

RESOLUTION NO. 2005-260

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A LEASE AGREEMENT WITH JACKSON II, LLC FOR THE REAL PROPERTY LOCATED AT 9300 WEST STOCKTON BOULEVARD, SUITE 205, FOR USE AS A POLICE RECRUITMENT CENTER ON THE TERMS AND CONDITIONS IDENTIFIED IN THE LEASE AGREEMENT

WHEREAS, the City of Elk Grove desires to lease a 1,175 square foot office suite located at 9300 West Stockton Boulevard. The office suite is situated within a 15,126 one-story office building, within the City of Elk Grove, State of California; and

WHEREAS, the City of Elk Grove proposes the use of the 1,175 square foot office suite as a Police Recruitment Center; and

WHEREAS, California Environmental Quality Act Guidelines Class 1 exemption applies to the leasing of existing facilities; and

WHEREAS, No special circumstances exist that create a reasonable possibility that the activity may have a significant adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby finds the project qualifies for Categorical exemption in accordance with CEQA Guidelines Section 15301.

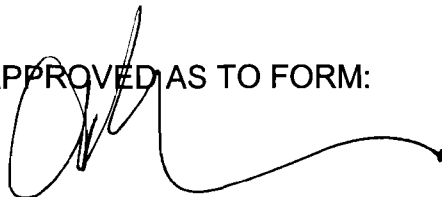
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Lease Agreement in a form and with terms and conditions acceptable to the City Manager and the City Attorney by and between Jackson II, LLC, a California limited liability company and the City of Elk Grove, a municipal corporation.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 14th day of September 2005.


DANIEL BRIGGS, MAYOR of the
CITY OF ELK GROVE

ATTEST:


PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:

ANTHONY B. MANZANETTI,
CITY ATTORNEY

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2005-260

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) **ss**
CITY OF ELK GROVE)

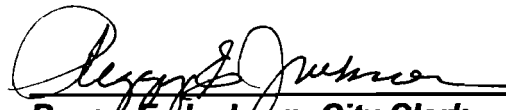
I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on the 14th day of September, 2005 by the following vote:

AYES 3: COUNCILMEMBERS: Scherman, Soares, Briggs

NOES 0: COUNCILMEMBERS:

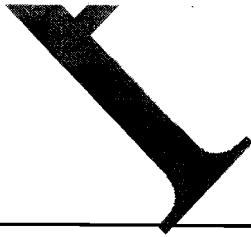
ABSTAIN 2: COUNCILMEMBERS: Cooper, Leary

ABSENT 0: COUNCILMEMBERS:



Peggy E. Jackson, City Clerk
City of Elk Grove, California





OFFICE BUILDING LEASE

This Lease between Jackson II, LLC, a California limited liability company ("**Landlord**") and the City of Elk Grove, a municipal corporation ("**Tenant**") is dated September __, 2005.

1. LEASE OF PREMISES

In consideration of the Rent (as defined at Section 5.4) and the provisions of this Lease, Landlord leases to Tenant and Tenant leases from Landlord the Premises shown on the floor plan attached hereto as Exhibit "A", and further described in Section 2.1., below. The Premises are located within the Building and Project described in Section 2m. Tenant shall have the non-exclusive right (unless otherwise provided herein) in common with Landlord, other tenants, subtenants and invitees, to use of the Common Areas (as defined at Section 2e).

2. DEFINITIONS

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

- a. *Base Rent (initial):* See Section 38 for Base Rent Schedule.
- b. *Base Year:* The calendar year of 2005.
- c. *Broker(s)*

Landlords: N/A

Tenants: N/A
- d. *Commencement Date:* September 19, 2005
- e. *Common Areas:* The building lobbies, common corridors and hallways, restrooms, garage and parking areas, stairways, elevators and other generally understood public or common areas. Landlord shall have the right to regulate or restrict the use of the Common Areas, so long as such restriction does not unreasonably interfere with Tenant's use of the Premises.
- f. *Gas and Electricity Expense Stop:* \$1.80 per usable square foot per calendar year.
- g. *Expiration Date:* September 30, 2006, unless otherwise sooner terminated in accordance with the provisions of this Lease.
- h. *Index (Section 5.2):* ~~United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers,~~ _____ Average, Subgroup "All Items" (1967 = 100).
- i. *Landlord's Mailing Address:* JACKSON II, LLC. c/o Jackson Properties, 5665 Power Inn Road, Suite 140, Sacramento, CA 95824

Tenant's Mailing Address: 8380 Laguna Palms Way, Elk Grove, CA 95758, Attention: City Clerk
- j. *Monthly Installments of Base Rent (initial):* \$3,175.00 per month. (See Section 38 for Base Rent Schedule)
- k. *Parking:* Tenant shall be entitled to park in a pro-rata share of parking spaces (based upon a ratio of 4.5 per 1000 sq. ft. of Rentable Area in the Premises) in the project on a non-exclusive basis in the area(s) designated by Landlord for parking. Tenant shall abide by any and all parking regulations and rules established from time to time by Landlord or Landlord's parking operator, so long as such parking regulations do not conflict with the terms of this Lease.
- l. *Premises:* That portion of the Building containing approximately 1,175 square feet of Rentable Area

- q. ~~Tenant's First Adjustment Date (Section 5.2): The first day of the calendar month following the Commencement Date plus _____ months. See Section 38 for Base Rent Adjustment Date.~~
- r. *Tenant's Proportionate Share: 7.77%*. Such share is a fraction, the numerator of which is the Rentable Area of the Premises, and the denominator of which is the Rentable Area of the Project, as determined by Landlord from time to time. The Project consists of one building(s) containing a **Total Rentable Area of 15,126 square feet**.
- s. *Tenant's Use Clause (Article 8): General office use and related uses not injurious to the Premises.*
- t. *Term: Twelve (12) months and Twelve (12) days*, commencing on the Commencement Date and expiring at midnight on the Expiration Date.

3. EXHIBITS AND ADDENDA.

The Exhibits and addenda listed below (unless lined out) are incorporated by reference in this Lease:

- a. Addenda – See Addendum, Sections 38 through 45.
- b. Exhibit A – Building Floor Plan.
- c. Exhibit B – Project Site Plan.
- d. Exhibit C – Rules and Regulations.

4. DELIVERY OF POSSESSION.

If for any reason Landlord does not deliver possession of the Premises to Tenant on the Lease Commencement Date, Landlord shall not be subject to any liability for such failure, and the validity of this Lease shall not be impaired, but Rent shall be abated until delivery of possession and the term shall be adjusted utilizing a Lease Amendment to reflect a full Twelve (12) month and Twelve (12) day term. Provided, however, if Landlord fails to deliver possession of the Premises by October 15, 2005, Tenant may terminate this Lease by notice to Landlord.

Provided that Tenant and its agents do not materially interfere with Landlord's work in the Premises, if any, Landlord shall allow Tenant access to the Premises prior to the Commencement Date for the purpose of Tenant installing overstandard equipment or fixtures (including Tenant's data and telephone equipment) in the Premises. Prior to Tenant's entry into the Premises as permitted by the terms of this section, Tenant shall provide seventy-two (72) hours prior written notice to Landlord, and Tenant shall provide evidence reasonably satisfactory to Landlord that Tenant's insurance, as described in Section 22 of this Lease, shall be in effect as of the time of such entry. Tenant shall hold Landlord harmless from and indemnify, protect and defend Landlord against any loss or damage to the Premises and against injury to any persons caused by Tenant's actions pursuant to this section, except to the extent caused by the negligence or intentional misconduct of Landlord or its agents, employees or contractors.

5. RENT.

5.1 *Payment of Base Rent.* Tenant agrees to pay the Base Rent for the Premises. Monthly Installments of Base Rent shall be payable in advance on the first day of each calendar month of the Term. If the Term begins (or ends) on other than the first (or last) day of a calendar month, the Base Rent for the partial month shall be prorated on a per diem basis. Tenant shall pay Landlord the first Monthly Installment of Base Rent upon the Commencement Date.

5.2. *Adjusted Base Rent*

[INTENTIONALLY OMITTED]

~~a. The Base Rent (and the corresponding Monthly Installments of Base Rent) set forth at Section 2a shall be adjusted annually (the "Adjustment Date"), commencing on Tenant's First Adjustment Date. Adjustments, if any, shall be based upon increases (if any) in the Index. The Index in publication three (3) months before the Commencement Date shall be the "Base Index." The Index in publication three (3) months before each Adjustment Date shall be the "Comparison Index." As of each Adjustment Date, the Base Rent payable during the ensuing twelve-month period shall be determined by increasing the initial Base Rent by a percentage equal to the percentage increase, if any, in the Comparison Index over the Base Index. If the Comparison Index for any Adjustment Date is equal to or less than the Comparison Index for the preceding Adjustment Date (or the Base Index, in the case of First Adjustment Date), the Base Rent for the ensuing twelve-month period shall remain the amount of Base Rent payable during the preceding twelve-month period. When the Base Rent payable as of each Adjustment Date is determined, Landlord shall promptly give Tenant written notice of such adjusted Base Rent and the manner in which it was computed. The~~

amount equal to Tenant's Proportionate Share of such excess Project Operating Costs in accordance with the provisions of this Section 5.3b.

(1) The term "Project Operating Costs" shall include those items described in the following subparagraphs (a) and (b).

(a) All taxes, assessments, water and sewer charges and other similar governmental charges levied on or attributable to the Building or Project or their operation, including without limitation, (i) real property taxes or assessments levied or assessed against the Building or Project, (ii) assessments or charges levied or assessed against the Building or Project by any redevelopment agency, (iii) any tax measured by gross rentals received from the leasing of the Premises, Building or Project, excluding any net income, franchise, capital stock, estate or inheritance taxes imposed by the State or federal government or their agencies, branches or departments; provided that if at any time during the Term any governmental entity assesses or imposes on Landlord any (1) general or special, ad valorem or specific, excise, capital levy or other tax, assessment, levy or charge directly on the Rent received under this Lease or on the rent received under any other leases of space in the Building or Project, or (2) any license fee, excise or franchise tax, assessment, levy or charge measured by or based, in whole or in part, upon such rent, or (3) any transfer transaction, or similar tax, assessment, levy or charge based directly or indirectly upon the transaction represented by this Lease or such other leases, or (4) any occupancy, use, per capita or other tax, assessment, levy or charge based directly or indirectly upon the use or occupancy of the Premises or other premises within the Building or Project, then any such taxes, assessments, levies and charges shall be deemed to be included in the term Project Operating Costs.

(b) Any tax that has been converted into installment payments, relating to a fiscal period of the taxing authority, a part of which is included within the Term and a part of which is included in a period of time prior to the commencement or after the end of the Term, will, whether or not such Tax or installments are assessed, levied, confirmed, imposed upon or in respect of, or become a lien upon the Premises, or become payable, during the term, be adjusted between Landlord and Tenant as of the commencement or end of the Term, so that Tenant will pay the portion of the Tax or installment that the part of the fiscal period included in the Term bears to the entire fiscal period, and Landlord will pay the remainder.

(c) Tenant will not be obligated to pay local, state, or federal net income taxes assessed against Landlord; local, state, or federal capital levy of Landlord; or sales, excise, franchise, gift, estate, succession, inheritance, or transfer taxes of Landlord.

(d) Special Tax Provisions.

(i) **Tenant's Tax Exempt Status.** Tenant is exempt from real estate taxes and certain assessments pursuant to the California Constitution. On the Commencement Date of the Lease, Tenant, on the behalf of Lessor, shall apply to the Assessor for an exemption from all taxes and assessments which are then a lien against the Premises. All ad valorem real property taxes on the Premises shall be apportioned and paid on the Commencement Date as provided in California Revenue and Taxation Code section 5086. If Landlord has prepaid any of the ad valorem real property taxes, which are cancelled pursuant to Section 5086, Landlord shall seek and retain any refunds to which it is entitled from such taxing agencies. Tenant shall be responsible for any non-exempt taxes or assessments.

