

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number
25-175

ORIGINAL

SAP Number

Real Estate Services Department

Department Contract Representative Telephone Number	<u>Real Estate Services Department</u> <u>Terry W. Thompson</u>
Contractor	<u>KB Tri-City II MT, LLC, a Delaware limited liability company</u>
Contractor Representative Telephone Number	<u>Jeff Pori, Chief Executive Officer</u> <u>909-974-4064</u>
Contract Term	<u>10 Years</u>
Original Contract Amount	<u>\$22,504,913.06</u>
Amendment Amount	<u> </u>
Total Contract Amount	<u>\$22,504,913.06</u>
Cost Center	<u>7810001000</u>
GRC/PROJ/JOB No.	<u>7400 4479</u>
Internal Order No.	<u> </u>
Grant Number (if applicable)	<u> </u>

Briefly describe the general nature of the contract: Lease Agreement for San Bernardino County (County) to lease approximately 59,018 square feet of office space from KB Tri-City II MT, LLC, a Delaware limited liability company located at 862 East Hospitality Lane in San Bernardino. The term of the lease is for 10 years, commencing the later of (i) substantial completion of the tenant improvements; or (ii) the County's receipt of a Certificate of Occupancy obtained by KB Tri-City II MT, LLC, a Delaware limited liability company, and expiring 10 years later with one five-year option to extend. The County shall have the option to purchase the property beginning at the third year of the lease term at a fair market value price and the County has the first right of refusal as to any other parties who may express an interest in purchasing the property.

FOR COUNTY USE ONLY

<p>Approved as to Legal Form</p> <p>► <u>Please see signature page</u> John Tubbs II, Deputy County Counsel</p> <p>Date _____</p>	<p>Reviewed for Contract Compliance</p> <p>► _____</p> <p>Date _____</p>	<p>Reviewed/Approved by Department</p> <p>► <u>Lyle Ballard</u> Lyle Ballard, Real Property Manager, RESD</p> <p>Date <u>3/11/25</u></p>
---	--	--

OFFICE LEASE

This Office Lease (the "**Lease**"), dated as of the date set forth in Section 1 of the Summary of Basic Lease Information (the "**Summary**"), below, is made by and between **KB Tri-City II MT, LLC, a Delaware limited liability company** ("**Landlord**"), and **SAN BERNARDINO COUNTY** ("**Tenant**" and also referred to as "**County**").

SUMMARY OF BASIC LEASE INFORMATION

<u>TERMS OF LEASE</u>	<u>DESCRIPTION</u>
1. Date:	_____, 2025
2. Premises:	
2.1 Building:	That certain three (3) story office building (the "Building") containing One Hundred Five Thousand Three Hundred Twenty-Seven (105,327) rentable square feet and Ninety-Four Thousand Seven Hundred Twenty-Five (94,725) usable square feet of space, commonly known as Brier Corporate Center, having a street address of 862 East Hospitality Lane, San Bernardino, California (the "Project").
2.2 Premises:	Approximately Fifty-Nine Thousand Eighteen (59,018) rentable square feet of floor space and Fifty-three Thousand Seven Hundred Fifty-Five (53,755) of usable floor space located on the first, second and third floors of the Building and currently consisting of Suites 100, 150, 200 and 325, as further set forth in Exhibit A to this Lease and the finalized architectural space plans.
3. Lease Term (Article 2) and Associated Grant of Rights to Tenant:	
3.1 Length of Lease Term/Extension:	Ten (10) years. Tenant is granted one (1) option to extend the Lease term for five (5) years in accordance with Section 30 within the attached Addendum.
3.2 Lease Commencement/Expiration Date:	The Lease shall commence, and rental obligations shall begin being paid on the later of (i) substantial completion of the Tenant Improvements; or (ii) the Tenant's receipt of a Certificate of Occupancy obtained by Landlord (temporary or permanent). The Lease shall expire (unless timely extended) ten years after the Lease Commencement Date, plus any partial month up to the end of the month in which the Lease Commencement Date occurs (if not on the first of the month). Landlord estimates that the "Estimated Lease Commencement Date" is approximately, _____ 2025.
3.3 Early Access:	Tenant may have access to the Premises at no cost to Tenant prior to the Lease Commencement Date at any time to install communication equipment, furniture, fixtures, alarms, and such other items as Tenant may

desire, and to manage the build-out of the Tenant Improvements, provided that such access shall not interfere with, or delay the build-out of the Tenant Improvements. (See Section 2.3 below)

- 3.4 Extension Option: One (1) right to extend the Initial Term of the Lease for a period of five (5) years from the expiration of the Lease Term (see Section 30 within the Addendum attached).
- 3.5 Purchase Option/ROFR: Tenant shall have the limited right to purchase the Project in accordance with Section 32 of the Addendum attached hereto. Tenant shall also have a Right of First Refusal for the Purchase of the Project in accordance with the terms within Section 33 of the attached Addendum. Concurrent with the execution of this Lease, Tenant shall pay a \$100.00 option fee to Landlord as and for the Purchase Option granted herein.
- 3.6 Rights of First Offer to Lease Space: Tenant shall have the right to lease space within the Building as it becomes available during the Lease term in accordance with the terms reflected in Section 31 of the Addendum attached hereto.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK].

4. Base Rent
(Article 3):

4.1 Amount Due:

The Base Rent for the Term shall be payable monthly in accordance with the following schedule:

<u>Lease Period</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent per square foot (rounded)</u>	<u>Monthly Base Rent**</u>
Months 1* through 12	\$1,558,075.20	\$2.20	\$129,839.60
Months 13 through 24	\$1,604,817.46	\$2.27	\$133,734.79
Months 25 through 36	\$1,652,961.98	\$2.33	\$137,746.83
Months 37 through 48	\$1,702,550.84	\$2.40	\$141,879.24
Months 49 through 60	\$1,753,627.36	\$2.48	\$146,135.61
Months 61 through 72	\$1,806,236.19	\$2.55	\$150,519.68
Months 73 through 84	\$1,860,423.27	\$2.63	\$155,035.27
Months 85 through 96	\$1,916,235.97	\$2.71	\$159,686.33
Months 97 through 108	\$1,973,723.05	\$2.79	\$164,476.92
Months 109 through 120	\$2,032,934.74	\$2.87	\$169,411.23

* "Month 1" shall include the first (1st) full calendar month of the Lease Term, plus any partial month in which the Lease Commencement Date occurs, with Base Rent for such partial month being prorated in accordance with Article 3 below.

** Additional Rent shall also be payable with Base Rent as referenced in Article 4 of this Lease.

4.2 Rent Payment Address:

For electronic payments:

Bank Name: PNC Bank
 ABA Routing# (ACH): 043000096
 Account#: 1069920133
 Account Name: KB Tri-City II MT, LLC

For payments sent by US Postal Service Mail:

KB Tri-City II MT, LLC
PO Box 31001-2685
Pasadena, CA 91110-2685

For payments sent via express services:

Lockbox Services:

PNC Bank c/o KB Tri-City II MT, LLC
Lockbox Number 912685
465 North Halstead St, Suite 160
Pasadena, CA 91107

Payments shall be made electronically to the extent practical.

5. Base Year (Article 4): Calendar year 2025.
6. Permitted Use (Article 5): General office and administration use for San Bernardino County only. Tenant acknowledges and agrees that any use by the San Bernardino County Probation Department shall not include administration requiring on-site visits of probationers. The use shall be consistent with first-class office buildings in the vicinity of the Building, and to the extent permitted by Laws and the Development CC&R's and not prohibited by any other lease existing as of the date of this Lease for any portion of the Project.
7. Parking Pass Ratio (Article 28): Four unreserved parking passes for every 1,000 rentable square feet of the Premises, which equals 237 parking passes.
8. Address of Tenant (Section 29.18): San Bernardino County
Attn: Real Estate Services Department
385 N. Arrowhead Avenue, Third Floor
San Bernardino, CA 92415
9. Address of Landlord (Section 29.18): c/o National Asset Services, Inc.
Attn: Karen Kennedy or Shirlee Kingsley
5901 West Century Boulevard, Suite 1230
Los Angeles, CA 90045
- With a copy to: Kingsbarn Real Estate Capital, LLC
Attn: General Counsel
11622 El Camino Real, 1st Floor
Del Mar, CA 92130
10. Broker(s) (Section 29.24): Newmark, John Ewart (for Landlord)
N/A (for Tenant)
11. Additional Insureds (Section 10.4): Landlord, National Asset Service, Inc., KB Property Advisors, LLC and such other parties as Landlord shall designate.

12. Tenant Improvements
(See Section 2 of **Exhibit B**):

Landlord shall cause to be constructed by its contractor the Tenant Improvements (as defined in Exhibit "B"), with Tenant providing all costs for all Tenant Improvements to be funded by Tenant to an escrow as referenced in Exhibit "B" attached hereto.

ARTICLE 1

PREMISES, BUILDING, PROJECT, AND COMMON AREAS

1.1 Premises, Building, Project and Common Areas.

1.1.1 **The Premises.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises set forth in Section 2.2 of the Summary (the "**Premises**"). The parties hereto agree that the lease of the Premises is upon and subject to the terms, covenants and conditions herein set forth, and each party covenants as a material part of the consideration for this Lease to keep and perform each and all of such terms, covenants and conditions by it to be kept and performed and that this Lease is made upon the condition of such performance. The parties hereto hereby acknowledge that the purpose of **Exhibit A** is to show the approximate location of the Premises in the "Building," as that term is defined in Section 1.1.2, below, only, and such Exhibit is not meant to constitute an agreement, representation or warranty as to the construction of the Premises, the precise area thereof or the specific location of the "Common Areas," as that term is defined in Section 1.1.3, below, or the elements thereof or of the accessways to the Premises or the "Project", as that term is defined in Section 1.1.2, below.

1.1.2 **The Building and The Project.** The Premises will be a part of the building set forth in Section 2.1 of the Summary (the "**Building**"). The term "**Project**," as used in this Lease, shall mean (i) the Building, the buildings shown on **Exhibit A-1** attached hereto and the Common Areas, (ii) the land (which is improved with landscaping, parking facilities and other improvements) upon which the Building, the other buildings described above and the Common Areas are located, and (iii) at Landlord's discretion, subject to the conditions set forth in Section 1.1.3, below, any additional real property, areas, land, buildings or other improvements added thereto outside of the Project. The Project is part of a development known as "Tri-City Corporate Centre," and may be subject to certain "Development CC&R's," as that term is defined in Section 29.33 below. The Building is part of that certain portion of the Project commonly known as Association 3, as depicted on **Exhibit A-2** attached hereto.

1.1.3 **Common Areas.** Tenant shall have the non-exclusive right to use in common with other tenants in the Project, and subject to the rules and regulations referred to in Article 5 of this Lease and the Development CC&R's (if any), those portions of the Project which are provided, from time to time, for use in common by Landlord, Tenant and any other tenants of the Project (collectively, the "**Common Areas**"). The manner in which the Building, Project and Common Areas are maintained and operated shall be at the reasonable discretion of Landlord and the use thereof shall be subject to such rules, regulations and restrictions as Landlord may make from time to time (including, without limitation, rules regulations or restrictions contained in or promulgated under the Development CC&R's, if any), provided that in no event shall any new rules, regulations or restrictions promulgated by Landlord materially and adversely affect either Tenant's use of the Premises for the Permitted Use or Tenant's access to the Premises. Landlord reserves the right to close temporarily, make alterations or additions to, or change the location of elements of the Project and the Common Areas, provided that such alterations, additions or changes would not be inconsistent with the operation of the Project as a first-class office project; and further provided that, Landlord shall use commercially reasonable efforts to perform such closures, alterations, additions or changes in a manner which does not materially and adversely affect Tenant's use of the Premises for the Permitted Use or Tenant's access to the Premises. Subject to the terms of this Lease and such reasonable access control as Landlord may from time to time determine, Tenant shall have access to the Premises, the Building and the parking facilities for the Project twenty-four (24) hours per day, seven (7) days per week, during the Lease Term.

