its sole, absolute and unfettered discretion may extend the time for, or release any person now or hereafter liable for, payment of any or all such indebtedness, or accept or release additional security therefor, or subordinate the lien or charge hereof; or (ii) Trustee, upon written request of Beneficiary and presentation of the Note and any additional note(s) and this Deed of Trust for endorsement, may reconvey any part of said Land, consent to the making of any map or plat thereof, join in granting any easement thereof, or join in any such agreement of extension or subordination.

**IN WITNESS WHEREOF,** Trustor has signed and delivered this Deed of Trust as of the date first above written.

**Trustor:** SKYPARK ATRIUM, LLC, a California limited liability company

BY: SKYPARK ATRIUM I, LLC, a California limited liability company,  
Manager

By \_\_\_\_\_  
Steven Loo, Manager

STATE OF CALIFORNIA )  
) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_ (hereinset name and title of the officer), personally appeared \_\_\_\_\_

\_\_\_\_\_, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

## EXHIBIT A

Legal Description

Real property located in the State of California, County of Los Angeles, City of Torrance, described as follows:

Those portions of Lot 1 of Tract No. 9765, in the City of Torrance, County of Los Angeles, State of California, as shown on Map filed in Book 170 Pages 10 to 12 inclusive of Maps, in the office of the County Recorder of said County, more particularly described as follows:

Parcel "A":

Beginning at a point perpendicularly distant 70 feet Westerly from the centerline of Crenshaw Boulevard, 100 feet wide, as said Boulevard existed on December 21, 1955, and perpendicularly distant 60 feet Southerly from the Northerly line of said Lot 1 of Tract No. 9765; thence North 62° 50' 50" West, parallel to the Northerly line of said Lot 1, a distance of 2730.00 feet to the true point of beginning; thence South 27° 09' 10" West 328.63 feet to a point, being hereinafter referred to as Point "A"; thence North 51° 45' 55" West, 229.27 feet; thence North 27° 09' 10" East 284.56 feet; thence South 62° 50' 50" East 225.00 feet to the true point of beginning.

Parcel "B":

Beginning at said Point "A" described in Parcel "A" above; thence North 51° 45' 55" West 229.27 feet; thence continuing North 51° 45' 55" West 247.49 feet; thence South 38° 14' 05" West, 63.00 feet; thence South 51° 45' 55" East, 476.76 feet; thence North 38° 14' 05" East, 63.00 feet to said Point "A".

Except all minerals, and all petroleum in said land, together with the exclusive right at any and all times to enter upon the lands and prospect for, mine for, and remove such minerals or petroleum, with all necessary and convenient means of working and transporting materials and supplies, as reserved in the Deed from the United States of America, recorded on May 13, 1948 in Book 27145 Page 362 Official Records.

All right of surface entry and subsurface entry lying above a depth of 500 feet from the surface thereof were terminated by Quitclaim Deed dated May 14, 1958, under the terms therein provided, executed by United States of America, acting by and through the Administrator of General Services, as Disclosed in Deed recorded June 6, 1958 in Book D120 Page 527 and in Book D1237 Page 838 both of Official Records.

Also except all uranium, thorium and all other materials determined pursuant to Section 5(B) (1) of the Atomic Energy Act of 1946 (60 Stat. 761) to be peculiarly essential to the production of Fissionable material, contained, in whatever concentration, in deposits in the lands covered by this instrument, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine and remove the same, making just compensation for any damage or injury occasioned thereby. However such land may be used, and any rights otherwise acquired by this disposition may be exercised, as if no reservation of such materials had been made, except that, when such use results in the extraction of any such material from the land in quantities which may not be transferred or delivered without a license under the Atomic Energy Act of 1946, as it now exists or may hereafter be amended, such material shall be the property of The United States Atomic Energy Commission, and the commission may require delivery of such material to it by any possessor thereof after such material has been separated as such from the ores in which it was contained. If the commission requires the Delivery of such material to it. It shall pay to the person mining or extracting the same, or to such other person as the commission determines to be entitled thereto, such sums including profits as the commission deems, fair and reasonable for the discovery, mining, development, production, extraction and other service, performed with respect to such material prior to such delivery, but such payment shall not include any amount on account of the value of such material before removal from its place of deposit in nature. If the commission does not require delivery of such material to it. The reservation hereby made shall be of no further force or effect, as reserved by The United States of America, in Book 27145 Page 382 Official Records.

(End of Legal Description)