(ii) **Tenant's Right to Contest Property Taxes.** Tenant shall have the right to contest the validity or amount of any property taxes and/or any assessed valuation upon which such property taxes are or will be based. Landlord shall not be required to join in any proceeding or contest brought by Tenant unless the provisions of any law require that the proceeding or contest be brought by or in the name of Landlord, in which case Landlord shall join in the proceeding or contest or permit it to be brought in Landlord's name, and all costs and expenses thereof, including, without limitation, Landlord's attorneys' fees, shall be borne by Tenant.

(iii) **Special Assessment Districts.** If during the term of this Lease, any governmental subdivision or agency shall undertake to create an improvement or special assessment district, the proposed boundaries of which shall include the Premises, Tenant may support or oppose the creation of such district or the inclusion of the Premises therein or both, and/or appear in any proceeding relating thereto. Tenant shall defend and hold Landlord harmless from and against all costs and expenses that Landlord may incur related to Tenant's support or opposition of the creation of an improvement or special assessment district.

premises); (7) management of the Building or Project, whether managed by Landlord or an independent contractor (including, without limitation, an amount equal to the fair market value of any on-site manager's office); (8) rental expense for (or a reasonable depreciation allowance on) personal property used in the maintenance, operation or repair of the Building or Project; (9) costs, expenditures or charges (whether capitalized or not) required by a governmental or quasi-governmental authority; (10) amortization of capital expenses (including financing costs) (i) required by a governmental entity for energy conservation or life safety purposes, or (ii) made by Landlord to reduce Project Operating Costs, or (iii) otherwise necessary to maintain the Project in a first class condition; and (11) any other costs or expenses incurred by Landlord under this Lease and not otherwise reimbursed by tenants of the Project. If at any time during the Term, less than eighty-five percent (85%) of the Rentable Area of the Project is occupied, the "operating costs" component of Project Operating Costs shall be adjusted by Landlord to reasonably approximate the operating costs which would have been incurred if the Project had been at least eighty-five percent (85%) occupied.

(f) Notwithstanding anything in the definition of Project Operating Costs to the contrary, Project Operating Costs will not include:

(i) Costs of items considered capital repairs, replacements, improvements and equipment under generally accepted accounting principles ("Capital Items"); except for those Capital Items specifically permitted at _____

Rentals for items (except when needed in connection with normal repairs and maintenance of permanent systems) which if purchased, rather than rented, would constitute a Capital Item that is specifically excluded in (i) (excluding, however, equipment not affixed to the Premises that is used in providing janitorial or similar services);

(iii) Costs incurred by Landlord for the repair of damage to the Premises, to the extent that Landlord is reimbursed by insurance proceeds, and costs of all capital repairs, regardless of whether such repairs are covered by insurance;

(iv) Depreciation, amortization and interest payments, except on materials, tools, supplies and vendor-type equipment purchased by Landlord to enable Landlord to supply services Landlord might otherwise contract for with a third party where such depreciation, amortization and interest payments would otherwise have been included in the charge for such third party's services, all as determined in accordance with generally accepted accounting principles, consistently applied, and when depreciation or amortization is permitted or required, the item will be amortized over its reasonably anticipated useful life;

(v) Overhead and profit increment paid to Landlord or to subsidiaries or affiliates of Landlord for goods and services in or to the Premises to the extent the same exceeds the costs of such goods and services rendered by unaffiliated third parties on a competitive basis;

(vi) Interest, principal, points and fees on debts or amortization on any mortgage or mortgages or any other debt instrument encumbering the Premises (except in connection with the amortization of capital expenses as permitted in subsection (e)(9) above)

(vii) Landlord's general corporate overhead and general and administrative expenses;

(viii) Advertising and promotional expenditures, and costs of signs in or on the Premises identifying the owner of the Premises;

(ix) Costs incurred in connection with upgrading the Premises to comply with life, fire and safety codes, ordinances, statutes or other laws in effect prior to the Commencement Date including, without limitation, the ADA, including penalties or damages incurred due to non-compliance (except to the extent triggered by Tenant's use of the Premises for other than commercial office use);

(x) Tax penalties incurred as a result of Landlord's negligence, inability or unwillingness to make payments or to file any tax or informational returns when due;

(xi) Costs for which Landlord has been compensated by a management fee, and any management fees

- (xiv) Costs arising from Landlord's charitable or political contributions;
- (xv) Costs arising from latent defects in the base, shell or core of the Building or Project, or improvements installed by Landlord or repair to them;
- (xvi) Costs for sculpture, paintings or other objects of art;
- (xvii) Costs (including all attorneys' fees and costs of settlement judgments and payments) arising from claims, disputes or potential disputes in connection with potential or actual claims litigation or arbitrations pertaining to Landlord;
- (xviii) Costs associated with the operation of the business of the partnership or entity that constitutes Landlord as the same as distinguished from the costs of operation of the Premises, including partnership accounting and legal matters, costs of defending any lawsuits with any mortgagee (except as the actions of Tenant may be in issue), costs of seeking syndicating, financing, mortgaging or hypothecating any of Landlord's interest in the Premises, costs of any disputes between Landlord and its employee (if any) not engaged in Premises operation, or disputes of Landlord with Premises management;
- (xix) Cost of any "tap fees" or any sewer or water connection fees;
- (xx) Any entertainment, dining or travel expenses for any purpose;
- (xxi) Any flowers, balloons, or other gifts provided to any entity including, but not limited to, Tenant, employees, vendors, contractors, prospective tenants and agents;
- (xxii) Any "finders fees," brokerage commissions, job placement costs or job advertisement cost, other than with respect to a receptionist or secretary in the Building or Project office, once per year;
- (xxiii) The cost of any magazine, newspaper, trade or other subscriptions;
- (xxiv) The cost of any training or incentive programs, other than for tenant life safety information services;
- (xxv) "In-house" legal and accounting fees; and
- (xxvi) Any other expenses that, in accordance with generally accepted accounting principles, consistently applied, would not normally be treated as Project Operating Costs by landlords of comparable buildings.

(g) Project Operating Costs will be reduced by all cash discounts, trade discounts, or quantity discounts received by Landlord or Landlord's managing agent in the purchase of any goods, utilities, or services in connection with the operation of the Premises. Landlord will make payments for goods, utilities, or services in a timely manner in order to obtain the maximum possible discount. If capital items that are customarily purchased by landlords of comparable buildings are leased by Landlord, rather than purchased, the decision by Landlord to lease the item in question will not serve to increase Project Operating Costs payable by Tenant beyond that which would have applied if the item in question been purchased. Any repair or maintenance costs that are covered by a warranty or service contract in the first Comparison Year, then subsequently incurred without coverage by a warranty or service contract in subsequent Comparison Years during the Term will be "imputed" into the first Comparison Year for the purposes of calculating Excess Expenses (as defined in Section 5.3.b.(2) below) in the subsequent Comparison Years.

(2) Tenant's Proportionate Share of Project Operating Costs shall be payable by Tenant to Landlord as follows:

(a) Beginning with the calendar year following the Base Year and for each calendar year thereafter ("Comparison Year"), Tenant shall pay Landlord an amount equal to Tenant's Proportionate Share of the Project Operating Costs incurred by Landlord in the Comparison Year which exceeds the total amount of Project Operating Costs payable by Landlord for the Base Year. This excess is referred to as "Excess Expenses."

Year exceeds the total of the estimated monthly payments made by Tenant for such year, Tenant shall pay Landlord the amount of the deficiency within thirty (30) days of the receipt of verifiable documentation substantiating such charges. If such total exceeds Tenant's Proportionate Share of the actual Excess Expenses for such Comparison Year, then Landlord shall credit against Tenant's next ensuing monthly installments of additional rent in an amount equal to the difference until the credit is exhausted. If a credit is due from Landlord on the Expiration Date, Landlord shall pay Tenant the amount of the credit in cash within twenty (20) days after the Expiration Date. The obligations of Tenant and Landlord to make payments required under this Section 5.3 shall survive the Expiration Date.

(d) Tenant's Proportionate Share of Excess Expenses in any Comparison Year having less than 365 days shall be appropriately prorated.

(e) Tenant and its agents will have the right to examine and copy Landlord's books and records relating to Project Operating Costs during normal business hours at Landlord's principal place of business according to this section so long as (a) there is no Event of Default under the Lease at the time that Tenant examines Landlord's books and records; (b) Tenant has fully and promptly paid its Rent and its proportionate share of Project Operating Costs; (c) Tenant, its agents and contractors agree that they will not divulge the contents of Landlord's books and records, or the result of their examination; and (d) Tenant requests the examination of Landlord's books and records within one (1) year after receipt of the statement of Project Operating Costs with regard to which Tenant wishes to examine Landlord's books and records. If Tenant's examination reveals that it has overpaid its proportionate share of Project Operating Costs, then the overpayment will be applied to the next accruing Rent under the Lease. If the overpayment exceeds the amount that should have been charged by more than 5%, then Landlord will pay Tenant's reasonable out-of-pocket costs incurred in connection with the examination.

(f) If this Lease sets forth a Gas and Electricity Expense Stop at Section 2f, then during the Term, Tenant shall be liable for Tenant's Proportionate Share of any gas and electricity charges (plus any assessments, taxes or surcharges thereon and less any amount paid directly by any Tenant to Utility Providers) for the Building or Project, which exceed the amount of the Gas and Electricity Expense Stop. Tenant shall make current payments of such excess costs during the Term in the same manner as is provided for payment of Excess Expenses under the applicable provisions of Section 5.3b(2)(b) and (c) above.

5.4. *Definition of Rent.* All costs and expenses that Tenant assumes or agrees to pay to Landlord under this Lease shall be deemed additional rent (which, together with the Base Rent is sometimes referred to as the "Rent"). The Rent shall be paid to the Building Manager (or other person) and at such place, as Landlord may from time to time designate in writing, without any prior demand therefore and without deduction or offset, except as set forth herein, in lawful money of the United States of America.

5.5. *Rent Control.* If the amount of Rent or any other payment due under this Lease violates the terms of any governmental restrictions on such Rent or payment, then the Rent or payment due during the period of such restrictions shall be the maximum amount allowable under those restrictions. Upon termination of the restrictions, Landlord shall, to the extent it is legally permitted, recover from Tenant the difference between the amounts received during the period of the restrictions and the amounts Landlord would have received had there been no restrictions.

5.6. *Taxes Payable by Tenant.* In addition to the Rent and any other charges to be paid by Tenant hereunder, Tenant shall pay any and all taxes upon measured by or reasonably attributable to (a) the cost or value of Tenant's equipment, furniture, fixtures and other personal property located in the Premises, or the cost or value of any leasehold improvements made in or to the Premises by or for Tenant, other than Building Standard Work made by Landlord (specifically, Tenant Improvements attributable to Tenant's build out that exceed \$35 per useable square foot), regardless of whether title to such improvements is held by Tenant or Landlord; (b) the gross or net Rent payable under this Lease, including, without limitation, any rental or gross receipts tax levied by any taxing authority with respect to the receipt of the Rent hereunder.