1.1.4 **Main Building Lobby.** As part of the Tenant Improvements, Tenant shall be entitled to install and maintain in the main lobby of the Building (the "**Lobby**") a metal detector (the "**Detector**") and line of sight visitor/ tenant verification upon entry to the Building. Tenant shall at all times during the use of the Detector provide trained/certified security personnel to administer to the use thereof and to screen personnel entering the Building. Tenant's security area shall be administered in a manner so as to create the least amount of intrusion and delay to Building access (the "**Intrusion**") to other tenants and their invitees into the Building. Landlord may at any time adopt reasonable rules and regulations to minimize Intrusion to other tenants in the Building, taking into consideration the security requirements and concerns of the Tenant. Such rules may include the issuance of security passes to other tenants and their invitees to minimize Intrusion. Landlord shall reasonably approve of all fixtures and equipment being installed in the main lobby area (the "**Security Improvements**") later requested by Tenant after the installation of the Tenant Improvements. All costs and expenses relating to the Tenant's use of the Lobby, inclusive

of, but not limited to, personnel administration and the maintenance, repair and replacement of the Security Improvements within the Lobby, shall be at Tenant's sole cost and expense. Landlord's grant of use of the Lobby area shall not be exclusive to the Tenant, as other tenants, Landlord and their invitees shall have equal access to same. Tenant agrees that notwithstanding the Lobby being Common Area of the Building, Tenant shall indemnify, defend and hold harmless the Landlord (as required under Section 10.1 herein) and all Landlord Parties from any and all claims, damages, attorneys fees and costs, or expenses, inclusive of any claims for death, injury, breach of privacy (the "**Tenant's Indemnity**") arising from the Tenant's use, operation and activities taking place within the Lobby area, the placement or use of Camera Surveillance, or exclusive use of the North Lot areas by Tenant. In no event shall the Security Improvements restrict access to the Building to other tenants and their invitees at hours in which Tenant's personnel are not present within the Building Lobby.

1.1.5 **Camera Surveillance.** As part of the Tenant Improvements being installed for Tenant's benefit, Tenant shall provide Landlord a plan for the placement of surveillance cameras on the exterior and interior of the Building (the "**Cameras**"), as well as in the parking areas to be used by Tenant and its employees. Landlord shall reasonably approve or reject the plan or parts thereof, which plan shall depict the location and manner of placement of such cameras in areas requested by Tenant. Any camera placement not approved of as part of the Tenant Improvements shall require Tenant to provide Landlord a plan for Landlord's consideration, which plan, or portions thereof may be reasonably rejected by Tenant. All costs and expenses relating to the Tenant's use or placement, repair, maintenance and replacement of the Cameras shall be at Tenant's sole cost and expense.

1.1.6 **North Parking Lot.** Subject to the approval of the Tri-City Corporate Center's Owners Association, and as part of the Tenant Improvements, Tenant shall be granted exclusive access to the North parking area depicted on **Exhibit "A"** hereto (the "**North Lot**"). Tenant's use thereof shall be exclusive to Tenant and Landlord shall have no obligation to maintain, repair or replace any improvements within the North Lot boundaries, and Tenant shall bear all cost of association dues for such area, the repair, maintenance and replacement of all improvements in the North Lot, inclusive of but no limited to landscaping, porter services, pest control, paving, striping, curbing and all other improvements within the North Lot boundaries (collectively, the "**North Lot Expenses**"). Further, Tenant's Indemnity shall apply to any claims arising within, or in connection to the North Lot. Landlord shall bear no liability, cost or expense to Tenant for any judicial challenge to the exclusive use of the North Lot by Tenant by any party, inclusive of other tenants in the Building.

1.2 **Rentable and Usable Square Feet of Premises and Building.** For purposes of this Lease, the term "usable area," "usable square footage" or "usable square feet" means the usable area as determined substantially in accordance with the Standard Method for Measuring Floor Area in Office Buildings, ANSI/BOMA Z65.1 – 2010 and accompanying guidelines (the "**BOMA Standard**"); and the term "rentable area," "rentable square footage" or "rentable square feet" means the rentable area measured substantially in accordance with the BOMA Standard. For purposes of this Lease, "rentable square feet" and "usable square feet" of the Premises shall be stipulated to be as set forth in Section 2.2 of the Summary and the "rentable square feet" and "usable square feet" of the Building shall be stipulated to be as set forth in Section 2.1 of the Summary.

1.3 **Condition of the Premises.** Except as specifically set forth in this Lease and in the Tenant Work Letter attached hereto as **Exhibit B** (the "**Tenant Work Letter**"), Tenant shall accept the Premises and the Building, including the base, shell, and core of (i) the Premises and (ii) the floor of the Building on which the Premises is located (collectively, the "**Base, Shell, and Core**") in their "AS-IS" condition as of the Lease Commencement Date and Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Premises. Tenant also acknowledges that Landlord has made no representation or warranty regarding the condition of the Premises, the Building or the Project or with respect to the suitability of any of the foregoing for the conduct of Tenant's business, except as specifically set forth in this Lease and the Tenant Work Letter. The taking of possession of the Premises by Tenant shall conclusively establish that the Premises and the Building were at such time in good and sanitary order, condition and repair.

ARTICLE 2

LEASE TERM

2.1 **Lease Term.** The terms and provisions of this Lease shall be effective as of the date this Lease is fully executed ("Effective Date") except for the provisions of this Lease relating to the payment of Rent. The term of this Lease (the "Lease Term") shall be as determined in accordance with Section 3.1 of the Summary, shall commence on the date determined in accordance with Section 3.2 of the Summary (the "Lease Commencement Date"), and shall terminate on the date determined in accordance with Section 3.2 of the Summary (the "Lease Expiration Date") unless this Lease is sooner terminated as hereinafter provided. For purposes of this Lease, the term "Lease Year" shall mean each consecutive twelve (12) calendar month period during the Lease Term **provided that the first Lease Year shall include the partial month in which the Lease Commencement Date occurs and the subsequent twelve (12) full calendar months.** This Lease shall not be void, voidable or subject to termination, nor shall Landlord be liable to Tenant for any loss or damage, resulting from Landlord's inability to deliver the Premises to Tenant by any particular date. At any time during the Lease Term, Landlord may deliver to Tenant a notice in the form as set forth in **Exhibit C**, attached hereto, as a confirmation only of the information set forth therein, which Tenant shall execute and return to Landlord within five (5) days of receipt thereof.

2.2 **Option Term.** See Section 30 within the Addendum attached.

2.3 **Early Entry.** Notwithstanding the fact that the Lease Term has not commenced, Landlord agrees to permit Tenant to enter the Premises up to thirty (30) days prior to the Lease Commencement Date in order to commence the installation of equipment and personal property and at any time to oversee construction of the Tenant Improvements. Such entry shall be subject to all of the terms and conditions set forth in this Section 2.3. Such early entry is conditioned upon Tenant and Tenant's Parties (as defined in Section 5.3 below) working in harmony and not interfering with Landlord and its contractors and Landlord may immediately terminate such early entry in the event of any such interference. Tenant agrees that any such early entry is subject to all of the terms and conditions of this Lease, except for those relating to the payment of Rent, which provisions will become applicable in accordance with the terms of this Lease. Without limiting the generality of the foregoing, such early occupancy shall be conditioned upon Tenant first delivering to Landlord the insurance certificates described in Article 10 below, and for the avoidance of doubt, Tenant shall be specifically bound by the terms of Articles 5 and 10 during such early entry period.

ARTICLE 3

BASE RENT

Tenant shall pay, without prior notice or demand, to Landlord or Landlord's agent at the address set forth in Section 4.2 of the Summary, or, at Landlord's option, at such other place as Landlord may from time to time designate by delivering written notice to Tenant at Tenant's notice address as set forth herein, by a check or wire transfer for currency which, at the time of payment, is legal tender for private or public debts in the United States of America, base rent ("**Base Rent**") as set forth in Section 4 of the Summary, payable in equal monthly installments as set forth in Section 4 of the Summary in advance on or before the first day of each and every calendar month during the Lease Term, without any setoff or deduction whatsoever. The Base Rent for the first full month of the Lease Term shall be paid at the time of Tenant's execution of this Lease. If any Rent payment date (including the Lease Commencement Date) falls on a day of the month other than the first day of such month or if any payment of Rent is for a period which is shorter than one month, the Rent for any fractional month shall accrue on a daily basis for the period from the date such payment is due to the end of such calendar month or to the end of the Lease Term at a rate per day which is equal to 1/365 of the applicable annual Rent. All other payments or adjustments required to be made under the terms of this Lease that require proration on a time basis shall be prorated on the same basis.

ARTICLE 4

ADDITIONAL RENT

4.1 **General Terms.** In addition to paying the Base Rent specified in Article 3 of this Lease and all North Lot Expenses, Tenant shall pay "Tenant's Share" of the annual "Operating Expenses" and "Tax Expenses," as those terms are defined in Section 4.2 of this Lease, which are in excess of the amount of Operating Expenses and Taxes Expenses applicable to the "Base Year," as that term is defined in Section 4.2.1 (the "**Excess Expense Recapture**"), below; provided, however, that in no event shall any decrease in Operating Expenses and/or Tax Expenses for any Expense Year below Operating Expenses and/or Tax Expenses, as applicable, for the Base Year entitle Tenant to any decrease in Base Rent or any credit against sums due under this Lease. Such payments by Tenant, together with any and all other amounts payable by Tenant to Landlord or Landlord's property manager pursuant to the terms of this Lease, are hereinafter collectively referred to as the "**Additional Rent**," and the Base Rent and the Additional Rent are herein collectively referred to as "**Rent**." All amounts due under this Article 4 as Additional Rent shall be payable for the same periods and in the same manner as the Base Rent. Without limitation on other obligations of Tenant which survive the expiration of the Lease Term, the obligations of Tenant to pay the Additional Rent provided for in this Article 4 shall survive the expiration of the Lease Term.

4.2 **Definitions of Key Terms Relating to Additional Rent.** As used in this Article 4, the following terms shall have the meanings hereinafter set forth:

4.2.1 "**Base Year**" shall mean the period set forth in Section 5 of the Summary.

4.2.2 "**Direct Expenses**" shall mean collectively, "Operating Expenses" and "Tax Expenses."

4.2.3 "**Expense Year**" shall mean each calendar year in which any portion of the Lease Term falls, through and including the calendar year in which the Lease Term expires.