6. INTEREST AND LATE CHARGES.

If Tenant fails to pay when due any Rent or other amounts or charges which Tenant is obligated to pay under the terms of this Lease, the unpaid amounts shall bear interest at the maximum rate then allowed by law. Tenant acknowledges that the late payment of any Monthly Installment of Base Rent will cause Landlord to lose the use of that money and incur costs and expenses not contemplated under this Lease, including without limitation, administrative and collection costs and processing and accounting expenses, the exact amount of which is extremely difficult to ascertain. Therefore, in addition to interest, if any such installment is not received by Landlord within ten (10) days from the date it is due, Tenant shall pay Landlord a late charge equal to ten percent (10%) of such installment. Landlord and Tenant agree that this late

violation of law or the certificate of occupancy. Tenant, at Tenant's own cost and expense, shall comply with all laws, ordinances, regulations, rules and/or any directions of any governmental agencies or authorities having jurisdiction which shall, by reason of the nature of Tenant's use or occupancy of the Premises, impose any duty upon Tenant or Landlord with respect to the Premises or its use or occupation, including any repairs, alterations or improvements triggered by Tenant's particular use of the Premises or any alterations, improvements or additions made by or on behalf of Tenant. A judgment of any court of competent jurisdiction that Tenant has violated any such laws, ordinances, regulations, rules and/or directions in the use of the Premises shall be deemed to be a conclusive determination of the fact as between Landlord and Tenant. Tenant shall not do or permit to be done anything which will invalidate or increase the cost of any fire, extended coverage or other insurance policy covering the Premises, and shall comply with all rules, orders, regulations, requirements and recommendations of the Insurance Services Office or any other organization performing a similar function. Tenant shall promptly upon demand reimburse Landlord for any additional premium charge on such policy by reason of Tenant's failure to comply with the provisions of this Article. Tenant shall not use, maintain or permit any nuisance in, on or about the Premises. Tenant shall not contribute to be committed any waste in or upon the Premises.

8.2 *Suitability of Premises.* Tenant acknowledges that except as set forth herein, neither Landlord nor any of Landlord's representatives has made any representation or warranty with respect to the Premises with respect to the suitability or fitness of the same for the conduct of Tenant's business or for any other purpose, or with respect to the lawfulness of the use of the Premises for any specific purpose.

8.3 *Hazardous Materials*

(a) The operations of Tenant at the Premises shall comply in all respects with all applicable Hazardous Substances Laws (as defined in this Section 8.3). Any violation by Tenant of any Hazardous Substances Laws shall constitute a default under this Lease after expiration of applicable notice and cure periods.

(b) With respect to the Premises, Landlord represents and warrants to Tenant that: (i) Landlord has no actual knowledge (as that term is defined in this Section) and has received no notice of any pollution, health, safety, fire, environmental, sewerage or building code violation, asbestos, PCBs, PCB articles, PCB containers, PCB article containers, PCB equipment, PCB transformers or PCB-contaminated electrical equipment, as those terms are defined in any Hazardous Substance Laws (as that term is defined in this Section); (ii) to Landlord's actual knowledge, neither the Premises nor the ground under or about the Premises is contaminated with or contains any hazardous materials (as that term is defined in this Section), or contains any underground storage tank; (iii) to Landlord's actual knowledge, the Premises has never been, nor is it currently used, for the generation, transportation, treatment, storage, or disposal of hazardous materials; (iv) to Landlord's actual knowledge, the Premises does not contain any conditions that could result in recovery by any governmental or private party of remedial or removal costs, natural resource damages, property damages, damages for personal injuries, or other costs, expenses, or damages or could result in injunctive relief of any kind arising from any alleged injury or threat of injury; and (v) the Premises is not subject to investigation, nor is it currently in administrative or judicial litigation regarding any environmental condition, such as alleged noncompliance or alleged contamination.

(c) Landlord will indemnify and hold harmless Tenant, its directors, officers, employees, and agents, and any assignees, subtenants, or successors to Tenant's interest in the Premises, their directors, officers, employees, and agents, from and against any and all losses, claims, damages, penalties, and liability, including all out-of-pocket litigation costs and the reasonable fees and expenses of counsel, including without limitation all consequential damages, directly or indirectly arising out of the use, generation, storage, release, or disposal of hazardous materials on, in or about the Premises by Landlord, its agents, employees or contractors prior to execution of this Lease or at any time after execution, or by any prior owner or operator of the Premises; and from and against the cost of any required repair, cleanup, or detoxification, closure or other required plans to the full extent that such action is attributable, directly or indirectly, to the presence or use, generation, storage, release, threatened release, or disposal of hazardous materials by any person on, under, or in the Premises prior to execution of this Lease.

(d) Tenant will indemnify and hold harmless Landlord, its directors, officers, employees, and agents, and any assignees, subtenants, or successors to Landlord's interest in the Premises, their directors, officers, employees, and agents, from and against any and all losses, claims, damages, penalties, and liability, including all out-of-pocket litigation costs and the reasonable fees and expenses of counsel, including without limitation all consequential damages, directly or indirectly arising out of the use, generation, storage, release, or disposal of hazardous materials on, in or about the Premises by Tenant, its agents, employees or contractors at any time after execution of this Lease.

(e) The provisions of this Lease relating to hazardous materials will survive the expiration or termination of

substances by any law or statute now or after this date in effect in the state in which the Premises are located; and in the regulations adopted and publications promulgated pursuant to those laws (all collectively "Hazardous Substance Laws"). In this Section, the term "knowledge of Landlord" means the actual and present knowledge (as of the date of Landlord's execution of this lease) of Gregg Mason, excluding constructive knowledge or duty of inquiry, and the information contained in that certain Environmental Assessment for Parcel 48, Laguna South Business Park prepared by Lush Geosciences, Inc., dated 11/12/2004 (the "Phase I Report").

9. SERVICES AND UTILITIES.

Landlord agrees to furnish to the Premises, during Standard Building Hours, electricity for normal desk top office equipment and normal copying equipment, and heating, ventilation and air conditioning ("HVAC") as required in Landlord's reasonable judgment for the comfortable use and occupancy of the Premises. Landlord shall also maintain and keep lighted the common stairs, common entries and restrooms in the Building and Project. Landlord shall not be in default and shall not be liable for any damages directly or indirectly resulting from, nor shall the Rent be abated by reason of (i) the installation or interruption of use of any equipment in connection with the furnishing of any of the foregoing services, (ii) failure to furnish or delay in furnishing any such services where such failure or delay is caused by accident or condition or event beyond the reasonable control of Landlord, or by the making of necessary repairs or improvements to the Premises, Building or Project, or (iii) the limitation, curtailment or rationing of, or restrictions on, use of water, electricity, gas or any other form of energy serving the Premises, (each a "Service Failure") Building or Project. Landlord shall not be liable under any circumstances for a loss of or injury to property or business, however occurring, through or in connection with or incident to failure to furnish any such services. If Tenant uses heat generating machines or equipment in the Premises which affect the temperature otherwise maintained by the HVAC system, Landlord reserves the right to install supplementary air conditioning units in the Premises and the cost thereof, including the cost of installation, operation and maintenance thereof, shall be paid by Tenant to Landlord upon demand by Landlord. Tenant will have the right to purchase for use during Business Hours the services described in this section in excess of the amounts that Landlord has agreed to furnish so long as (i) Tenant gives Landlord reasonable prior notice of its desire to do so, and (ii) the excess services are reasonably available to Landlord and to the Premises, and (iii) Tenant pays as Additional Rent (at the time the next payment of Base Monthly Rent is due) the cost of such excess services from time to time charged by Landlord. Tenant will have the right to purchase for use during non-business hours the services described in this section, inclusive, in excess of the amounts that Landlord has agreed to furnish, so long as (i) Tenant gives Landlord reasonable prior notice of its desire to do so, (ii) the excess services are reasonably available to Landlord and the Premises, and (iii) Tenant pays as Additional Rent (at the time the next payment of Base Monthly Rent is due) the cost of the excess services from time to time charged by Landlord. Tenant will have the right to purchase for use during Standard Business Hours the services described in this section in excess of the amounts that Landlord has agreed to furnish so long as (i) Tenant gives Landlord reasonable prior notice of its desire to do so, (ii) the excess services are reasonably available to Landlord and to the Premises, and (iii) Tenant pays as Additional Rent (at the time the next payment of Base Monthly Rent is due) the cost of such excess services from time to time charged by Landlord. Tenant will have the right to purchase for use during non-business hours the services described in this section, inclusive, in excess of the amounts that Landlord has agreed to furnish, so long as (i) Tenant gives Landlord reasonable prior notice of its desire to do so, (ii) the excess services are reasonably available to Landlord and the Premises, and (iii) Tenant pays as Additional Rent (at the time the next payment of Base Monthly Rent is due) the cost of the excess services from time to time charged by Landlord.

Tenant shall not, without the written consent of Landlord, use any apparatus or device in the Premises, including without limitation, electronic data processing machines, punch card machines or machines using in excess of 120 volts, Tenant shall not connect any apparatus with electric current except through existing electrical outlets in the Premises. Tenant shall not consume water or electric current in excess of that usually furnished or supplied for the use of premises as general office space (as reasonably determined by Landlord), without first procuring the written consent of Landlord, which Landlord may refuse, and in the event of consent, Landlord may have installed a water meter or electrical current meter in the Premises to measure the amount of water or electric current consumed. The cost of any such meter and of its installation, maintenance and repair shall be paid for by the Tenant and Tenant agrees to pay to Landlord promptly upon demand for all such water and electric current consumed as shown by said meters, at the rates charged for such services by the local public utility plus any additional reasonable and actual expense incurred in keeping account of the water and electric current so consumed. If a separate meter is not installed, the excess cost for such water and electric current shall be established by an estimate made by a utility company or electrical engineer hired by Landlord at Tenant's expense.

Nothing contained in this Article shall restrict Landlord's right to require at any time separate metering of utilities furnished to the Premises. In the event utilities are separately metered, Tenant shall pay promptly upon demand for all utilities consumed at utility rates charged by the local public utility plus any additional reasonable and actual expense incurred by Landlord in keeping account of the utilities so consumed. Tenant shall be responsible for the maintenance

by Landlord and Tenant. Notwithstanding the foregoing to the contrary, Landlord represents and warrants to Tenant that on the date of delivery of possession of the Premises to Tenant the Premises will be in compliance with all laws, ordinances, orders, rules, regulations, and other governmental requirements relating to the use, condition, and occupancy of the Premises for the purposes allowed by the Lease, including, without limitation, the certificate of occupancy for the Premises, the laws described in Section 8.3 regarding hazardous materials, and the Americans with Disabilities Act of 1990, and all rules, orders, regulations, and requirements of the state fire underwriters or insurance service office, or any similar body having jurisdiction over the Premises, and that on that date there are no conditions that after discovery or notice or the passage of time would not be in compliance with all laws, ordinances, orders, rules, regulations and requirements.

11. CONSTRUCTION, REPAIRS AND MAINTENANCE.

a. *Landlord's Obligations.* Landlord shall maintain in good order, condition and repair the Building, Project and all other portions of the Premises not the obligation of Tenant or of any other tenant in the Building or Project.

b. *Tenant's Obligations.*

(1) Tenant shall perform Tenant's Work to the Premises as described in Exhibit "C"

(2) Tenant at Tenant's sole expense shall, except for services furnished by Landlord pursuant to Article 9 hereof, maintain the Premises in good order, condition and repair, normal wear and tear and casualty loss excepted, including the interior surfaces of the ceilings, walls and floors, all doors, all interior windows, all plumbing, pipes and fixtures, electrical wiring, switches and fixtures, Building Standard furnishings and special items and equipment furnished by or at the expense of Tenant.

(3) Tenant shall be responsible for all repairs and alterations in and to the Premises, Building and Project and the facilities and systems thereof, the need for which arises out of (i) Tenant's use or occupancy of the Premises, (ii) the installation, removal, use or operation of Tenant's Property (as defined in Article 13) in the Premises, (iii) the moving of Tenant's Property into or out of the Building, or (iv) the act, omission, misuse or negligence of Tenant, its agents, contractors, employees or invitees.

(4) Tenant's obligation to repair will not extend to: (i) damage and repairs caused by Landlord in connection with the Premises; (ii) damage caused by any defects in the design, construction, or materials of the Building and improvements made by Landlord in connection with the Premises; (iii) damage caused in whole or in part by the negligence or willful misconduct of Landlord or Landlord's agents, employees, invitees, or licensees; (iv) repairs whose cost is included in Project Operating Costs; (v) reasonable wear and tear; (vi) damage due to fire, earthquake, acts of God, the elements, or other casualties to the extent not required to be insured by Tenant; (vii) damage to the interior of the Premises resulting from causes outside the Premises not required to be insured by Tenant; (viii) damage arising from Landlord's failure to comply with the provisions of this Lease; and (ix) the components of the Base Building, except to the extent due to Tenant's acts, omission, misuse or negligence.

(5) If Tenant fails to maintain the Premises in good order, condition and repair, Landlord shall give Tenant notice to do such acts as are reasonably required to so maintain the Premises. If Tenant fails to promptly commence such work within thirty (30) days after Tenant's receipt of Landlord's written notice (or such earlier time as may be reasonably required due to the urgency of the need for the repair), and diligently prosecute it to completion, then Landlord shall have the right to do such acts and expend such funds at the expense of Tenant as are reasonably required to perform such work. Any amount so expended by Landlord shall be paid by Tenant promptly after demand with interest at the prime commercial rate then being charged by Bank of America NT & SA plus two percent (2%) per annum, from the date of such work, but not to exceed the maximum rate then allowed by law. Landlord shall have no liability to Tenant for any damage, inconvenience, or interference with the use of the Premises by Tenant as a result of performing any such work.

c. *Compliance with Law.* Landlord and Tenant shall each do all acts required to comply with all applicable laws, ordinances, and rules of any public authority relating to their respective maintenance obligations as set forth herein.

d. *Waiver by Tenant.* Tenant expressly waives the benefits of any statute now or hereafter in effect which would otherwise afford the tenant the right to make repairs at Landlord's expense or to terminate this lease because of Landlord's failure to keep the premises in good order, condition and repair.

e. *Load and Equipment Limits.* Tenant shall not place a load upon any floor of the Premises which exceeds the load

the same condition as on the date Tenant took possession, except for normal wear and tear and casualty loss. Any damage to the Premises, including any structural damage, resulting from Tenant's use or from the removal of Tenant's fixtures, furnishings and equipment pursuant to Section 13b shall be repaired by Tenant at Tenant's expense.

12. ALTERATIONS AND ADDITIONS.

a. Tenant shall not make any additional alterations or improvements to the Premises without obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. At the time Landlord gives its consent, Landlord may require that Tenant remove any such additions, alterations or improvements upon the expiration of the Term and restoring the Premises to the same condition as on the date Tenant took possession, except for reasonable wear and tear and casualty loss excepted. All work with respect to any addition, alteration or improvement shall be done in a good and workmanlike manner by properly qualified and licensed personnel approved by Landlord (which approval shall not be unreasonably withheld, conditioned or delayed), and such work shall be diligently prosecuted to completion.

b. Tenant shall pay the costs of any work done on the Premises pursuant to Section 12a, and shall keep the Premises, Building and Project free and clear of any liens of any kind. Tenant shall indemnify, defend against and keep Landlord free and harmless from all liability, loss, damage, costs, attorneys' fees and any other expense incurred on account of claims by any person performing work or furnishing materials or supplies for Tenant or any person claiming under Tenant.

Tenant shall keep Tenant's leasehold interest, and any additions or improvements which are or become the property of Landlord under this Lease, free and clear of all attachment or judgment liens. Before the actual commencement of any work for which a claim or lien may be filed, Tenant shall give Landlord notice of the intended commencement date a sufficient time before that date to enable Landlord to post notices of non-responsibility or any other notices which Landlord deems necessary for the proper protection of Landlord's interest in the Premises, Building or the Project, and Landlord shall have the right to enter the Premises and post such notices at any reasonable time.

c. Landlord may require, at Landlord's sole option, that Tenant provide to Landlord, at Tenant's expense, a lien and completion bond in an amount equal to at least one and one-half (1 ½) times the total estimated cost of any additions, alterations or improvements to be made in or to the Premises, to protect Landlord against any liability for mechanic's and materialmen's liens and to insure the timely completion of the work. Nothing contained in this Section 12.c shall relieve Tenant of its obligation under Section 12.b to keep the Premises, Building and Project free of all liens.

d. Unless their removal is required by Landlord as provided in Section 12a, all additions, alterations and improvements made to the Premises shall become the property of Landlord and be surrendered with the Premises upon the expiration of the Term; provided, however, Tenant's equipment, machinery and trade fixtures which can be removed without damage to the Premises shall remain the property of Tenant and may be removed, subject to the provisions of Section 13b.

13. LEASEHOLD IMPROVEMENTS; TENANT'S PROPERTY.

a. All fixtures, equipment, improvements and appurtenances attached to or built into the Premises at the commencement of or during the Term, whether or not by or at the expense of Tenant ("Leasehold Improvements"), shall be and remain a part of the Premises, shall be the property of Landlord and shall not be removed by Tenant, except as expressly provided in Section 13b.

b. All movable partitions, business and trade fixtures, machinery and equipment, communications equipment and office equipment located in the Premises and acquired by or for the account of Tenant, without expense to Landlord, which can be removed without structural damage to the Building, and all furniture, furnishings and other articles of movable personal property owned by Tenant and located in the Premises (collectively "Tenant's Property") shall be and shall remain the property of Tenant and may be removed by Tenant at any time during the Term; provided that if any of Tenant's Property is removed, Tenant shall promptly repair any damage to the Premises or to the Building resulting from such removal.

14. RULES AND REGULATIONS.

Tenant agrees to comply with (and cause its agents, contractors, employees and invitees to comply with) the rules and regulations attached hereto as Exhibit "C", and with such reasonable modifications thereof and additions thereto as Landlord may from time to time make upon reasonable prior written notice to Tenant.

15. CERTAIN RIGHTS RESERVED BY LANDLORD

Premises or Landlord, and during the last six months of the Term, to show the Premises to prospective tenants thereof; and

e. Upon at least twenty-four (24) hours prior written notice to Tenant (except in case of an emergency, in which case no prior notice shall be required) so long as Landlord is accompanied by a Tenant representative, to enter the Premises for the purpose of making inspections or repairs to the Premises or the Building (including, without limitation, checking, testing, adjusting or balancing controls and other parts of the HVAC system), and to take all steps as may be necessary or desirable for the safety, protection, maintenance or preservation of the Premises or the Building or Landlord's interest therein, or as may be necessary or desirable for the operation or improvement of the Building or in order to comply with laws, orders or requirements of governmental or other authority. Landlord agrees to use its best efforts (except in an emergency) to minimize interference with Tenant's business in the Premises in the course of any such entry.

16. ASSIGNMENT AND SUBLETTING.

No assignment of this Lease or sublease of all or any part of the Premises shall be permitted, except as provided in this Article 16.

a. Tenant shall not, without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, assign or hypothecate this Lease or any interest herein or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than Tenant. Any of the foregoing acts without such consent shall be void and shall, at the option of Landlord, terminate this Lease. This Lease shall not, nor shall any interest of Tenant herein, be assignable by operation of law without the written consent of Landlord.

b. If at any time or from time to time during the Term Tenant desires to assign this Lease or sublet all or any part of the Premises, Tenant shall give notice to Landlord setting forth the terms and provisions of the proposed assignment or sublease, and the identity of the proposed assignee or subtenant. Tenant shall promptly supply Landlord with such information concerning the business background and financial condition of such proposed assignee or subtenant as Landlord may reasonably request. Landlord shall have the option, exercisable by notice given to Tenant within twenty (20) days after Tenant's notice is given, either to sublet such space from Tenant at the rental and on the other terms set forth in this Lease for the term set forth in Tenant's notice, or, in the case of an assignment, to terminate this Lease. If Landlord does not exercise such option, Tenant may assign the Lease or sublet such space to such proposed assignee or subtenant on the following further conditions:

- (1) The assignment or sublease shall be on the same terms set forth in the notice given to Landlord;
- (2) No assignment or sublease shall be valid and no assignee or sublessee shall take possession of the Premises until an executed counterpart of such assignment or sublease has been delivered to Landlord;
- (3) No assignee or sublessee shall have a further right to assign or sublet except on the terms herein contained; and
- (4) Fifty percent (50%) of any sums or other economic consideration received by Tenant as a result of such assignment or subletting, however denominated under the assignment or sublease, which exceed, in the aggregate, (i) the total sums which Tenant is obligated to pay Landlord under this Lease (prorated to reflect obligations allocable to any portion of the Premises subleased), plus (ii) any real estate brokerage commissions or fees payable in connection with such assignment or subletting, shall be paid to Landlord as additional rent under this Lease without affecting or reducing any other obligations of Tenant hereunder.

c. Notwithstanding the provisions of paragraphs a and b above, Tenant may assign this Lease or sublet the Premises or any portion thereof, without Landlord's consent and without extending any recapture or termination option to Landlord, to any corporation which controls, is controlled by or is under common control with Tenant, or to any corporation resulting from a merger or consolidation with Tenant, or to any person or entity which acquires all the assets of Tenant's business as a going concern, provided that (i) the assignee or sublessee assumes, in full, the obligations of Tenant under this Lease, (ii) Tenant remains fully liable under this Lease, and (iii) the use of the Premises under Article 8 remains unchanged.

d. No subletting or assignment shall release Tenant of Tenant's obligations under this Lease or alter the primary liability of Tenant to pay the Rent and to perform all other obligations to be performed by Tenant hereunder. The acceptance of Rent by Landlord from any other person shall not be deemed to be a waiver by Landlord of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent

Rent payable by Tenant at the expiration of the Term. Such monthly rent shall be payable in advance on or before the first day of each month. If either party desires to terminate such monthly tenancy, it shall give the other party not less than thirty (30) days advance written notice of the date of termination.

18. SURRENDER OF PREMISES.

a. Tenant shall peacefully surrender the Premises to Landlord on the Expiration Date, in broom-clean condition and in as good condition as when Tenant took possession, except for (i) reasonable wear and tear, (ii) loss by fire or other casualty, and (iii) loss by condemnation. Tenant shall, on Landlord's request, remove Tenant's Property on or before the Expiration Date and promptly repair all damage to the Premises or Building caused by such removal.

b. If Tenant abandons or surrenders the Premises, or is dispossessed by process of law or otherwise, Tenant shall remove from the Premises all Tenant's Property and repair any damage caused by such removal. If such removal is not completed before the expiration or termination of the Term, Landlord shall have the right (but no obligation) to remove the same, and Tenant shall pay Landlord on demand for all reasonable costs of removal and storage thereof and for the rental value of the Premises for the period from the end of the Term through the end of the time reasonably required for such removal. Landlord shall also have the right to retain or dispose of all or any portion of such property if Tenant does not pay all such costs and retrieve the property within ten (10) days after notice from Landlord (in which event title to all such property described in Landlord's notice shall be transferred to and vest in Landlord). Tenant waives all claims against Landlord for any damage or loss to Tenant resulting from Landlord's removal, storage, retention, or disposition of any such property. On the Expiration Date Tenant shall surrender all keys to the Premises.