4.2.4 "**Operating Expenses**" shall mean all expenses, costs and amounts of every kind and nature which Landlord pays or accrues during any Expense Year because of or in connection with the ownership, management, maintenance, security, repair, replacement, restoration or operation of the Project, or any portion thereof; provided, however, Operating Expenses shall not include Tax Expenses. Without limiting the generality of the foregoing, Operating Expenses shall specifically include any and all of the following: (i) the cost of supplying all utilities, the cost of operating, repairing, maintaining, and renovating the utility, telephone, mechanical, sanitary, storm drainage, and elevator systems, and the cost of maintenance and service contracts in connection therewith; (ii) the cost of licenses, certificates, permits and inspections and the cost of contesting any governmental enactments which may affect Operating Expenses; (iii) the cost of all insurance carried by Landlord or the property manager of Landlord in connection with the Project in such amounts as Landlord may reasonably determine or as may be required by the Development CC&R's, if applicable, any mortgagees or the lessor of any underlying or ground lease affecting the Project and/or the Building; (iv) the cost of landscaping, relamping, all supplies, tools, equipment and materials used in the operation, repair and maintenance of the Project, or any portion thereof; (v) costs incurred in connection with the parking areas servicing the Project; (vi) fees and other costs, including management fees (which is hereby acknowledged to be reasonable), consulting fees, legal fees and accounting fees, of all contractors and consultants in connection with the management, operation, maintenance or security of the Project, and employer's Social Security taxes, unemployment taxes or insurance, and any other taxes which may be levied on such wages, salaries, compensation and benefits; provided, that if any employees of Landlord or its property manager provide services for more than one project, then a prorated portion of such employees' wages, benefits and taxes shall be included in Operating Expenses based on the portion of their working time devoted to the Project; (vii) payments under any equipment rental agreements and the fair rental value of any management office space and the cost of furnishings in such management office space; (viii) wages, salaries and other compensation and benefits, including taxes levied thereon, of all persons engaged in the operation, maintenance and security of the Project; (ix) costs under any instrument pertaining to the sharing of costs by the Project; (x) operation, repair, maintenance and replacement of all systems and equipment and components thereof of the Building; (xi) the cost of all janitorial services (limited to those services referenced in Exhibit "E"), alarm, security and other services, replacement of wall and floor coverings, ceiling tiles and fixtures in common areas, maintenance and replacement of curbs and walkways, repair to roofs;

(xii) amortization (including interest on the unamortized cost) of the cost of acquiring or the rental expense of personal property used in the maintenance, operation and repair of the Project, or any portion thereof; (xiii) the cost of capital improvements or other costs incurred in connection with the Project (A) which are intended to effect economies in the operation or maintenance of the Project, or any portion thereof, or (B) that are required under any governmental law or regulation; provided, however, that any capital expenditure shall be amortized with interest over the lesser of its useful life or, if applicable, the period of time in which the savings from such capital expenditure is equal to or greater than the cost of the capital expenditure, as Landlord shall reasonably determine; (xiv) costs, fees, charges or assessments imposed by, or resulting from any mandate imposed on Landlord by, any federal, state or local government for fire and police protection, trash removal, community services, or other services which do not constitute "Tax Expenses" as that term is defined in Section 4.2.5, below; and (xv) payments under any easement, license, operating agreement, declaration, restrictive covenant, or instrument pertaining to the sharing of costs by the Building (collectively, "CC&R Payments").

If Landlord is not furnishing any particular work or service (the cost of which, if performed by Landlord, would be included in Operating Expenses) to a tenant who has undertaken to perform such work or service in lieu of the performance thereof by Landlord, Operating Expenses shall be deemed to be increased by an amount equal to the additional Operating Expenses which would reasonably have been incurred during such period by Landlord if it had at its own expense furnished such work or service to such tenant. If the Project is not at least one hundred percent (100%) occupied during all or a portion of the Base Year or any Expense Year, Landlord may elect to make an appropriate adjustment to the components of Operating Expenses for such year to determine the amount of Operating Expenses that would have been incurred had the Project been one hundred percent (100%) occupied; and the amount so determined shall be deemed to have been the amount of Operating Expenses for such year. Only as provided in items (1) and (2) below, in the event Landlord incurs costs or expenses associated with or relating to separate items or categories or subcategories of Operating Expenses which were not part of Operating Expenses during the entire Base Year, Operating Expenses for the Base Year shall be deemed increased by the amounts Landlord would have incurred during the Base Year with respect to such costs and expenses had such separate items or categories or subcategories of Operating Expenses been included in Operating Expenses during the entire Base Year. The foregoing shall only apply as follows: (1) in the event any portion of the Project is covered by a warranty at any time during the Base Year, Operating Expenses for the Base Year shall be deemed increased by such amount as Landlord would have incurred during the Base Year with respect to the items or matters covered by the subject warranty, had such warranty not been in effect at the time during the Base Year; and (2) any insurance premium resulting from any new forms of insurance including earthquake insurance shall be deemed to be included in Operating Expenses for the Base Year.

Operating Expenses shall not, however, include: (A) except as otherwise specifically provided in this Section 4.2.4, to the extent Landlord is reimbursed by insurance proceeds, the costs of repairs or other work occasioned by fire, windstorm or other casualty (other than those amounts within the deductible limits of insurance policies actually carried by Landlord, which amounts shall be includable as Operating Expenses so long as such deductibles are within the generally prevailing range of deductibles to policies carried by landlords of comparable first-class office buildings located in the vicinity of the Building); (B) costs of leasing commissions, attorneys' fees and other costs and expenses incurred in connection with negotiations or disputes with present or prospective tenants or other occupants of the Building; (C) except as otherwise specifically provided in this Section 4.2.4, costs incurred by Landlord in the repairs, capital additions, alterations or replacements made or incurred to rectify or correct defects in design, materials or workmanship in connection with any portion of the Building; (D) costs (including permit, license and inspection costs) incurred in renovating or otherwise improving, decorating or redecorating usable space for other tenants or vacant usable space; (E) cost of utilities or services sold to Tenant or others for which Landlord is entitled to and actually receives reimbursement (other than through any operating cost reimbursement provision identical or substantially similar to the provisions set forth in this Lease); (F) except as otherwise specifically provided in this Section 4.2.4, costs incurred by Landlord for alterations to the Building which are considered capital improvements and replacements under sound real estate management principles, consistently applied; (G) costs of depreciation and amortization, except on materials, small tools and supplies purchased by Landlord to enable Landlord to supply services Landlord might otherwise contract for with a third party, where such depreciation and amortization would otherwise have been included in the charge for such third party services, all as determined in accordance with sound real estate management principles, consistently applied; (H) costs of services or other benefits which are not available to Tenant but which are provided to other tenants of the Building; (I) costs incurred due to the violation by Landlord or any other tenant of the terms and conditions of any lease of space in the Building; (J) except as otherwise specifically provided in this Section 4.2.4, costs of interest on debt or amortization on any mortgages, and rent and other charges, costs and expenses

payable under any mortgage, if any; (K) costs of any compensation and employee benefits paid to clerks, attendants or other persons in a commercial concession operated by Landlord, except the parking facilities for the Project; (L) costs of rentals and other related expenses incurred in leasing HVAC, elevators or other equipment ordinarily considered to be of a capital nature except equipment which is used in providing janitorial or similar services and which is not affixed to the Building; (M) costs of advertising and promotion; and (N) costs of electrical power for which Tenant directly contracts with and pays a local public service company.

4.2.5 Taxes.

4.2.5.1 "Tax Expenses" shall mean all federal, state, county, or local governmental or municipal taxes, fees, charges or other impositions of every kind and nature, whether general, special, ordinary or extraordinary, (including, without limitation, real estate taxes, general and special assessments, transit taxes, leasehold taxes or taxes based upon the receipt of rent, including gross receipts or sales taxes applicable to the receipt of rent, unless required to be paid by Tenant, personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, systems and equipment, appurtenances, furniture and other personal property used in connection with the Project, or any portion thereof), which shall be paid or accrued during any Expense Year (without regard to any different fiscal year used by such governmental or municipal authority) because of or in connection with the ownership, leasing and operation of the Project, or any portion thereof, unless Tenant is exempt from said taxes by virtue of its existence as a government entity and as a result thereof, Landlord likewise benefits from the exemption (a "Tax Exemption"). Tax Expenses are separate from and in addition to Operating Expenses.

4.2.5.2 Tax Expenses shall include, without limitation, unless a Tax Exemption is applicable, any assessment, tax, fee, levy or charge in addition to, or in substitution, partially or totally, of any assessment, tax, fee, levy or charge previously included within the definition of real property tax, it being acknowledged by Tenant and Landlord that Proposition 13 was adopted by the voters of the State of California in the June 1978 election ("**Proposition 13**") and that assessments, taxes, fees, levies and charges may be imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, refuse removal and for other governmental services formerly provided without charge to property owners or occupants, and, in further recognition of the decrease in the level and quality of governmental services and amenities as a result of Proposition 13, Tax Expenses shall also include any governmental or private assessments or the Project's contribution towards a governmental or private cost-sharing agreement for the purpose of augmenting or improving the quality of services and amenities normally provided by governmental agencies.

4.2.5.3 Any costs and expenses (including, without limitation, reasonable attorneys' fees) incurred in attempting to protest, reduce or minimize Tax Expenses shall be included in Tax Expenses in the Expense Year such expenses are paid. Except as set forth in Section 4.2.5.4, below, refunds of Tax Expenses shall be credited against Tax Expenses and refunded to Tenant regardless of when received, based on the Expense Year to which the refund is applicable, provided that in no event shall the amount to be refunded to Tenant for any such Expense Year exceed the total amount paid by Tenant as Additional Rent under this Article 4 for such Expense Year. If Tax Expenses for any period during the Lease Term or any extension thereof are increased after payment thereof for any reason, including, without limitation, error or reassessment by applicable governmental or municipal authorities, Tenant shall pay Landlord upon demand Tenant's Share of any such increased Tax Expenses included by Landlord as Tax Expenses pursuant to the terms of this Lease. Notwithstanding anything to the contrary contained in this Section 4.2.5 (except as set forth in Section 4.2.5.1, above), there shall be excluded from Tax Expenses (i) all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, and other taxes to the extent applicable to Landlord's general or net income (as opposed to rents, receipts or income attributable to operations at the Project), (ii) any items paid by Tenant under Section 4.5 of this Lease, and (iii) tax penalties incurred as a result of Landlord's failure to make payments and/or to file any tax or informational returns when due (except to the extent such penalties are the result of Tenant's failure to timely pay Tenant's Share of Tax Expenses pursuant to this Lease).

4.2.5.4 Notwithstanding anything to the contrary set forth in this Lease, the amount of Tax Expenses for the Base Year and any Expense Year shall be calculated without taking into account any temporary decreases in real estate taxes obtained in connection with Proposition 8 under the laws of the State of California, and, therefore, the Tax Expenses in the Base Year and/or an Expense Year may be greater than those actually incurred by Landlord, but shall, nonetheless, be the Tax Expenses due under this Lease, unless a Tax Exemption is applicable;

provided that (i) any costs and expenses incurred by Landlord in securing any Proposition 8 reduction shall not be included in Direct Expenses for purposes of this Lease, and (ii) tax refunds under Proposition 8 shall not be deducted from Tax Expenses, but rather shall be the sole property of Landlord. Landlord and Tenant acknowledge that this Section 4.2.5.4 is not intended to in any way affect (A) the inclusion in Tax Expenses of the statutory two percent (2.0%) annual increase in Tax Expenses (as such statutory increase may be modified by subsequent legislation), or (B) the inclusion or exclusion of Tax Expenses pursuant to the terms of Proposition 13, which shall be governed pursuant to this Section 4.2.5.4.

4.2.5.5 If the Tax Expenses for the Base Year include special assessments from a prior period and such special assessments terminate during the Lease Term, then from and after the date of such termination of the special assessment, the Tax Expenses for the Base Year shall be deemed to be reduced by the amount of such special assessment so that Tenant pays its full Tenant's Share of increases in the Tax Expenses during the Lease Term.

4.2.6 "**Tenant's Share**" shall be calculated as the percentage determined by dividing the number of rentable square feet of the Premises by one hundred percent (100%) of the total rentable square feet in the Building or the Project as applicable.

4.3 **Cost Pools.** Landlord shall have the right, from time to time, to equitably allocate some or all of the Direct Expenses for the Building and Project among different portions or occupants of the Building and Project, including retail and office areas (the "**Cost Pools**"), in Landlord's reasonable discretion. The Direct Expenses within each such Cost Pool shall be allocated and charged to the tenants within such Cost Pool in an equitable manner. Additionally, Landlord shall have the right, from time to time, to equitably allocate some or all of the Direct Expenses for the Building and Project among different buildings within the Project, in Landlord's reasonable discretion, in which event Tenant's Share shall be based on the Building's share of such Direct Expenses, as so allocated.

4.4 **Calculation and Payment of Additional Rent.** If, for any Expense Year ending or commencing within the Lease Term, Tenant's Share of Operating Expenses and/or Tax Expenses for such Expense Year exceeds Tenant's Share of Operating Expenses and/or Tax Expenses applicable to the Base Year, as applicable, then Tenant shall pay to Landlord, in the manner set forth in Section 4.4.1, below, and as Additional Rent, an amount equal to the excess (the "**Excess Operating Expenses**" as to Operating Expenses and "**Excess Tax Expenses**" as to Tax Expenses). If for any Expense Year ending or commencing within the Lease Term, Tenant's Share of Operating Expenses and/or Tax Expenses, as applicable, for such Expense Year is less than Tenant's Share of Operating Expenses and/or Tax Expenses for the Base Year, as applicable, then Tenant shall not be entitled to any refund.

4.4.1 **Statement of Actual Operating Expenses and Actual Tax Expenses and Payment by Tenant.** Landlord shall endeavor to give to Tenant following the end of each Expense Year, a statement (the "**Statement**") which shall state the Operating Expenses and Tax Expenses incurred or accrued for such preceding Expense Year, and which shall indicate the amount of the Excess Operating Expenses and Excess Tax Expenses, if any. Notwithstanding the foregoing, Landlord and Tenant hereby acknowledge and agree that the failure of Landlord to timely furnish the Statement for any Expense Year shall not prejudice Landlord or Tenant from enforcing its rights under this Article 4. Upon receipt of the Statement for each Expense Year commencing or ending during the Lease Term, if any Excess Operating Expenses and/or Excess Tax Expenses is present, Tenant shall pay, with its next installment of Base Rent due, the full amount of the Excess Operating Expenses and/or Excess Tax Expenses, as applicable, for such Expense Year, less the amounts, if any, paid during such Expense Year as "Estimated Excess," as that term is defined in Section 4.4.2, below. Even though the Lease Term has expired and Tenant has vacated the Premises, when the final determination is made of Tenant's Share of Operating Expenses and Tax Expenses for the Expense Year in which this Lease terminates, if any Excess Operating Expenses and/or Excess Tax Expenses is present, Tenant shall immediately pay to Landlord such amount following receipt by Tenant of the Statement setting forth the Excess Operating Expenses and/or Excess Tax Expenses, as applicable. In the event that a Statement shall indicate that Tenant has paid more as Estimated Excess Operating Expenses than Tenant's Share of Operating Expenses in connection with any Expense Year (the "**Operating Expenses Overage**") and/or if Tenant has paid more as Estimated Excess Tax Expenses than Tenant's Share of Tax Expenses in connection with any Expense Year (the "**Tax Expenses Overage**" and with the Operating Expenses Overage, the "**Expense Overages**"), Tenant shall receive a credit against the Rent next due under this Lease in the amount of such Operating Expenses Overage and/or Tax Expenses Overage, as applicable (or, in the event that this Lease shall have terminated, Tenant shall receive a refund

from Landlord in the amount of such Operating Expenses Overage and/or Tax Expenses Overage, as applicable). The provisions of this Section 4.4.1 shall survive the expiration or earlier termination of the Lease Term.

4.4.2 **Statement of Estimated Operating Expenses and Estimated Tax Expenses.** In addition, Landlord shall endeavor to give Tenant a yearly estimate statement of Operating Expenses and Tax Expenses (the "**Estimate Statement**") which shall set forth Landlord's estimate (the "**Estimate**") of what the total amount of Operating Expenses and Tax Expenses for the then-current Expense Year shall be and the estimated excess Operating Expenses (the "**Estimated Excess Operating Expenses**") and estimated excess Tax Expenses ("**Estimated Excess Tax Expenses**"; and collectively with the Estimated Excess Operating Expenses, the "**Estimated Excess**") as calculated by comparing the Operating Expenses and Tax Expenses for such Expense Year, which shall be based upon the Estimate, to the actual amount of Operating Expenses and Tax Expenses for the Base Year. The failure of Landlord to timely furnish the Estimate Statement for any Expense Year shall not preclude Landlord from enforcing its rights to collect any Estimated Excess Operating Expenses and/or any Estimated Excess Tax Expenses under this Article 4, nor shall Landlord be prohibited from revising any Estimate Statement or Estimated Excess theretofore delivered to the extent necessary. Thereafter, Tenant shall pay, with its next installment of Base Rent due, a fraction of the applicable Estimated Excess for the then-current Expense Year (reduced by any amounts already paid pursuant to the last sentence of this Section 4.4.2). Such fraction shall have as its numerator the number of months which have elapsed in such current Expense Year, including the month of such payment, and twelve (12) as its denominator. Until a new Estimate Statement is furnished (which Landlord shall have the right to deliver to Tenant at any time), Tenant shall pay monthly, with the monthly Base Rent installments, an amount equal to one-twelfth (1/12) of the total Estimated Excess Operating Expenses and total Estimated Excess Tax Expenses set forth in the previous Estimate Statement delivered by Landlord to Tenant.

4.4.3 **Audit Rights.** Tenant shall have the right to audit Landlord's records concerning the Statement reflecting Excess Overages billed to Tenant annually in accordance with the terms above. Tenant shall have 120 days after provision by Landlord to Tenant of the Expenses Overages on a Statement to obtain documents and records for specific line items within the Statement. Tenant waives the right to obtain, review and audit the Landlord's records if no request is made before the 120-day period. If Tenant shall determine that there exists a discrepancy of five percent (5%) or more between the Expense Overages paid by Tenant for the subject Lease Year(s) and the Expense Overages determined by Tenant's review and audit (the "**Threshold**"), then Landlord shall in good faith review the results of Tenant's audit and concur with or reject the results of the audit. If the results of Tenant's audit are reviewed and accepted by Landlord or its auditors, then Landlord shall reimburse or credit Tenant against the Monthly Rent, the amount discovered to be in error and paid by the Tenant, and provided that the Threshold is met, Landlord shall further reimburse/credit to Tenant up to \$5,000 in verified out-of-pocket costs incurred by Tenant in the audit of the records.

4.5 **Taxes and Other Charges for Which Tenant Is Directly Responsible.**

4.5.1 Tenant shall be liable for and shall pay at least ten (10) days before delinquency, taxes levied against Tenant's equipment, furniture, trade fixtures and any other personal property located in or about the Premises, unless a Tax Exemption is applicable. If any such taxes on Tenant's equipment, furniture, fixtures and any other personal property are levied against Landlord or Landlord's property or if the assessed value of Landlord's property is increased by the inclusion therein of a value placed upon such equipment, furniture, fixtures or any other personal property and if Landlord pays the taxes based upon such increased assessment, which Landlord shall have the right to do regardless of the validity thereof but only under proper protest if requested by Tenant, Tenant shall upon demand repay to Landlord the taxes so levied against Landlord or the proportion of such taxes resulting from such increase in the assessment, as the case may be.

4.5.2 If the tenant improvements in the Premises, whether installed and/or paid for by Landlord or Tenant and whether or not affixed to the real property so as to become a part thereof, are assessed for real property tax purposes at a valuation higher than the valuation at which tenant improvements conforming to Landlord's "building standard" in other space in the Building are assessed, then the Tax Expenses levied against Landlord or the property by reason of such excess assessed valuation shall be deemed to be taxes levied against personal property of Tenant and shall be governed by the provisions of Section 4.5.1, above, unless a Tax Exemption is applicable; provided, however, if Landlord enforces the provisions of this Section 4.5.2 against Tenant, then Landlord shall not include in Tax Expenses those taxes assessed against any other tenant improvements in the Project to the extent such taxes relate

to the valuation of such tenant improvements in excess of the valuation of tenant improvements conforming to Landlord's "building standard."

4.5.3 Notwithstanding any contrary provision herein, Tenant shall pay prior to delinquency any (i) rent tax or sales tax, service tax, transfer tax or value added tax, or any other applicable tax on the rent or services herein or otherwise respecting this Lease, (ii) taxes assessed upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion of the Project, including the Project parking facility; or (iii) taxes assessed upon this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises.

ARTICLE 5

USE OF PREMISES

5.1 **Permitted Use.** Tenant shall use the Premises solely for the permitted use set forth in Section 6 of the Summary, and Tenant shall not use or permit the Premises or the Project to be used for any other purpose or purposes whatsoever without the prior written consent of Landlord, which may be withheld in Landlord's sole discretion.

5.2 **Prohibited Uses.** The uses prohibited under this Lease shall include, without limitation, use of the Premises or a portion thereof for (i) offices or agencies of any foreign governmental or political subdivision thereof; (ii) offices of any health care professionals or service organization; (iii) schools or other training facilities which are not ancillary to corporate, executive or professional office use; (iv) retail or restaurant uses; (v) communications firms such as radio and/or television stations; (vi) an executive suites subleasing business or operation; or (vii) any other high density office use (including, without limitation, a call center or server farm). Without limiting the foregoing, Tenant shall not allow occupancy density of use of the Premises which is greater than the average density of the other tenants of the Building. Tenant further covenants and agrees that Tenant shall not use, or suffer or permit any person or persons to use, the Premises or any part thereof for any use or purpose which is (a) in violation of any exclusive or restricted use granted for the benefit of any other tenant of the Project that affects the Premises, (b) contrary to the provisions of the Rules and Regulations set forth in **Exhibit D**, attached hereto, as the same may be amended by Landlord from time to time, or (c) in violation of the laws of the United States of America, the State of California, or contrary to the ordinances, regulations or requirements of the local municipal or county governing body or other lawful authorities having jurisdiction over the Project, including, without limitation, any such laws, ordinances, regulations or requirements relating to hazardous materials or substances, as those terms are defined by applicable Laws now or hereafter in effect. Tenant shall not do or permit anything to be done in or about the Premises which will in any way materially obstruct or interfere with the rights of other tenants or occupants of the Building, or injure or annoy them or use or allow the Premises to be used for any unlawful purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall comply with all recorded covenants, conditions, and restrictions now or hereafter affecting the Project.