19. DESTRUCTION OR DAMAGE.

a. If the Premises or the portion of the Building necessary for Tenant's occupancy is damaged by fire, earthquake, act of God, the elements of other casualty, Landlord shall, subject to the provisions of this Article, promptly repair the damage, if such repairs can, in Landlord's opinion, be completed within (90) ninety days after the Notice Date, as hereinafter defined. If Landlord reasonably determines that repairs can be completed within ninety (90) days, Landlord will promptly begin to repair the damage after the Notice Date and will diligently pursue the completion of such repair, this Lease shall remain in full force and effect, except that if such damage is not the result of the negligence or willful misconduct of Tenant or Tenant's agents, employees, contractors, licensees or invitees, the Base Rent shall be abated to the extent Tenant's use of the Premises is impaired, commencing with the date of damage and continuing until completion of the repairs required of Landlord under Section 19d.

b. If in Landlord's reasonable opinion, such repairs to the Premises or portion of the Building necessary for Tenant's occupancy cannot be completed within ninety (90) days after the Notice Date, Landlord may elect, upon notice to Tenant given within thirty (30) days after the date of such fire or other casualty (the "Notice Date"), to repair such damage, in which event this Lease shall continue in full force and effect, but the Base Rent shall be partially abated as provided in Section 19a. If Landlord does not so elect to make such repairs, this Lease shall terminate as of the date of such fire or other casualty.

c. If any other portion of the Building or Project is totally destroyed or damaged to the extent that in Landlord's opinion repair thereof cannot be completed within ninety (90) days, Landlord may elect upon notice to Tenant given within thirty (30) days after the date of such fire or other casualty, to repair such damage, in which event this Lease shall continue in full force and effect, but the Base Rent shall be partially abated as provided in Section 19a. If Landlord does not elect to make such repairs, this Lease shall terminate as of the date of such fire or other casualty.

d. If the Premises are to be repaired under this Article, Landlord shall repair at its cost any injury or damage to the Building and Building Standard Work in the Premises. Tenant shall be responsible at its sole cost and expense for the repair, restoration and replacement of any other Leasehold Improvements and Tenant's Property. Landlord shall not be liable for any loss of business, inconvenience or annoyance arising from any repair or restoration of any portion of the Premises, Building or Project as a result of any damage from fire or other casualty.

e. This Lease shall be considered an express agreement governing any case of damage to or destruction of the Premises, Building or Project by fire or other casualty, and any present or future law which purports to govern the rights of Landlord and Tenant in such circumstances in the absence of express agreement, shall have no application.

20. EMINENT DOMAIN.

a. If the whole of the Premises is lawfully taken by condemnation or in any other manner for any public or quasi-

Landlord) such compensation as may be recoverable by Tenant on its own right for relocation expenses and damage to Tenant's personal property.

c. In the event of a partial taking of the Premises which does not result in a termination of this Lease, Landlord shall restore the remaining portion of the Premises as near as practicable to its condition prior to the condemnation or taking, but only to the extent of Building Standard Work. Tenant shall be responsible at its sole cost and expense for the repair, restoration and replacement of any other Leasehold Improvements and Tenant's Property.

21. INDEMNIFICATION.

a. Except as waived and released herein, Tenant shall indemnify and hold Landlord harmless against and from liability and claims of any kind for loss or damage to property of Tenant or any other person, or for any injury to or death of any person, except that caused by the negligence or willful misconduct of Landlord, its agents, employees or contractors, arising out of (1) Tenant's use and occupancy of the Premises, or any work, activity or other things allowed by Tenant to be done in, on or about the Premises; (2) any breach or default by Tenant of any of Tenant's obligations under this Lease; or (3) any negligent or otherwise tortious act or omission of Tenant, its agents, employees, invitees or contractors. Tenant shall at Tenant's expense, and by counsel reasonably satisfactory to Landlord, defend Landlord in any action or proceeding arising from any such claim and shall indemnify Landlord against all costs, attorney's fees, expert witness fees and any other expenses incurred in such action or proceeding. As a material part of the consideration for Landlord's execution of this Lease, Tenant hereby assumes all risk of damage or injury to any person or property in, on or about the Premises from any cause.

b. Except as waived and released herein; Landlord will indemnify Tenant, its officers, directors, members, shareholders, partners, lenders, agents, and employees against, and hold them harmless from, any and all demands, claims, causes of action, fines, penalties, damages (including without limitation consequential damages), losses, liabilities, judgments, and expenses (including without limitation attorneys' fees and court costs) arising from the gross negligence or willful misconduct of Landlord or Landlord's employees, agents or contractors. If any action or proceeding is brought against Tenant, its shareholders, partners, lenders, employees, or agents, by reason of any such claim, Landlord, upon notice from Tenant, will defend the claim at Landlord's expense with counsel reasonably satisfactory to Tenant.

c. The indemnifications given in this Article 21 are in addition to the indemnifications set forth in Section 8.3, and will survive the expiration or termination of this Lease.

22. LANDLORD'S AND TENANT'S INSURANCE.

22.1 *Landlord's Insurance.* Throughout the Term, Landlord will maintain as an Operating Cost: (i) commercial general liability insurance with a combined single limit for bodily injury and property damage of not less than Two Million Dollars (\$2,000,000.00) for each occurrence resulting from the operations of the Landlord or its employees in the Building; and (ii) special form property insurance covering the Premises, building standard tenant improvements, and all equipment owned by Landlord and used in connection with the Premises in an amount not less than their full replacement value.

22.2 *Tenant's Insurance.* All insurance required to be carried by Tenant hereunder shall be issued by insurance companies having a rating classifications of "A" or better and financial size category ratings of "VII" or better (according to the latest edition of the A.M. Best Key Rating Guide) or through Self Insurance Programs established pursuant to California Government Code section 6599, *et seq.* Each policy shall name Landlord, and at Landlord's request any mortgagee of Landlord, as an additional insured, as their respective interests may appear. Each policy shall contain (i) a cross-liability endorsement, (ii) a provision that such policy and the coverage evidenced thereby shall be primary and non-contributing with respect to any policies carried by Landlord and that any coverage carried by Landlord shall be excess insurance, and (iii) a waiver by the insurer of any right of subrogation against Landlord, its agents, employees and representatives, which arises or might arise by reason of any payment under such policy or by reason of any act or omission of Landlord, its agents, employees or representatives. A certificate of the insurer evidencing the existence and amount of each insurance policy required hereunder shall be delivered to Landlord before the date Tenant is first given the right of possession of the Premises, and thereafter within thirty (30) days after any demand by Landlord therefor. No such policy shall be cancelable except after twenty (20) days written notice to Landlord and Landlord's lender. Tenant shall furnish Landlord with renewals or "binders" of any such policy at least ten (10) days prior to the expiration thereof. Tenant agrees that if Tenant does not take out and maintain such insurance, Landlord may (but shall not be required to) procure said insurance on Tenant's behalf and charge the Tenant the premiums together with a handling charge equal to ten percent (10%) of the premium handling charge, payable upon demand. Tenant shall have the right to provide such insurance coverage pursuant to blanket policies obtained by the Tenant, provided such blanket policies afford coverage to

(b) Beginning on the date Tenant is given access to the Premises for any purpose and continuing until expiration of the Term, Tenant shall pay for and maintain in effect workers' compensation insurance as required by law and comprehensive public liability and property damage insurance with respect to the construction of improvements on the Premises, the use, operation and condition of the Premises and the operations of Tenant in, on or about the Premises, providing personal injury and bodily injury property damage coverage for not less than Two Million Dollars (\$2,000,000.00) combined single limit for bodily injury, death and property damage liability.

(c) Not less than every three (3) years during the Term, Landlord and Tenant shall mutually agree to increases in all of Tenant's insurance policy limits for all insurance to be carried by Tenant as set forth in this Article, which increases shall be based upon increases in the insurance policies for similar tenants in buildings similar in size to the Building in the greater Sacramento area.

23. WAIVER OF SUBROGATION AND WAIVER OF CLAIMS.

23.1 *Waiver of Subrogation.* Landlord and Tenant each hereby waive all rights of recovery against the other and against the officers, employees, agents and representatives of the other, on account of loss by or damage to the waiving party of its property or the property of others under its control, to the extent that such loss or damage is insured against under any fire and extended coverage insurance policy which either may have in force at the time of the loss or damage. Tenant shall, upon obtaining the policies of insurance required under this Lease, give notice to its insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Lease.

23.2 *Waiver of Claims.* Landlord and Tenant intend for their insurers to be solely responsible for their respective property losses. Accordingly, Landlord and Tenant waive and release all claims against the other, their shareholders, partners, members, employees, and agents with respect to all matters for which the other has disclaimed liability pursuant to the provisions of this Lease. In addition, they agree that neither of them or their shareholders, partners, members, agents, and employees will be liable to the other for any loss, injury, death, or damage (including consequential damages) to property, or business occasioned by any cause, including without limitation, theft, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, order of governmental body or authority, fire, explosion, falling objects, steam, electricity, gas, water, leak or flow of water (including water from the elevator system), rain or snow from the Premises or into the Premises or from the roof, street, subsurface or from any other place, or by dampness or from the breakage, leakage, obstruction, or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures of the Premises, or from construction, repair, or alteration of the Premises or from any acts or omissions of any other visitor of the Premises.

24. SUBORDINATION AND ATTORNMENT.

Upon written request of Landlord, or any first mortgagee or first deed of trust beneficiary of Landlord, or ground lessor of Landlord, Tenant shall, in writing, subordinate its rights under this Lease to the lien of any first mortgage or first deed of trust, or to the interest of any lease in which Landlord is lessee, and to all advances made or hereafter to be made thereunder, by means of a subordination agreement (the "Subordination Agreement"). However, Tenant shall have the right to require that such Subordination Agreement provide that the lender or lessor or landlord (hereinafter referred to as the "Mortgagee") requesting such subordination, agree that, as long as Tenant is not in default hereunder beyond any applicable notice and cure periods, this Lease shall remain in effect for the full Term and any extension thereof. The Mortgagee may, upon written notice to Tenant, elect to have this Lease prior to its security interest regardless of the time of the granting or recording of such security interest. Tenant acknowledges that such Subordination Agreement may provide, among other things, that (i) such Mortgagee shall be entitled to receive notice of any Landlord default under this Lease plus a reasonable opportunity to cure such default; (ii) such Mortgagee shall not be bound by any obligation under this Lease to perform or pay for any improvements to the Premises; and (iii) such Mortgagee or any successor Landlord shall not: (a) be liable for any act or omission of any prior landlord or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which tenant might have against any prior landlord; (c) be bound by prepayment of more than one month's rent.

In the event of any foreclosure sale, transfer in lieu of foreclosure or termination of the lease in which Landlord is lessee, Tenant shall attorn to the purchaser, transferee or lessor as the case may be, and recognize that party as Landlord under this Lease, provided such party acquires and accepts the Premises subject to this Lease.

25. TENANT ESTOPPEL CERTIFICATES.

Within ten (10) days after written request from Landlord, Tenant shall execute and deliver to Landlord or Landlord's designee, a written statement certifying (a) that this Lease is unmodified and in full force and effect, or is in full force and effect as modified and stating the modifications; (b) the amount of Base Rent and the date to which Base Rent and

27. DEFAULT.

27.1. *Tenant's Default.* The occurrence of one or more of the following events shall constitute a default and breach of this Lease by Tenant:

- a. If Tenant abandons or vacates the Premises and fails to pay Rent; or
- b. If Tenant fails to pay any Rent or any other charges required to be five (5) days after receipt of written notice from Landlord that such payment is due and payable; or
- c. If Tenant fails to promptly and fully perform any other covenant, condition or agreement contained in this Lease and such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant; provided, however, if the nature of the default is such that more than thirty (30) days is required for its cure, Tenant shall not be deemed to be in default so long as Tenant commences cure within thirty (30) days and diligently prosecutes such cure to completion; or
- d. If a writ of attachment or execution is levied on this Lease or on any of Tenant's Property; or
- e. If Tenant makes a general assignment for the benefit of creditors, or provides for an arrangement, composition, extension or adjustment with its creditors; or
- f. If Tenant files a voluntary petition for relief or if a petition against Tenant in a proceeding under the federal bankruptcy laws or other insolvency laws is filed and not withdrawn or dismissed within forty-five (45) days thereafter, or if under the provisions of any law providing for reorganization or winding up of corporations, any court of competent jurisdiction assumes jurisdiction, custody or control of Tenant or any substantial part of its property and such jurisdiction, custody or control remains in force unrelinquished, unstayed or unterminated for a period of forty-five (45) days; or
- g. If in any proceeding or action in which Tenant is a party, a trustee, receiver, agent or custodian is appointed to take charge of the Premises or Tenant's Property (or has the authority to do so) for the purpose of enforcing a lien against the Premises or Tenant's Property; or
- h. If Tenant is a partnership or consists of more than one (1) person or entity, if any partner of the partnership or other person or entity is involved in any of the acts or events described in subparagraphs d through g above.