5.3 **Hazardous Materials: Tenant.** Except for ordinary and general office supplies typically used in the ordinary course of business within office buildings, such as copier toner, liquid paper, glue, ink and common household cleaning materials (some or all of which may constitute "Hazardous Materials" as defined in this Lease), Tenant agrees not to cause or knowingly permit any Hazardous Materials to be brought upon, stored, used, handled, generated, released or disposed of on, in, under or about the Premises, the Building, the Common Areas or any other portion of the Project by Tenant, or its agents, employees, servants, subtenants, assignees, licensees, contractors, guests or invitees (collectively, "**Tenant's Parties**"), without the prior written consent of Landlord, which consent Landlord may withhold in its sole and absolute discretion. Upon the expiration or earlier termination of this Lease, Tenant agrees to promptly remove from the Premises, the Building and the Project, at its sole cost and expense, any and all Hazardous Materials, including any equipment or systems containing Hazardous Materials, which are installed, brought upon, stored, used, generated or released upon, in, under or about the Premises, the Building and/or the Project or any portion thereof by Tenant or any of Tenant's Parties. To the fullest extent permitted by law, Tenant agrees to promptly indemnify, protect, defend and hold harmless Landlord and Landlord's partners, officers, directors, employees, agents, successors and assigns (collectively, "**Landlord Indemnified Parties**") from and against any and all claims, damages, judgments, suits, causes of

action, losses, liabilities, penalties, fines, expenses and costs (including, without limitation, clean-up, removal, remediation and restoration costs, sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees and court costs) which arise or result from the presence of Hazardous Materials on, in, under or about the Premises, the Building or any other portion of the Project and which are caused or permitted by Tenant or any of Tenant's Parties. Tenant agrees to promptly notify Landlord of any release of Hazardous Materials at the Premises, the Building or any other portion of the Project which Tenant becomes aware of during the Lease Term, whether caused by Tenant or any other persons or entities. In the event of any release of Hazardous Materials caused or permitted by Tenant or any of Tenant's Parties, Landlord shall have the right, but not the obligation, to cause Tenant to immediately take all steps Landlord deems necessary or appropriate to remediate such release and prevent any similar future release to the satisfaction of Landlord and Landlord's mortgagee(s). As used in this Lease, the term "**Hazardous Materials**" shall mean and include any hazardous or toxic materials, substances or wastes as now or hereafter designated under any law, statute, ordinance, rule, regulation, order or ruling of any agency of the state in which the Building is located, the United States Government or any local governmental authority, including, without limitation, asbestos, petroleum, petroleum hydrocarbons and petroleum based products, urea formaldehyde foam insulation, polychlorinated biphenyls ("PCBs"), and freon and other chlorofluorocarbons. The provisions of this Section 5.3 will survive the expiration or earlier termination of this Lease.

5.4 **Hazardous Materials; Landlord.** Landlord hereby represents and warrants to Tenant that, as of the Commencement Date, Landlord has no actual knowledge to the contrary that: (i) the Premises and the Building have not been exposed to Hazardous Materials and are free of all Hazardous Materials; (ii) neither Landlord nor any existing or former tenants or occupants at the Premises were or are in violation of or subject to an existing, pending or threatened investigation by any governmental authority under any applicable local, state, and federal law, regulation, ordinance or other legislation pertaining to air, water, or soil quality or the handling, transportation, storage, treatment, usage or disposal of Hazardous Materials; (iii) any handling, transportation, storage, treatment, usage, or disposal of Hazardous Materials at the Premises and the Building has been or are in compliance with applicable laws; and (iv) no reportable use has occurred on the Premises and the Building and the vapor, groundwater and soil on or under the Premises and the Building is free of Hazardous Materials.

5.5 Whenever any representation or warranty of Landlord is stated in this Agreement to be "to Landlord's knowledge," "to Landlord's actual knowledge" or "to the best of Landlord's knowledge," such words shall mean and be strictly limited and confined to the actual and present knowledge, and without any obligations of inquiry or investigation (wherein Landlord's knowledge is not deemed imputed or subject to any available constructive knowledge), of Adam Drake, and such knowledge shall not be deemed to infer, imply or require that said parties have, or will investigate or review any matter to ascertain the truth or accuracy (beyond Landlord's actual knowledge) of any matter set forth herein; provided, however, although such information is to such individual's knowledge, Tenant acknowledges and agrees that in no event whatsoever shall Mr. Drake have any personal liability of any kind whatsoever under this Agreement to Buyer in the absence of fraud or intentional misrepresentation.

5.6 During the term of this Lease, Landlord shall indemnify, defend (with counsel reasonably approved by County), protect, and hold harmless County and its officers, employees, agents, and volunteers and the Premises, from any and all claims, actions, losses, damages, judgments, costs, expenses, penalties, and/or liability, including, but not limited to, attorneys' and consultant's fees, arising out of or related to the Landlord's actual knowledge of the existence of any Hazardous Materials located in, on, under, or about the Premises and the Building occurring prior to the Commencement Date.

5.7 **Cannabis.** Tenant agrees that neither the Premises, nor the Building nor any portion of the Project shall be used by Tenant for the use, growing, producing, processing, storing (short or long term), distributing, transporting, or selling of cannabis, cannabis derivatives, or any cannabis containing substances ("**Cannabis**"), or any office uses related to the same, nor shall Tenant permit, allow or suffer, any of Tenant's officers, employees, agents, servants, licensees, subtenants, concessionaires, contractors and invitees to bring any Cannabis onto the Premises, the Building or any portion of the Project. Without limiting the foregoing, the prohibitions in this paragraph shall apply to all Cannabis, whether such Cannabis is legal for any purpose whatsoever under state or federal law or both. Notwithstanding anything to the contrary, any failure by Tenant to comply with each of the terms, covenants, conditions and provisions of this Section shall automatically and without the requirement of any notice be a default that is not subject to cure, and Tenant agrees that upon the

occurrence of any such default, Landlord may elect, in its sole discretion, to exercise all of its rights and remedies under this Lease, at law or in equity with respect to such default.

ARTICLE 6

SERVICES AND UTILITIES

6.1 **Standard Tenant Services.** Landlord (or Landlord's property manager) shall provide the following services on all days (unless otherwise stated below) during the Lease Term as part of Direct Expenses.

6.1.1 Subject to limitations imposed by all governmental rules, regulations and guidelines applicable thereto, Landlord shall provide heating and air conditioning ("HVAC") when necessary for normal comfort for normal office use in the Premises from 7:00 A.M. to 8:00 P.M. Monday through Friday, **and on Saturdays from 8:00 A.M. to 5:00 P.M.** (collectively, the "**Building Hours**"), County recognized Holidays excluded (collectively, the "**Holidays**"). Notwithstanding same, Tenant shall have access to the Building and Premises 24 hours per day, seven days per week. To obtain HVAC use outside of Building Hours, Tenant shall be required to provide Landlord no less than 24 hours' prior written notice for any period before or after the Building Hours referenced above or during any Holidays, which shall be at a cost of \$50.00 per hour (increased by utility provider's service charge increases to be reasonably determined by Landlord) with a minimum of four (4) hours minimum per occasion (the "**A/C Excess Use**"); at temperature setpoints to be a maximum of 68 degrees during the Winter/Spring months and a minimum of 78 degrees during the Spring/Summer months. Any A/C Excess Use shall be bill-backs to the Tenant by invoice, and shall be payable within ten days of receipt thereof.

6.1.2 Landlord shall provide adequate electrical wiring and facilities for normal general office use and electricity at levels consistent with normal general office use, as reasonably determined by Landlord. Tenant shall bear the cost of replacement of lamps, starters and ballasts for non-Building standard lighting fixtures within the Premises. Landlord shall provide telephone and internet access to the Building's minimum point of entry ("MPO"), and Tenant, at Tenant's sole cost and expense shall be responsible for all installations, connections from the MPO to the Premises.

6.1.3 Landlord shall provide city water from the regular Building outlets for drinking, lavatory and toilet purposes and for any business office type kitchens in the Premises and the Common Areas.

6.1.4 Landlord shall provide janitorial services five (5) days a week (i.e., Monday through Friday) to the Premises and the Common Areas, except on the date of observation of the Holidays, and window washing services in a manner consistent with other comparable buildings in the vicinity of the Building. All janitorial and maintenance personnel shall be required to pass background checks, meeting the California DOJ requirements.

6.1.5 Landlord shall provide nonexclusive, non-attended automatic passenger elevator service during the Building Hours, except on Holidays, and shall have one elevator available at all other times, except on the Holidays.

6.1.6 Landlord shall provide nonexclusive freight elevator service subject to scheduling by Landlord.

Tenant shall cooperate fully with Landlord at all times and abide by all regulations and requirements that Landlord may reasonably prescribe for the proper functioning and protection of the HVAC, electrical, mechanical and plumbing systems. Upon written request from Landlord, Tenant shall provide Landlord with any energy usage data for the Premises, including, without limitation, copies of utility bills for the Premises.

6.2 **Overstandard Tenant Use.** Tenant shall not, without Landlord's prior written consent, which shall not be unreasonably withheld, use heat-generating machines, machines other than normal fractional horsepower office machines, or equipment or lighting other than Building standard lights in the Premises, which may materially affect the temperature otherwise maintained by the air conditioning system or increase the water normally furnished for the Premises by Landlord (or Landlord's property manager) pursuant to the terms of

Section 6.1 of this Lease. If such consent is given, Landlord (or Landlord's property manager) shall have the right to install supplementary air conditioning units or other facilities in the Premises, including supplementary or additional metering devices, and the cost thereof, including the cost of installation, operation and maintenance, increased wear and tear on existing equipment and other similar charges, shall be paid by Tenant to Landlord (or Landlord's property manager) upon billing by Landlord (or Landlord's property manager). If Tenant uses water, electricity, heat or air conditioning in excess of that supplied by Landlord (or Landlord's property manager) pursuant to Section 6.1 of this Lease, or if Tenant shall install and/or operate in the Premises, any equipment which shall have an electrical consumption greater than that of normal general office equipment, or which, consistent with the practices of the landlords of comparable first class office buildings located in the general vicinity of the Building, are considered to be high electricity consumption equipment, Tenant shall pay to Landlord (or Landlord's property manager), upon billing, the cost of such excess consumption and the cost of the installation, operation, and maintenance of equipment which is installed in order to supply such excess consumption; and Landlord (or Landlord's property manager) may install devices to separately meter any increased use and in such event Tenant shall pay the increased cost directly to Landlord (or Landlord's property manager), upon billing, at the rates charged by the public utility company furnishing the same, including the cost of such additional metering devices. Tenant's use of electricity shall never exceed the capacity of the feeders to the Project or the risers or wiring installation, and subject to the terms of Section 29.32, below, Tenant shall not install or use or permit the installation or use of any computer or electronic data processing equipment in the Premises, without the prior written consent of Landlord, which shall not be unreasonably withheld. If Tenant desires to use heat, ventilation or air conditioning during hours other than those for which Landlord (or Landlord's property manager) is obligated to supply such utilities pursuant to the terms of Section 6.1 of this Lease ("**After Hours HVAC**"), Tenant shall give Landlord such prior notice, if any, as Landlord shall from time to time establish as appropriate, of Tenant's desired use in order to supply such After Hours HVAC, and Landlord (or Landlord's property manager) shall supply such After Hours HVAC to Tenant on an hourly basis and (subject to a four (4) hour minimum for usage not immediately preceding or following Building Hours) at such hourly cost to Tenant (which shall be treated as Additional Rent) as reflected in Section 6.1.1 above and as Landlord shall from time to time establish.