27.2. *Remedies.* In the event of Tenant's default hereunder, then in addition to any other rights or remedies Landlord may have under any law, Landlord shall have the right, at Landlord's option, without further notice or demand of any kind to do the following:

- a. Terminate this Lease and Tenant's right to possession of the Premises and reenter the Premises and take possession thereof after obtaining a judgment for possession in an unlawful detainer action, and Tenant shall have no further claim to the Premises or under this Lease; or
- b. Continue this Lease in effect, reenter and occupy the Premises for the account of Tenant, and collect any unpaid Rent or other charges which have or thereafter become due and payable; or
- c. Reenter the Premises under the provisions of subparagraph b, and thereafter elect to terminate this Lease and Tenant's right to possession of the Premises.

If Landlord reenters the Premises under the provisions of subsections b or c above, Landlord shall not be deemed to have terminated this Lease or the obligation of Tenant to pay any Rent or other charges thereafter accruing, unless Landlord notifies Tenant in writing of Landlord's election to terminate this Lease. In the event of any reentry or retaking of possession by Landlord, Landlord shall have the right, but not the obligation, to remove all or any part of Tenant's Property in the Premises and to place such property in storage at a public warehouse at the reasonable expense and risk of Tenant. If Landlord elects to relet the Premises for the account of Tenant, the rent received by Landlord from such reletting shall be applied as follows: first, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord; second, to the payment of any costs of such reletting; third, to the payment of the cost of any alterations or repairs to the Premises; fourth, to the payment of Rent due and unpaid hereunder; and the balance, if any, shall be held by Landlord and applied in payment of future Rent as it becomes due. If that portion of rent received from the reletting which is applied

which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

3. *Rent After Award.* The worth at the time of the award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the rental loss that Tenant proves could be reasonably avoided; plus

4. *Proximately Caused Damages.* Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, any costs or expenses (including attorneys' fees), incurred by Landlord in (a) retaking possession of the Premises, (b) maintaining the Premises after Tenant's default, (c) preparing the Premises for reletting to a new tenant, including any repairs and alterations, and (d) reletting the Premises, including broker's commissions.

"The worth at the time of the award" as used in subsections 1 and 2 above, is to be computed by allowing interest at the rate of ten percent (10%) per annum. "The worth at the time of the award" as used in subsection 3 above, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank situated nearest to the Premises at the time of the award plus one percent (1%).

The waiver by Landlord of any breach of any term, covenant or condition of this Lease shall not be deemed a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition. Acceptance of Rent by Landlord subsequent to any breach hereof shall not be deemed a waiver of any preceding breach other than the failure to pay the particular Rent so accepted, regardless of Landlord's knowledge of any breach at the time of such acceptance of Rent. Landlord shall not be deemed to have waived any term, covenant or condition unless Landlord gives Tenant written notice of such waiver.

27.3 *Landlord's Default.* If Landlord fails to perform any covenant, condition or agreement contained in this Lease within thirty (30) days after receipt of written notice from Tenant specifying such default, or if such default cannot reasonably be cured within thirty (30) days, if Landlord fails to commence to cure within that thirty (30) day period or fails to diligently prosecute such cure to completion, then Landlord shall be liable to Tenant for any damages sustained by Tenant as a result of Landlord's breach; provided, however, it is expressly understood and agreed that if Tenant obtains a money judgment against Landlord resulting from any default or other claim arising under this Lease, that judgment shall be satisfied only out of the rents, issues, profits, and other income actually received on account of Landlord's right, title and interest in the Premises, and no other real, personal or mixed property of Landlord (or of any of the partners which comprise Landlord, if any) wherever situated, shall be subject to levy to satisfy such judgment. If, after notice to Landlord of default, Landlord (or any first mortgagee or first deed of trust beneficiary of Landlord) fails to cure the default as provided herein, then Tenant shall have the right to cure that default at Landlord's expense. All amounts paid by Tenant in connection with doing so (together with interest at 2% over the prime rate charged by Bank of America in San Francisco, California, per annum from the date of Tenant's payment of the amount or incurring of each cost or expense until the date of full repayment by Landlord) will be payable by Landlord to Tenant on demand. If Landlord fails to make the repayment, in addition to any other rights it may have, Tenant will have the right to offset the amount of the repayment against rent and other charges under this Lease. Tenant shall not have the right to terminate this Lease or to withhold, reduce or offset any amount against any payments of Rent or any other charges due and payable under this Lease except as otherwise specifically provided herein.

28. BROKERAGE FEES.

Landlord and Tenant warrant and represent that neither party has dealt with any real estate broker or agent in connection with this Lease or its negotiation except those noted in Section 2.c. Landlord and Tenant shall indemnify and hold the other harmless from any cost, expense or liability (including costs of suit and reasonable attorneys' fees) for any compensation, commission or fees claimed by any other real estate broker or agent in connection with this Lease or its negotiation by reason of any act of Landlord or Tenant, as the case may be.

29. NOTICES.

All notices, approvals and demands permitted or required to be given under this Lease shall be in writing and deemed duly served or given upon receipt or refusal if personally delivered or sent by certified or registered U.S. mail, postage prepaid, and addressed as follows: (a) if to Landlord, to Landlord's Mailing Address and (b) if to Tenant, to Tenant's Mailing Address. Landlord and Tenant may from time to time by notice to the other designate another place for receipt of future

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Tenant, upon paying the Rent and performing all of its obligations under this Lease within any applicable notice and cure periods, shall peaceably and quietly enjoy the Premises, subject to the terms of this Lease and to any mortgage, lease, or other agreement to which this Lease may be subordinate.

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33. OBSERVANCE OF LAW.

Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, and with the requirements of any board of fire insurance underwriters or other similar bodies now or hereafter constituted, relating to, or affecting the use or occupancy of the Premises, excluding structural changes not related to or affected by Tenant's improvements or acts. The judgment of any court of competent jurisdiction that Tenant has violated any law, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Landlord and Tenant.

34. FORCE MAJEURE.

Any prevention or stoppage of work to be performed by Landlord or Tenant which is due to strikes, labor disputes, inability to obtain materials, equipment or reasonable substitutes therefor, acts of God, governmental restrictions or regulations or controls, judicial orders, enemy or hostile government actions, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform hereunder, shall excuse performance of the work of that party for a period equal to the duration of that prevention, delay or stoppage. Nothing in this Article 34 shall excuse or delay Tenant's obligation to pay Rent or other charges under this Lease.

35. CURE OF TENANT'S DEFAULTS.

If Tenant defaults in the performance of any of its obligations under this Lease beyond any notice and cure period, Landlord may (but shall not be obligated to) without waiving such default, perform the same for the account at the reasonable expense of Tenant. Tenant shall pay Landlord all costs of such performance promptly within thirty (30) days after receipt of a reasonably verifiable documentation substantiating such charges therefor.

36. SIGN CONTROL.

Tenant shall not affix, paint, erect or inscribe any sign, projection, awning, signal or advertisement of any kind to the exterior of the Premises or any part that is visible from the exterior of the Premises, Building or Project, including without limitation, the inside or outside of windows or doors, without the written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Landlord hereby consents to Tenant's placing signage in and about the Premises identifying the Premises as the City of Elk Grove administrative offices, subject to Landlord's prior written consent (not to be unreasonably withheld, conditioned or delayed) as to design, materials and location thereof. Any signage installed by or on behalf of Tenant shall be considered Tenant's Property and therefore subject to the requirements of Article 13 above. Landlord shall have the right to remove any signs or other matter, installed without Landlord's permission, without being liable to Tenant by reason of such removal, and to charge the reasonable cost of removal to Tenant as additional rent hereunder, payable within thirty (30) days after Tenant's receipt of written demand by Landlord.

37. MISCELLANEOUS.

a. *Accord and Satisfaction; Allocation of Payments.* No payment by Tenant or receipt by Landlord of a lesser amount than the Rent provided for in this Lease shall be deemed to be other than on account of the earliest due Rent, nor shall any endorsement or statement on any check or letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of the Rent or pursue any other remedy provided for in this Lease. In connection with the foregoing, Landlord shall have the absolute right in its sole discretion to apply any payment received from Tenant to any account or other payment of Tenant then not current and due or delinquent.

b. *Addenda.* If any provision contained in an addendum to this Lease is inconsistent with any other provision herein, the provision contained in the addendum shall control, unless otherwise provided in the addendum.

c. *Attorneys' Fees.* If any action or proceeding is brought by either party against the other pertaining to or arising out of this Lease, the finally prevailing party shall be entitled to recover all actual costs and expenses, including reasonable attorneys' fees, incurred on account of such action or proceeding.

d. *Captions, Articles and Section Numbers.* The captions appearing within the body of this Lease have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Lease. All references to Article and Section numbers refer to Articles and Sections in this Lease.

h. *Corporate Authority.* If Tenant is a corporation, each individual signing this Lease on behalf of Tenant represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of the corporation, and that this Lease is binding on Tenant in accordance with its terms. Tenant shall, at Landlord's request, deliver a certified copy of a resolution of its City Council authorizing such execution. If Landlord is a corporation or other business entity, each individual signing this Lease on behalf of Landlord represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of the entity, and that this Lease is binding on Landlord in accordance with its terms. Landlord shall, at Tenant's request, deliver a certified copy of a resolution of its board of directors or other appropriate document authorizing such execution.

i. *Counterparts.* This Lease may be executed in multiple counterparts, all of which shall constitute one and the same Lease.

j. *Execution of Lease; No Option.* The submission of this Lease to Tenant shall be for examination purposes only, and does not and shall not constitute a reservation of or option for Tenant to lease, or otherwise create any interest of Tenant in the Premises or any other premises within the Building or Project. Execution of this Lease by Tenant and its return to Landlord shall not be binding on Landlord notwithstanding any time interval, until Landlord has in fact signed and delivered this Lease to Tenant.

k. *Furnishing of Financial Statements; Tenant's Representations.* In order to induce Landlord to enter into this Lease Tenant agrees that it shall promptly furnish Landlord, from time to time, upon Landlord's written request, with the most recent Comprehensive Annual Financial Report prepared by Tenant, reflecting Tenant's current financial condition. Tenant represents and warrants that all financial statements, records and information furnished by Tenant to Landlord in connection with this Lease are true, correct and complete in all respects. Landlord acknowledges that such financial data constitutes a trade secret of Tenant and agrees to safeguard the confidentiality of any financial data provided pursuant to this paragraph provided, however, that Landlord shall have the right to share such information with any existing or prospective owners of the Building or any interest therein, or any existing or prospective mortgages.

l. *Prior Agreements; Amendments.* This Lease contains all of the agreements of the parties with respect to any matter covered or mentioned in this Lease, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provisions of this Lease may be amended or added to except by an agreement in writing signed by the parties or their respective successors in interest.

m. *Recording.* Tenant shall not record this Lease without the prior written consent of Landlord. Either party, upon the request of the other, shall execute and acknowledge a "short form" memorandum of this Lease for recording purposes.

n. *Severability.* A final determination by a court of competent jurisdiction that any provision of this Lease is invalid shall not affect the validity of any other provision, and any provision so determined to be invalid shall, to the extent possible, be construed to accomplish its intended effect.

o. *Successors and Assigns.* This Lease shall apply to and bind the heirs, personal representatives, and permitted successors and assigns of the parties.

p. *Time of the Essence.* Time is of the essence of this Lease.

q. *Waiver.* No delay or omission in the exercise of any right or remedy of Landlord upon any default by Tenant shall impair such right or remedy or be construed as a waiver of such default.