6.3 **Interruption of Use.** Tenant agrees that Landlord (or Landlord's property manager) shall not be liable for damages, by abatement of Rent or otherwise, for failure to furnish or delay in furnishing any service (including telephone and telecommunication services), or for any diminution in the quality or quantity thereof, when such failure or delay or diminution is occasioned, in whole or in part, by breakage, repairs, replacements, or improvements, by any strike, lockout or other labor trouble, by inability to secure electricity, gas, water, or other fuel at the Building or Project after reasonable effort to do so, by any riot or other dangerous condition, emergency, accident or casualty whatsoever, by act or default of Tenant or other parties, or by any other cause; and such failures or delays or diminution shall never be deemed to constitute an eviction or disturbance of Tenant's use and possession of the Premises or relieve Tenant from paying Rent or performing any of its obligations under this Lease. Furthermore, Landlord (or Landlord's property manager) shall not be liable under any circumstances for a loss of, or injury to, property or for injury to, or interference with, Tenant's business, including, without limitation, loss of profits, however occurring, through or in connection with or incidental to a failure to furnish any of the services or utilities as set forth in this Article 6. Landlord (or Landlord's property manager) may comply with voluntary controls or guidelines promulgated by any governmental entity relating to the use or conservation of energy, water, gas, light or electricity or the reduction of automobile or other emissions without creating any liability of Landlord (or Landlord's property manager) to Tenant under this Lease, provided that the Premises are not thereby rendered untenable.

ARTICLE 7

MAINTENANCE AND REPAIRS

7.1 **Premises, Building, and Project Condition.** Landlord represents and warrants to Tenant that as of the Commencement Date, the Premises, the Building, and the Project, including but not limited to all structural elements, the building systems, and other improvements thereon are in good working order, condition, and repair and water-tight. During the Lease Term, including any extensions thereof, Landlord shall, subject to Tenant's obligation to pay Excess Expense Recapture, provide the following services and perform all inspections,

maintenance, repairs, and replacements as is necessary or as reasonably requested by County to keep in good working order, condition, and repair and water-tight, all structural elements, the building systems, and other improvements thereon, including but not limited to the following:

7.1.2 All structural and other elements of the Premises, Building, and the Project, inclusive of all components thereto and regardless of where situated on the Project, including, but not limited to, the roof; foundation; slab; sub-flooring; façade; exterior and load-bearing walls; eaves, gutters, and downspouts; exterior windows, frames, and glass; exterior doors; lobbies, elevators, and stairs and stairwells; in the event of water intrusion, LANDLORD shall repair any such intrusions and remediate any and all mold or other contaminants and perform all recommended repairs in a report provided by its third-party contractors, but shall bear no liability for any damage to the property of Tenant for any water or moisture damage (inclusive of mold); and,

7.1.3 All systems of the Premises, the Building, and the Project inclusive of all components thereto and regardless of where situated on the Premises, including, but not limited to, all mechanical, electrical, lighting, plumbing, water, and sewage and electric generators; plumbing maintenance shall include, but is not limited to, repairing all drains, pipes, toilets, sinks, and other restroom fixtures; and lighting maintenance which shall include, but is not limited to, bulb and ballast replacements; and

7.1.4 All heating, ventilation and air conditioning (“HVAC”) systems of the Premises, the Building, and the Project, inclusive of all components thereto and regardless of where situated on the Premises; HVAC maintenance shall include, but is not limited to, providing certified air balance and maintenance service (with a copy of the certificate to be delivered to COUNTY on the Commencement Date and on each second anniversary of the Commencement Date during the Lease Term) and replacing all filters on a quarterly basis; and

7.1.5 All life-safety systems of the Premises, Building, and the Project, inclusive of all components thereto and regardless of where situated on the Premises, including, but not limited to, fire suppression, fire sprinklers, fire alarms, fire extinguishers and exit signage; and

7.1.6 All grounds of the Property, inclusive of all components thereto, including, but not limited to, parking lot, parking structures, accessible parking spaces, drive lanes, and driveways, sidewalks, fences and gates, exterior lighting, exterior signage and landscaping; parking maintenance shall include, but is not limited to cleaning, repaving, re-striping, curb and pothole repairs, and replacements; landscaping maintenance shall include, but is not limited to grass, trees, shrubbery, and flora, which shall be kept in a green condition.

7.1.7 All interior non-structural elements of the Premises, inclusive of all components thereto and regardless of where situated on the Premises, including, but not limited to, walls and ceilings, windows, frames, and glass, doors, fixtures, restrooms, break rooms, drinking fountains, and hallways, including, but not limited to, damage due to vandalism;

7.1.8 All custodial, janitorial and pest control services for the Premises (in accordance with **Exhibit “E”**, attached hereto and incorporated herein by reference), the Building, and the Project; including, but not limited to, repairs and replacements arising from acts of vandalism; and

7.2 **Performance of Maintenance and Janitorial Services.** Landlord shall engage licensed and bonded contractors to perform Landlord’s maintenance and custodial obligations in the Lease, which services shall be performed in a good and workmanlike manner. With respect to the Premises, Landlord’s maintenance and janitorial obligations shall be performed at times during Tenant’s regular business hours or hours that are approved in writing by Tenant. Landlord’s service providers must be escorted by Tenant staff while in the Premises and such services shall be performed in a manner that will cause the least possible inconvenience, annoyance, or disturbance to Tenant.

7.2.1 Due to the sensitive nature of Tenant's operation, all janitorial and maintenance staff retained by Landlord or its service provider hires to perform at and on the Premises will be required to pass a background checks meeting the California Department of Justice requirements. The costs of any investigations required herein shall be borne by Tenant.

7.3 **Landlord Performance of Maintenance or Repair.** Without in any way affecting Landlord's obligations in this paragraph and regardless of whether any specific notice of need for maintenance or repair is provided to Landlord by Tenant, Tenant may reasonably request specific maintenance. Any such request shall be made by email to Landlord's property manager. If: (i) Tenant requests maintenance and Landlord does not commence the performance of its maintenance obligations within ten (10) days of receiving such request or does not diligently prosecute its obligations to completion thereafter; or (ii) in the case of an emergency, whether or not Tenant has given notice to Landlord, Landlord does not immediately perform its obligations, then in both instances, Tenant may (but is not obligated to) with two business days' prior notice to Landlord, perform Landlord's obligations, in which case, Landlord shall reimburse Tenant the sum actually expended by Tenant to third parties in the performance of Landlord's obligations. The sum expended by Tenant shall be due from Landlord to Tenant within thirty (30) days of notice of Tenant's invoice to Landlord along with documentation supporting the expended costs.

7.4 **Excess Janitorial and Maintenance Expenses.** Subject to Tenant's obligation to pay Excess Expense Recapture for the following, Landlord shall, furnish and pay for, all cleaning products, paper goods, all dispensers, tools, equipment, and replacements thereof for the Premises, the Building, and the Property.

7.5 **Landlords Property Management Company.** At Tenant's election, in its sole discretion, Landlord, shall, at Landlord's sole cost and expense, hire a licensed, bonded, and qualified property management company to manage the Project and administer to Landlord's maintenance and custodial obligations as set forth in the Lease.

7.6 **Tenant's Acts.** Notwithstanding anything to the contrary in this Lease, Landlord shall have no obligation to provide for any service, repair, maintenance or replacement (collectively, "Repairs") where Tenant's, its officers', representatives', employees', visitors' or patrons' intentional or negligent acts are the basis for the need of such Repairs. Tenant agrees that any Repairs required arising from the acts of the foregoing parties shall be the obligation of Tenant only.

ARTICLE 8

ADDITIONS AND ALTERATIONS

8.1 **Landlord's Consent to Alterations.** Tenant may not make any improvements, alterations, additions or changes to the Premises or any mechanical, plumbing or HVAC facilities or systems pertaining to the Premises (collectively, the "Alteration(s)") without first procuring the prior written consent of Landlord to such Alterations, which consent shall be requested by Tenant not less than thirty (30) days prior to the commencement thereof, and which consent shall not be unreasonably withheld by Landlord, provided it shall be deemed reasonable for Landlord to withhold its consent to any Alteration which adversely affects the structural portions or the systems or equipment of the Building or is visible from the exterior of the Building. Notwithstanding the foregoing, Tenant shall have the right, without Landlord's prior consent, but upon not less than twenty (20) days prior written notice to Landlord, to make strictly cosmetic, non-structural Alterations to the Premises that (i) do not affect any of the Building systems, (ii) do not affect the Building structure, (iii) are not visible from the exterior of the Premises or the Building, and (iv) do not involve the expenditure of more than One and No/100 Dollars (\$1.00) per rentable square foot of the Premises, in the aggregate. The construction of the initial improvements to the Premises shall be governed by the terms of the Tenant Work Letter and not the terms of this Article 8.

8.2 **Manner of Construction.** Landlord may impose, as a condition of its consent to any and all Alterations or repairs of the Premises or about the Premises, such requirements as Landlord in its sole discretion may deem desirable, including, but not limited to, the requirement that Tenant utilize for such purposes only contractors, subcontractors, materials, mechanics and materialmen selected by Tenant from a list provided and approved by Landlord, the requirement that upon Landlord's request, Tenant shall, at Tenant's expense, remove such Alterations

upon the expiration or any early termination of the Lease Term, and the requirement that all Alterations conform in terms of quality and style to the building's standards established by Landlord. If such Alterations will involve the use of or disturb Hazardous Materials or substances existing in the Premises, Tenant shall comply with Landlord's rules and regulations concerning such Hazardous Materials or substances. Landlord's approval of the plans, specifications and working drawings for Tenant's Alterations shall create no responsibility or liability on the part of Landlord for their completeness, design sufficiency, or compliance with all Laws. Tenant shall construct such Alterations and perform such repairs in a good and workmanlike manner, in conformance with any and all applicable federal, state, county or municipal laws, rules and regulations and pursuant to a valid building permit, issued by the City of San Bernardino, all in conformance with Landlord's construction rules and regulations and the plans and specifications previously approved by Landlord. In the event Tenant performs any Alterations in the Premises which require or give rise to governmentally required changes to the "Base Building," as that term is defined below, then Landlord (or Landlord's property manager) shall, at Tenant's expense, make such changes to the Base Building. The "**Base Building**" shall mean the Building structure and the Building systems. In performing the work of any such Alterations, Tenant shall have the work performed in such manner so as not to obstruct access to the Project or any portion thereof, by any other tenant of the Project, and so as not to obstruct the business of Landlord or other tenants in the Project. Tenant shall not use (and upon notice from Landlord shall cease using) contractors, services, workmen, labor, materials or equipment that, in Landlord's reasonable judgment, would disturb labor harmony with the workforce or trades engaged in performing other work, labor or services in or about the Building or the Common Areas and in that respect, Landlord shall have the right, in connection with the construction of any Alterations and/or any tenant improvements constructed in the Premises pursuant to the terms of the Tenant Work Letter, to require that all subcontractors, laborers, materialmen, and suppliers retained directly by Tenant and/or Landlord (unless Landlord elects otherwise) be union labor in compliance with the then existing master labor agreements. In addition to Tenant's obligations under Article 9 of this Lease, upon completion of any Alterations, Tenant agrees to cause a Notice of Completion to be recorded in the office of the Recorder of the County of San Bernardino and timely give all notices required in accordance with Sections 8180-8190 of the California Civil Code, or under any similar law, statute, or ordinance now or hereafter in effect, and to furnish copies thereof to Landlord (failing which, Landlord may itself execute and file such Notice of Completion and give such notices on behalf of Tenant as Tenant's agent for such purpose), and Tenant shall deliver to the Project management office a reproducible copy of the "as built" drawings of the Alterations as well as all permits, approvals and other documents issued by any governmental agency in connection with the Alterations.

8.3 **Payment for Improvements.** If payment is made directly to contractors, Tenant shall comply with Landlord's reasonable requirements for final lien releases and waivers in connection with Tenant's payment for work to contractors. Whether or not Tenant orders any work directly from Landlord (or Landlord's property manager), Tenant shall pay to Landlord (or Landlord's property manager) a percentage of the cost of such work sufficient to compensate Landlord (or Landlord's property manager) for all overhead, general conditions, fees and other costs and expenses arising from Landlord's (or Landlord's property manager's) involvement with such work, which percentage shall be determined by Landlord from time to time; such percentage is currently fifteen percent (15%) of the cost of such work.

8.4 **Construction Insurance.** In addition to the requirements of Article 10 of this Lease, in the event that Tenant makes any Alterations estimated to cost in excess of \$25,000.00, prior to the commencement of such Alterations, Tenant shall provide Landlord with evidence that Tenant or Tenant's contractor carries "Builder's All Risk" insurance in an amount reasonably acceptable to Landlord covering the construction of such Alterations, and such other insurance as Landlord may reasonably require, it being understood and agreed that all of such Alterations shall be insured by Tenant pursuant to Article 10 of this Lease immediately upon completion thereof. In addition, Landlord may, in its discretion, require Tenant to obtain a lien and completion bond or some alternate form of security satisfactory to Landlord in an amount sufficient to ensure the lien-free completion of such Alterations and naming Landlord as a co-obligee.

8.5 **Landlord's Property.** All Alterations, improvements, fixtures, equipment and/or appurtenances which may be installed or placed in or about the Premises, from time to time, shall be at the sole cost of Tenant and shall be and become the property of Landlord, unless Tenant acquires title to the Project by exercising its option to purchase the Project in accordance with Section 32 of the Addendum attached hereto. Landlord may, however, by written notice to Tenant prior to the end of the Lease Term, or given following any earlier termination of this Lease, require Tenant, at Tenant's expense, to (i) remove any Alterations or improvements in the Premises, and

(ii) to repair any damage to the Premises and Building caused by such removal and return the affected portion of the Premises to a Building standard tenant improved condition as determined by Landlord. If Tenant fails to complete such removal and/or to repair any damage caused by the removal of any Alterations or improvements in the Premises, and return the affected portion of the Premises to a Building standard tenant improved condition as determined by Landlord, then at Landlord's option, either (A) Tenant shall be deemed to be holding over in the Premises and Rent shall continue to accrue in accordance with the terms of Article 16, below, until such work shall be completed, or (B) Landlord may do so and may charge the cost thereof to Tenant. However, if the Project fails to close escrow after an exercise to purchase under Section 32, all Alterations or improvements shall remain the property of Landlord. Tenant and Landlord (depending on which party caused Alterations to be installed) hereby agree to protect, defend, indemnify and hold each other harmless from any liability, cost, obligation, expense or claim of lien in any manner relating to the installation, placement, removal or financing of any such Alterations, improvements, fixtures and/or equipment in, on or about the Premises, which obligations of both shall survive the expiration or earlier termination of this Lease.

ARTICLE 9

COVENANT AGAINST LIENS

Tenant shall keep the Project and Premises free from any liens or encumbrances arising out of the work performed, materials furnished or obligations incurred by or on behalf of Tenant, and shall protect, defend, indemnify and hold Landlord harmless from and against any claims, liabilities, judgments or costs (including, without limitation, reasonable attorneys' fees and costs) arising out of same or in connection therewith. Tenant shall give Landlord notice at least twenty (20) days prior to the commencement of any such work on the Premises (or such additional time as may be necessary under applicable Laws) to afford Landlord the opportunity of posting and recording appropriate notices of non-responsibility. Tenant shall remove any such lien or encumbrance by bond or otherwise within ten (10) business days after notice by Landlord, and if Tenant shall fail to do so, Landlord may pay the amount necessary to remove such lien or encumbrance, without being responsible for investigating the validity thereof. The amount so paid shall be deemed Additional Rent under this Lease payable upon demand, without limitation as to other remedies available to Landlord under this Lease. Nothing contained in this Lease shall authorize Tenant to do any act which shall subject Landlord's title to the Building or Premises to any liens or encumbrances whether claimed by operation of law or express or implied contract. Any claim to a lien or encumbrance upon the Building or Premises arising in connection with any such work or respecting the Premises not performed by or at the request of Landlord shall be null and void, or at Landlord's option shall attach only against Tenant's interest in the Premises and shall in all respects be subordinate to Landlord's title to the Project, Building and Premises.

ARTICLE 10

INSURANCE

10.1 **Indemnification and Waiver.** Tenant hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises from any cause whatsoever and agrees that Landlord, its partners, subpartners and their respective officers, agents, servants, and employees (collectively, "**Landlord Parties**") shall not be liable for, and are hereby released from any responsibility for, any damage either to person or property or resulting from the loss of use thereof, which damage is sustained by Tenant or by other persons claiming through Tenant. Tenant shall indemnify, defend, protect, and hold harmless the Landlord Parties from any and all loss, cost, damage, expense and liability (including without limitation court costs and reasonable attorneys' fees) incurred in connection with or arising out of Tenant's acts, omissions, or performance of any terms under the Lease, and or its use or occupancy on or about the Premises, any violation of any of the requirements, ordinances, statutes, regulations or other Laws, including, without limitation, any environmental laws, any acts, omissions or negligence of Tenant or of any of Tenant's Parties, in, on or about the Project or any breach of the terms of this Lease by Tenant, either prior to, during, or after the expiration of the Lease Term, provided that the terms of the foregoing indemnity shall not apply to the gross negligence or willful misconduct of the Landlord Parties. Should Landlord be named as a defendant in any suit brought against Tenant in connection with or arising out of Tenant's occupancy of the Premises, Tenant shall pay to Landlord its costs and expenses incurred in such suit, including without limitation, its actual professional fees such as appraisers', accountants' and attorneys' fees. Further, Tenant's agreement to indemnify Landlord pursuant to this Section 10.1 is not intended to and shall not relieve

any insurance carrier of its obligations under policies required to be carried by Tenant pursuant to the provisions of this Lease, to the extent such policies cover the matters subject to Tenant's indemnification obligations; nor shall they supersede any inconsistent agreement of the parties set forth in any other provision of this Lease. The provisions of this Section 10.1 shall survive the expiration or sooner termination of this Lease with respect to any claims or liability arising in connection with any event occurring prior to such expiration or termination.

10.2 **Tenant's Compliance with Landlord's Fire and Casualty Insurance.** Tenant shall, at Tenant's expense, comply with all customary insurance company requirements pertaining to the use of the Premises. If Tenant's conduct or use of the Premises causes any increase in the premium for such insurance policies then Tenant shall reimburse Landlord for any such increase. Tenant, at Tenant's expense, shall comply with all rules, orders, regulations or requirements of the American Insurance Association (formerly the National Board of Fire Underwriters) and with any similar body.

10.3 **Tenant's Insurance.** Tenant shall maintain the following coverages in the following amounts.

10.3.1 Commercial General Liability Insurance covering the insured against claims of bodily injury, personal injury and property damage (including loss of use thereof) arising out of Tenant's operations, and contractual liabilities (covering the performance by Tenant of its indemnity agreements) including a Broad Form endorsement covering the insuring provisions of this Lease and the performance by Tenant of the indemnity agreements set forth in Section 10.1 of this Lease, for limits of liability not less than:

Bodily Injury and Property Damage Liability	\$1,000,000 each occurrence \$2,000,000 annual aggregate
Personal Injury Liability	\$1,000,000 each occurrence \$2,000,000 annual aggregate 0% Insured's participation

10.3.2 Special Form (Causes of Loss) Property Insurance covering (i) all office furniture, business and trade fixtures, office equipment, free-standing cabinet work, movable partitions, merchandise and all other items of Tenant's property on the Premises installed by, for, or at the expense of Tenant, (ii) the "Tenant Improvements," as that term is defined in Section 2.1 of the Tenant Work Letter, and any other improvements which exist in the Premises as of the Lease Commencement Date (excluding the Base Building) (the "**Original Improvements**"), and (iii) all Alterations. Such insurance shall be for the full replacement cost (subject to reasonable deductible amounts) new without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance and shall include coverage for damage or other loss caused by fire or other peril including, but not limited to, vandalism and malicious mischief, theft, water damage of any type, including sprinkler leakage, bursting or stoppage of pipes, and explosion, and providing business interruption coverage for a period of one year.

10.3.3 Worker's Compensation and Employer's Liability or other similar insurance pursuant to all applicable state and local statutes and regulations.

10.4 **Form of Policies.** The minimum limits of policies of insurance required of Tenant under this Lease shall in no event limit the liability of Tenant under this Lease. Such insurance shall (i) name the additional insureds listed in Section 12 of the Summary and any other party Landlord so specifies, as an additional insured; (ii) specifically cover the liability assumed by Tenant under this Lease, including, but not limited to, Tenant's obligations under Section 10.1 of this Lease; (iii) be issued by an insurance company having a general policy holder's rating of not less than "A-" and a financial rating of not less than Class "VIII" in Best's Insurance Guide or which is otherwise acceptable to Landlord and licensed to do business in the State of California; (iv) be primary insurance as to all claims thereunder and provide that any insurance carried by Landlord is excess and is non-contributing with any insurance requirement of Tenant; (v) be in form and content reasonably acceptable to Landlord; and (vi) contain a cross-liability endorsement or severability of interest clause acceptable to Landlord; and (vii) provide that said insurance shall not be canceled or coverage changed unless thirty (30) days' prior

written notice shall have been given to Landlord and any mortgagee of Landlord. Tenant shall deliver said policy or policies or certificates thereof to Landlord on or before the Lease Commencement Date and at least thirty (30) days before the expiration dates thereof. In the event Tenant shall fail to procure such insurance, or to deliver such policies or certificate, Landlord may, at its option, procure such policies for the account of Tenant, and the cost thereof shall be paid to Landlord within five (5) days after delivery to Tenant of bills therefor.

10.5 **Subrogation.** Landlord and Tenant intend that their respective property loss risks shall be borne by reasonable insurance carriers to the extent above provided, and Landlord and Tenant hereby agree to look solely to, and seek recovery only from, their respective insurance carriers in the event of a property loss to the extent that such loss is the result of a risk insurable under policies of property damage insurance. Notwithstanding anything to the contrary in this Lease, the parties each hereby waive all rights and claims against each other for such losses, and waive all rights of subrogation of their respective insurers, provided such waiver of subrogation shall not affect the right to the insured to recover thereunder. The parties agree that their respective insurance policies are now, or shall be, endorsed such that the waiver of subrogation shall not affect the right of the insured to recover thereunder, so long as no material additional premium is charged therefor.

10.6 **Additional Insurance Obligations.** Tenant shall carry and maintain during the entire Lease Term, at Tenant's sole cost and expense, increased amounts of the insurance required to be carried by Tenant pursuant to this Article 10 and such other reasonable types of insurance coverage and in such reasonable amounts covering the Premises and Tenant's operations therein, as may be reasonably requested by Landlord.