The receipt and acceptance by Landlord of delinquent Rent shall not constitute a waiver of any other default; it shall constitute only a waiver of timely payment for the particular Rent payment involved.

No act or conduct of Landlord, including, without limitation, the acceptance of keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Tenant before the expiration of the Term. Only a written notice from Landlord to Tenant shall constitute acceptance of the surrender of the Premises and accomplish a termination of the Lease.

Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent act by Tenant. Any waiver by Landlord of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of the Lease.

The parties hereto have executed this Lease as of the dates set forth below.

LANDLORD: Jackson II, LLC, A California Limited Liability Company

TENANT: City of Elk Grove, a municipal corporation

By: _____
John M. Jackson, Jr.
Managing Member

By: _____
It: _____
Date: _____

Date: _____

RECOMMENDED FOR APPROVAL:

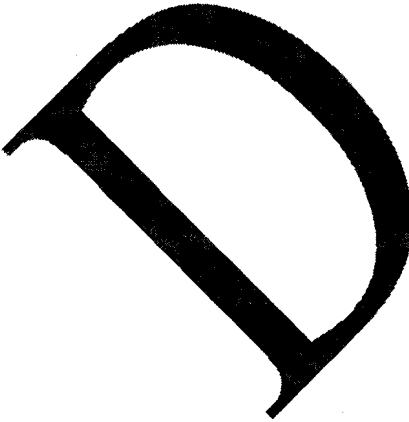
By: _____
Real Property Manager
Date: _____

APPROVED AS TO FORM:

By: _____
Anthony Manzanetti, City Attorney
Date: _____

ATTEST:

By: _____
City Clerk
Date: _____



CONSULT YOUR ADVISORS--This document has been prepared for approval by your attorney. No representation or recommendation is made by Lessor as to the legal sufficiency or tax consequences of this document or the transaction to which it relates. These are questions for your attorney.

In any real estate transaction, it is recommended that you consult with a professional, such as a civil engineer, industrial hygienist or other person, with experience in evaluating the condition of the property, including the possible presence of asbestos, hazardous materials and underground storage tanks.

The following constitutes an Addendum to the Office Building Lease dated September __, 2005, by and between **Jackson II, LLC., a California limited liability company**, as Landlord, and **the City of Elk Grove, a municipal corporation** as Tenant (the "Lease"), covering the Premises located at 9300 West Stockton Boulevard, Elk Grove, California, as shown on Exhibit "A" attached to the Lease. The terms used in this Addendum shall have the same definitions as set forth in the Lease. The provisions of this Addendum shall prevail over any inconsistent or conflicting provisions of the Lease.

38. Base Rent Schedule

Tenant shall pay as Base Rent for the Premises, monthly payments as follows:

<u>Months</u>	<u>Period</u>	<u>Rent</u>
Days 1-12	September 19, 2005 to September 30, 2005	\$1,269.00
Months 1-12	October 1, 2005 to September 30, 2006	\$3,173.00/mo.

39. Sign Criteria

Landlord shall, at Tenant's expense, install suite signs identifying Tenant's Premises, in a location reasonably

41. Services and Utilities (ref. Section 9)

Janitorial services will be provided five (5) nights per week.

Landlord will provide electrical service to the Common Areas (except as to national holidays) during the following hours ("Standard Building Hours"):

Monday through Friday 7:00 a.m. to 6:00 p.m.
Saturday/Sunday: 8:00 a.m. to 12:00 p.m. Saturday

After Hours HVAC shall be billed at the initial rate of \$30 per hour.

42. Environmental Matters

The operations of Tenant shall comply in all respects with all applicable environmental, health, and safety statutes and regulations including without limitation, acts prohibited under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") 42 USC Sections 9601 et. seq. and other federal state and environmental laws.

43. Declaration of Restrictions

Tenant acknowledges that the recorded Declaration of Protective Covenants, Conditions and Restrictions for Laguna East Business Park ("Declaration") establish conditions, covenants, restrictions and easements affecting certain property of which the Building and Project is a part. Tenant hereby agrees to be bound by and promptly comply with all provisions of the Declaration, now in effect or which may hereafter come in to effect, as it relates to Tenant's use and occupancy of the Premises; provided, however, in no event shall Tenant be directly obligated to pay any monetary assessment levied through the Declaration; any such assessment shall be an Operating Cost hereof. .

In the event of Tenant's default in the performance of any obligations required of Tenant under the Declaration, Landlord shall provide Tenant with written notice stating the nature and extent of such default. If at the end of thirty (30) days after receipt of said written notice Tenant has failed to cure such default, then Landlord shall, in addition to all other remedies it may have at law or in equity, have the right to perform such obligation under Declaration on behalf of Tenant and be reimbursed by Tenant the cost thereof, together with late charges as described in Section 13.4 within thirty (30) days of written demand.

44. Option to Extend

At the expiration of the initial term of this Lease, Lessee may extend this Lease for One (1) additional one (1) year period by giving Landlord written notice of its intention to do so at least one hundred and twenty (120) days prior to the expiration of the initial Term. Except as noted herein below to the contrary, said extended term shall be upon all the terms and conditions of this Lease. The extended term shall be subject to the following conditions:

(a) The Base Rent for the extension period commencing October 1, 2007 shall be \$3,252 per month; and

(b) Landlord shall have no obligation to make any alterations or improvements to the Premises.

45. Lease Contingency

This lease and the commencement date shall be contingent upon Landlord's receipt of written notice from LandAmerica Commonwealth regarding its decision not to exercise its Right of First Refusal on Suite 205 on or before _____. In the event LandAmerica Commonwealth does exercise its Right of First Refusal on Suite 205, Landlord shall offer Tenant a different suite in the building, substantially the same size, dimensions and configurations and nature as Suite 205, at the same price per Rentable square foot as this Lease and otherwise on the terms hereof.

LANDLORD: Jackson II, LLC, a California limited liability company

TENANT: City of Elk Grove, a municipal corporation

By: _____
John M. Jackson, Jr.
Managing Member

By: _____
Its: _____
Date: _____

Date: _____

RECOMMENDED FOR APPROVAL:

By: _____
Real Property Manager
Date: _____

APPROVED AS TO FORM:

By: _____
Anthony Manzanetti, City Attorney
Date: _____

ATTEST:

By: _____
City Clerk

Date: _____:

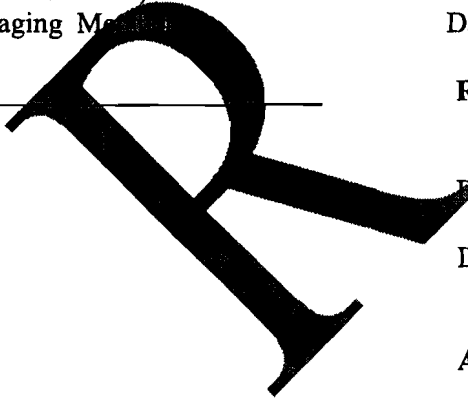


EXHIBIT "A"

Floor Plan
9300 West Stockton Boulevard
Elk Grove, CA 95758

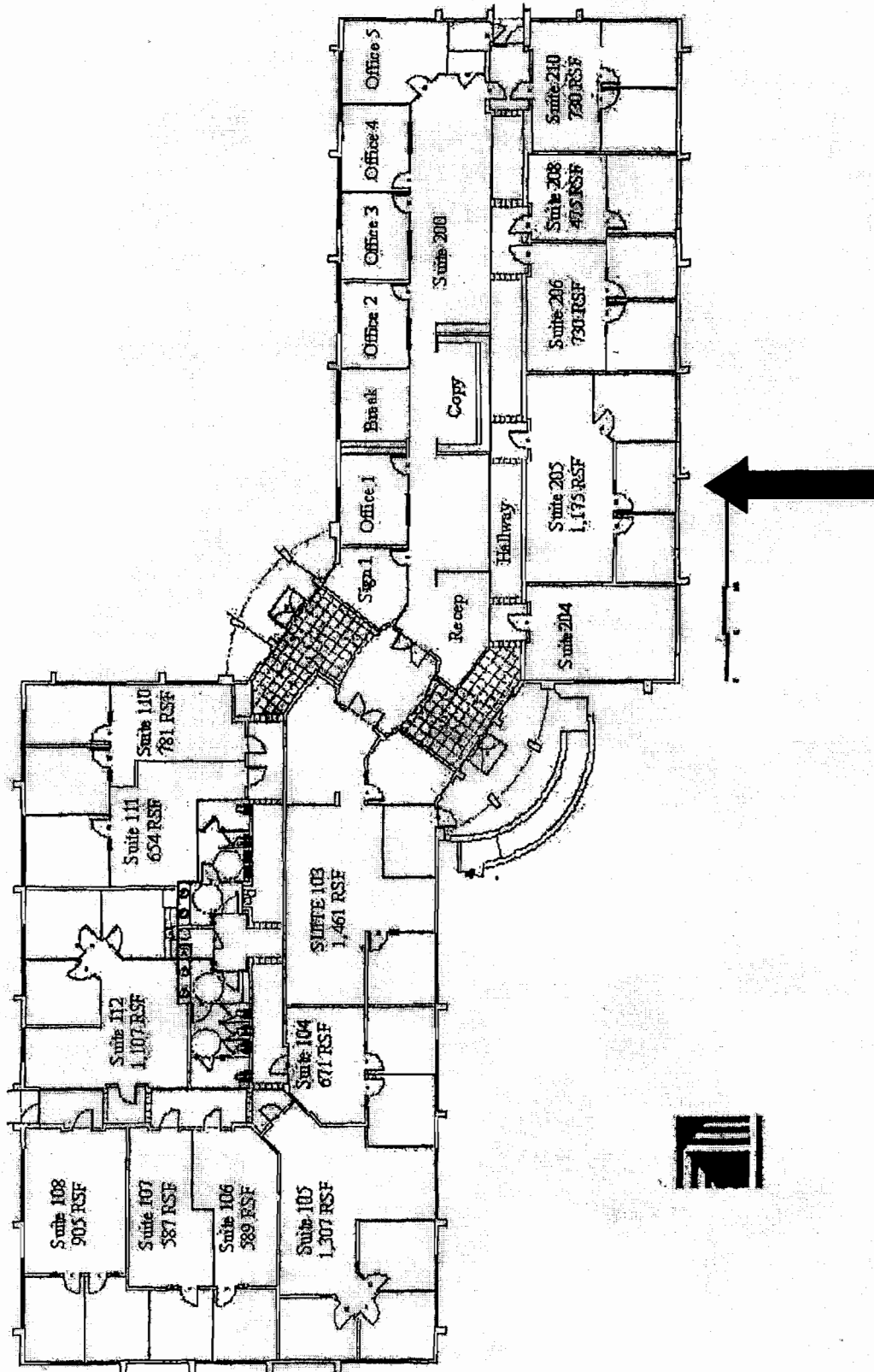


EXHIBIT "B"

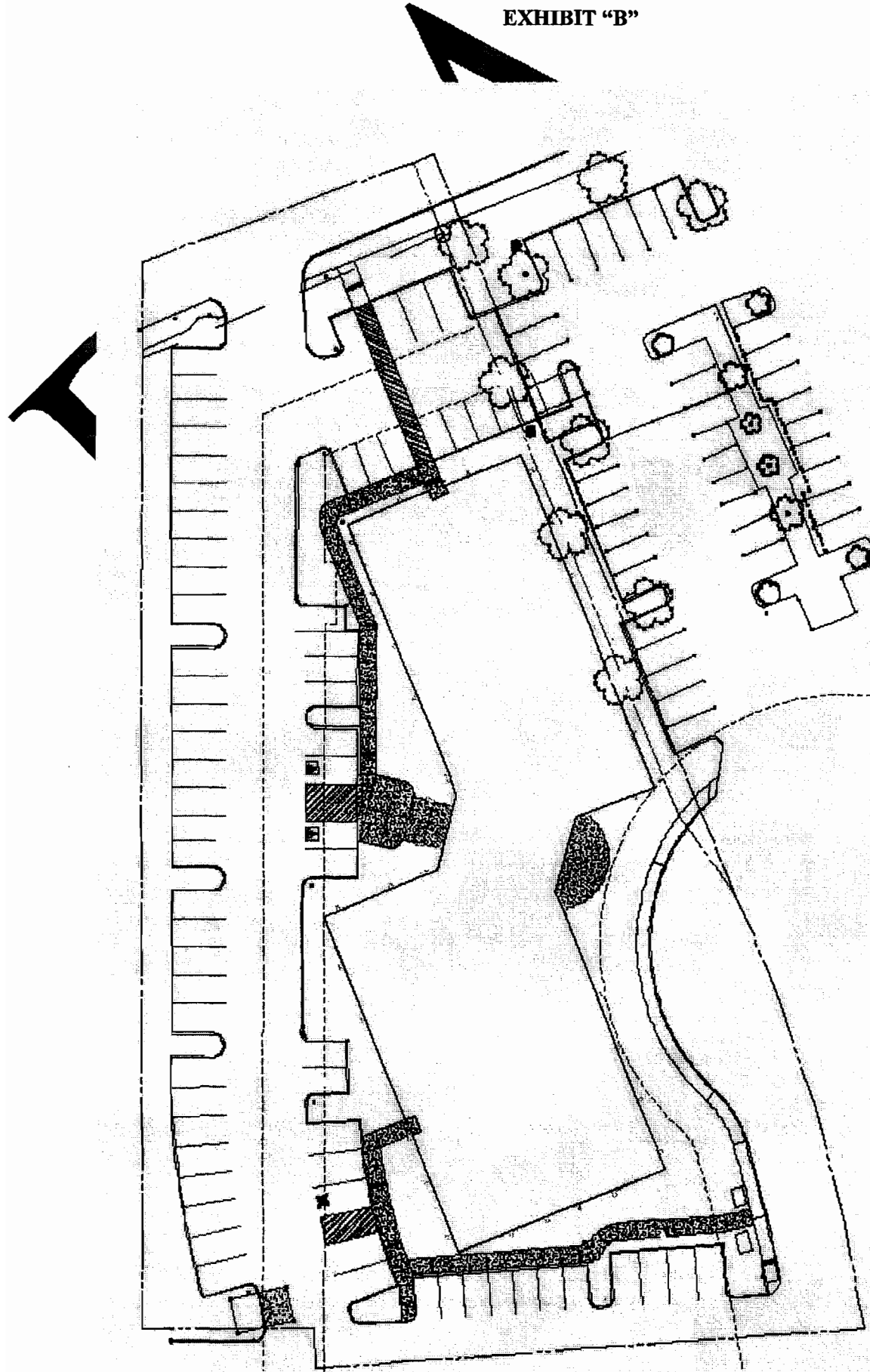


EXHIBIT "C"

RULES AND REGULATIONS

9300 West Stockton Boulevard, Elk Grove, CA

1. Tenant shall not place anything or allow anything to be placed near the glass of any window, door, partition or wall, which may in Landlord's judgment appear unsightly from outside the Premises or from outside the Building.
2. The Building directory located in the Building lobby as provided by Landlord shall be available to Tenant solely to determine names and locations in the Building. The display and the quantity of names to be listed shall be as directed by Landlord.
3. The sidewalks, halls, passages, exits, entrances, elevators and stairways shall not be obstructed by Tenant for any purposes other than ingress to and egress from the Premises. The halls, passages, exits, entrances, elevators, stairways, balconies and roof are not for the use of the general public and the Landlord shall in all cases retain the right to control and prevent access thereto by all persons whose presence in the judgment of Landlord, reasonably exercised, shall be prejudicial to the safety, character, reputation and interests of the Building. Neither Tenant nor any employees or invitees of any Tenant shall go upon the roof of the Building.
4. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purposes other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein, and to the extent caused by Tenant or its employees or invitees, the expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by Tenant.
5. Tenant shall not cause any unnecessary janitorial labor or services by reason of Tenant's carelessness or indifference in the preservation of good order and cleanliness.
6. No cooking shall be done or permitted by Tenant on the Premises, nor shall the Premises be used for lodging.
7. Tenant shall not bring upon, use or keep in the Premises or the Building any kerosene, gasoline or flammable or combustible fluid or material, or use any method of heating or air conditioning other than that supplied by Landlord.
8. Landlord shall have sole power to direct electricians as to where and how telephone and other wires are to be introduced. No boring or cutting for wires is to be allowed without the consent of Landlord. The location of telephones, call boxes and other office equipment affixed to the Premises shall be subject to the approval of Landlord.
9. Upon the termination of the tenancy, Tenant shall deliver to the Landlord all keys and passes for offices, rooms, parking lot and toilet rooms which shall have been furnished by Tenant. In the event of the loss of any keys so furnished, Tenant shall pay the Landlord therefor. Tenant shall not make or cause to be made any such keys and shall order all such keys solely from Landlord and shall pay Landlord for any additional such keys over and above the two sets of keys furnished by Landlord.
10. Tenant shall not install linoleum, tile, carpet or other floor covering so that the same shall be affixed to the floor of the Premises in any manner except as approved by Landlord.
11. No furniture, packages, supplies, equipment or merchandise will be received in the Building, or carried up or down in the freight elevator, if any, except between such hours and in such freight elevator, if any, as shall be designated by the Landlord.
12. Tenant shall cause all doors to the Premises to be closed and securely locked before leaving the Building at the end of the day.
13. Without the prior written consent of Landlord, Tenant shall not use the name of the Building or any picture of the Building in connection with or in promoting or advertising the business of Tenant except Tenant may use

17. Tenant shall not advertise the business, profession or activities of Tenant conducted in the Building in any manner which violates the letter or spirit of a code of ethics adopted by any recognized association or organization pertaining to such business, profession or activities.

18. Tenant shall allow no animals or pets to be kept or to remain in the Premises or any part thereof. Notwithstanding the foregoing, assistance animals may be brought into the Premises.

19. Tenant acknowledges that Building security problems may occur which may require the employment of extreme security measures in the day-to-day operation of the Building.

a. Landlord may at any time, or from time to time, or for regular schedule time periods, as deemed advisable by Landlord and/or its agents, in their sole discretion, require that persons entering or leaving the Building identify themselves to watchmen or other employees designated by Landlord, by registration, identification or otherwise.

b. Landlord may at any time, or from time to time, or for regular scheduled time periods, as deemed advisable by Landlord and/or its agents, in their sole discretion, employ other security measures, such as, but not limited to, the search of all persons, parcels, packages, etc., entering and leaving the Building, searching of the Building, and the denial of access of any person to the Building.

c. Tenant hereby assents to the exercise of the above discretion by Landlord and its agents, whether done acting under reasonable belief of cause or for drills, regardless of whether or not such action shall in fact be warranted and regardless of whether any such action is applied uniformly or is aimed at specific persons whose conduct is deemed suspicious.

d. The exercise of such security measures and the resulting interruption of service and cessation or loss of Tenant's business, if any, shall never be deemed an eviction or disturbance of Tenant's use and possession of the Premises, or any part thereof, or render Landlord liable to Tenant for damages or relieve Tenant from Tenant's obligations under this Lease.

e. Tenant agrees that it and its employees will cooperate fully with Building employees in the implementation of any and all security procedures.

f. Such security measures shall be the sole responsibility of Landlord and Tenant shall have no liability for action taken by Landlord in connection therewith.

20. Tenant, or the employees, agents, servants, visitors or licensees of Tenant, shall not, at any time or place, leave or discard rubbish, paper, articles or objects of any kind whatsoever outside the doors of the Leased Premises or in the corridors or passageways of the Building.

21. Landlord shall have the right to determine and prescribe the weight and proper position of any unusually heavy equipment, including computers, safes, large files, etc., that are to be placed in the Building, and only those which in the exclusive judgment of the Landlord (a) will not do damage to the floors, structure and/or elevators (b) or whose operations will not be detrimental to the Building or use thereof by other tenants, may be moved into the Building. Landlord shall provide Tenant with its determination in writing within ten (10) days after a request from Tenant. Any damage caused by installing, moving or removing such aforementioned articles in the Building shall be paid for by Tenant.

21. The requirements of Tenant will be attended to only upon application at the office of Landlord or its designated agent. Employees of Landlord and service contractors shall not perform any work for tenants outside of their regular duties, unless under special instructions from the office of the Building.

24. Tenant shall have a license during the term of the Lease to use, for its employees, invitees and licensees, parking spaces and facilities provided for the Building by Landlord subject to the parking regulations set forth below and such other limitations and restrictions as Landlord, in its sole discretion, may determine from time to time, including without limitation, controls on the manner in which vehicles are parked, allocation of individual spaces in designated areas for specific license plate numbers or named persons or companies, allocation of visitor only parking, allocation of compact car spaces and the use of parking decals. Tenant and its employees, invitees and licensees shall observe the following parking regulations:

c. **Violations of Regulations.** Any vehicle violating any parking regulations may be impounded and/or removed from the parking facilities at the option of the Landlord and at the expense of the vehicle owner.

d. **Parking Decal or Permit.** Should parking decals or permits be used, no vehicle shall be permitted to park in any portion of the parking areas unless a currently validated parking decal is affixed to the vehicle in the manner prescribed by the Landlord or unless the vehicle driver is in possession of a temporary parking permit. Parking decals shall be issued only to Tenants and employees of Tenants and shall be valid only while Tenant is not in default under the Lease. Decals shall be validated only by Landlord or its agent.

e. **Employee List.** On a request by Landlord, Tenant shall furnish Landlord with information related to parking control, including without limitation, the names of its employees, licensees or invitees who are authorized by Tenant to have parking privileges, license numbers and vehicle descriptions of such persons, and such other information as Landlord may request.

f. **Loss of Parking Privileges.** Landlord may, at its option, terminate or restrict parking privileges for Tenant and its employees, licensees or invitees based upon a breach by such persons of the rules and regulations applicable to parking, and such termination or restriction shall not constitute an actual or constructive eviction nor entitle Tenant to any abatement or diminution in Basic Rent or Additional Charges.

22. Landlord reserves the right to modify, amend or rescind any of these Rules and Regulations of the Building, and to make such other and further rules and regulations as in its judgment shall from time to time be needed for the safety, protection, care and cleanliness of the Building, the Premises, the preservation of good order therein and the protection and comfort of the tenants in the Building and their agents, employees and invitees, which rules and regulations when modified, amended or made and written notice thereof is given to Tenant, shall be binding upon Tenant in like manner as if originally herein prescribed.