ARTICLE 11

DAMAGE AND DESTRUCTION

11.1 **Repair of Damage to Premises by Landlord.** Tenant shall promptly notify Landlord of any damage to the Premises resulting from fire or any other casualty. If the Premises or any Common Areas serving or providing access to the Premises shall be damaged by fire or other casualty, Landlord shall promptly and diligently, subject to reasonable delays for insurance adjustment or other matters beyond Landlord's reasonable control, and subject to all other terms of this Article 11, restore the Base Building and such Common Areas. Such restoration shall be to substantially the same condition of the Base Building and the Common Areas prior to the casualty, except for modifications required by zoning and building codes and other Laws or by the holder of a mortgage on the Building or Project or any other modifications to the Common Areas deemed desirable by Landlord, provided that access to the Premises and any common restrooms serving the Premises shall not be materially impaired. Upon the occurrence of any damage to the Premises, upon notice (the "**Landlord Repair Notice**") to Tenant from Landlord, Tenant shall assign to Landlord (or to any party designated by Landlord) all insurance proceeds payable to Tenant under Tenant's insurance required under Section 10.3 of this Lease, and Landlord shall repair any injury or damage to the Tenant Improvements and the Original Improvements installed in the Premises and shall return such Tenant Improvements and Original Improvements to their original condition; provided that if the cost of such repair by Landlord exceeds the amount of insurance proceeds received by Landlord from Tenant's insurance carrier, as assigned by Tenant, the cost of such repairs shall be paid by Tenant to Landlord prior to Landlord's commencement of repair of the damage. In the event that Landlord does not deliver the Landlord Repair Notice within sixty (60) days following the date the casualty becomes known to Landlord, Tenant shall, at its sole cost and expense, repair any injury or damage to the Tenant Improvements and the Original Improvements installed in the Premises and shall return such Tenant Improvements and Original Improvements to their original condition. Whether or not Landlord delivers a Landlord Repair Notice, prior to the commencement of construction, Tenant shall submit to Landlord, for Landlord's review and approval, all plans, specifications and working drawings relating thereto, and Landlord shall select the contractors to perform such improvement work. Landlord shall not be liable for any inconvenience or annoyance to Tenant or its visitors, or injury to Tenant's business resulting in any way from such damage or the repair thereof; provided however, that if such fire or other casualty shall have damaged the Premises or Common Areas necessary to Tenant's occupancy, Landlord shall allow Tenant a proportionate abatement of Rent to the extent Landlord is reimbursed from the proceeds of rental interruption insurance purchased by Landlord as part of Operating Expenses, during the time and to the extent the Premises are unfit for occupancy for the Permitted Use, and not occupied by Tenant as a result thereof; provided, further, however, that if the damage or destruction is due to the negligence or willful misconduct of Tenant or any of its agents, employees, contractors, invitees or guests, Tenant shall be responsible

for any reasonable, applicable insurance deductible (which shall be payable to Landlord upon demand) and there shall be no rent abatement. In the event that Landlord shall not deliver the Landlord Repair Notice, Tenant's right to rent abatement pursuant to the preceding sentence shall terminate as of the date which is reasonably determined by Landlord to be the date Tenant should have completed repairs to the Premises assuming Tenant used reasonable due diligence in connection therewith.

11.2 **Landlord's Option to Repair.** Notwithstanding the terms of Section 11.1 of this Lease, Landlord may elect not to rebuild and/or restore the Premises, Building and/or Project, and instead terminate this Lease, by notifying Tenant in writing of such termination within sixty (60) days after the date of discovery of the damage, such notice to include a termination date giving Tenant sixty (60) days to vacate the Premises, but Landlord may so elect only if the Building or Project shall be damaged by fire or other casualty or cause, whether or not the Premises are affected, and one or more of the following conditions is present: (i) in Landlord's reasonable judgment, repairs cannot reasonably be completed within ninety (90) days after the date of discovery of the damage (when such repairs are made without the payment of overtime or other premiums); (ii) the holder of any mortgage on the Building or Project or ground lessor with respect to the Building or Project shall require that the insurance proceeds or any portion thereof be used to retire the mortgage debt, or shall terminate the ground lease, as the case may be; (iii) the damage is not fully covered by Landlord's insurance policies; or (iv) Landlord decides to rebuild the Building or Common Areas so that they will be substantially different structurally or architecturally; or (v) the damage occurs during the last twelve (12) months of the Lease Term.

11.3 In the event the Premises, the Building, the Project, or Tenant's access thereto is damaged or destroyed by any casualty and Tenant determines, in its sole discretion, that Tenant is unable to conduct its operations at the Premises as a result of such damage or destruction, the monthly Rent and any other sums due under the Lease shall be abated in whole or in proportion to the Premises, the Building, the Project, or access thereto that are not usable by Tenant to conduct its business, which abatement shall commence on the date the damage or destruction occurred and shall continue until the date the such damage or destruction is fully restored. In the event undamaged space is available in the Building, Landlord shall provide Tenant with temporary space during the restoration period at no cost to Tenant.

11.4 **Waiver of Statutory Provisions.** The provisions of this Lease, including this Article 11, constitute an express agreement between Landlord and Tenant with respect to any and all damage to, or destruction of, all or any part of the Premises, the Building or the Project, and any statute or regulation of the State of California, including, without limitation, Sections 1932(2) and 1933(4) of the California Civil Code, with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties, and any other statute or regulation, now or hereafter in effect, shall have no application to this Lease or any damage or destruction to all or any part of the Premises, the Building or the Project.

ARTICLE 12

NONWAIVER

No provision of this Lease shall be deemed waived by either party hereto unless expressly waived in a writing signed thereby. The waiver by either party hereto of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No acceptance of a lesser amount than the Rent herein stipulated shall be deemed a waiver of Landlord's right to receive the full amount due, nor shall any endorsement or statement on any check or payment or any letter accompanying such check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the full amount due. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Lease Term or of Tenant's right of possession hereunder, or after the giving of any notice shall reinstate, continue or extend the Lease Term or affect any notice given Tenant prior to the receipt of such monies, it being agreed that after the service of notice or the commencement of a suit, or after final judgment for possession of the Premises, Landlord may receive and collect any Rent due, and the payment of said Rent shall not waive or affect said notice, suit or judgment.

ARTICLE 13

CONDEMNATION

If the whole or any part of the Premises, Building or Project shall be taken by power of eminent domain or condemned by any competent authority for any public or quasi-public use or purpose, or if any adjacent property or street shall be so taken or condemned, or reconfigured or vacated by such authority in such manner as to require the use, reconstruction or remodeling of any part of the Premises, Building or Project, or if Landlord shall grant a deed or other instrument in lieu of such taking by eminent domain or condemnation, Landlord shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority. In the event the Premises or any portion thereof is taken under the power of eminent domain by a condemning authority or voluntarily transferred to such authority under the threat of the exercise of said power ("Condemnation"), within five (5) days of its receipt of a notice of Condemnation from a condemning authority ("Condemnation Notice"), Landlord shall provide Tenant with a copy of said notice. If more than twenty-five percent (25%) of the rentable square feet of the Premises is taken, or if access to the Premises is substantially impaired, in each case for a period in excess of one hundred eighty (180) days, Tenant shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority. Tenant shall not assert any claim against Landlord or the authority for any compensation because of such taking and Landlord shall be entitled to the entire award or payment in connection therewith, except that Tenant shall have the right to file any separate claim available to Tenant for any taking of Tenant's personal property and fixtures belonging to Tenant and removable by Tenant upon expiration of the Lease Term pursuant to the terms of this Lease, and for moving expenses, so long as such claims do not diminish the award available to Landlord, its ground lessor with respect to the Building or Project or its mortgagee, and such claim is payable separately to Tenant, with Tenant having the right to negotiate directly with the condemning authority for such award: (i) one hundred percent (100%) of any amount attributable to any excess of the market value of the Premises for the remainder of the Lease Term over the present value as of the date the Lease is terminated of the Monthly Rent payable for the remainder of the Lease Term (commonly referred to as the "bonus value" of the Lease); (ii) the amortized or undepreciated value of any Improvements and trade fixtures owned by Tenant (not inclusive of any of Tenant Work referenced in Exhibit "B" hereto) and the removal and relocation costs of such Improvements and trade fixtures; (iii) relocation costs; and (iv) loss of goodwill, and (v) any other award permitted under condemnation law, provided same does not erode the award of the Landlord's interests. All Rent shall be apportioned as of the date of such termination. If any part of the Premises shall be taken, and this Lease shall not be so terminated, the Rent shall be proportionately abated. Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of The California Code of Civil Procedure. Notwithstanding anything to the contrary contained in this Article 13, in the event of a temporary taking of all or any portion of the Premises for a period of one hundred eighty (180) days or less, then this Lease shall not terminate but the Base Rent and the Additional Rent shall be abated for the period of such taking in proportion to the ratio that the amount of rentable square feet of the Premises taken bears to the total rentable square feet of the Premises. Landlord shall be entitled to receive the entire award made in connection with any such temporary taking.

ARTICLE 14

ASSIGNMENT AND SUBLETTING

14.1 **Transfers.** Tenant shall not, without the prior written consent of Landlord, assign, mortgage, pledge, hypothecate, encumber, or permit any lien to attach to, or otherwise transfer, this Lease or any interest hereunder, permit any assignment, or other transfer of this Lease or any interest hereunder by operation of law, sublet the Premises or any part thereof, or enter into any license or concession agreements or otherwise permit the occupancy or use of the Premises or any part thereof by any persons other than Tenant and its employees and contractors (all of the foregoing are hereinafter sometimes referred to collectively as "Transfers" and any person to whom any Transfer is made or sought to be made is hereinafter sometimes referred to as a "Transferee"). If Tenant desires Landlord's consent to any Transfer, Tenant shall notify Landlord in writing, which notice (the "Transfer Notice") shall include (i) the proposed effective date of the Transfer, which shall not be less than thirty (30) days nor more than one hundred eighty (180) days after the date of delivery of the Transfer Notice, (ii) a description of the portion of the Premises to be transferred (the "Subject Space"), (iii) all of the terms of the proposed Transfer and the consideration therefor, including calculation of the "Transfer Premium", as that term is defined in Section 14.3 below, in connection with such Transfer, the name and address of the proposed

Transferee, and an executed copy of all documentation effectuating the proposed Transfer, including all operative documents to evidence such Transfer and all agreements incidental or related to such Transfer, provided that Landlord shall have the right to require Tenant to utilize Landlord's standard Transfer documents in connection with the documentation of such Transfer, and provided further that the terms of the proposed Transfer shall provide that such proposed Transferee shall not be permitted to further assign or sublease its interest in the Subject Space and/or Lease, (iv) current financial statements of the proposed Transferee certified by an officer, partner or owner thereof, business credit and personal references and history of the proposed Transferee and any other information required by Landlord which will enable Landlord to determine the financial responsibility, character, and reputation of the proposed Transferee, nature of such Transferee's business and proposed use of the Subject Space, and (v) an executed estoppel certificate from Tenant stating the information set forth in items (a) through (d) in Article 17 below. Any Transfer made without Landlord's prior written consent shall, at Landlord's option, be null, void and of no effect, and shall, at Landlord's option, constitute a default by Tenant under this Lease. Whether or not Landlord consents to any proposed Transfer, Tenant shall pay Landlord's (or Landlord's property manager's) review and processing fees (which currently equal \$2,500.00 for each proposed Transfer), as well as any reasonable professional fees (including, without limitation, attorneys', accountants', architects', engineers' and consultants' fees) incurred by Landlord (or Landlord's property manager), within thirty (30) days after written request by Landlord. Notwithstanding anything to the contrary in the Lease, at any time during the Lease Term, Tenant shall have the right, without Landlord's consent (provided the authorized Use is the same use as granted for Tenant above), to assign the Lease, sublease the Premises or any portion thereof, or share occupancy of the Premises or any portion thereof with any entity under common control with County, special districts of the County, and joint powers associations of which the County is a member; in which event, such assignment shall not constitute a Transfer as defined herein and Landlord shall not have the right to share in any rents that exceed the Monthly Rent or to recapture the Premises or any portion thereof. Tenant shall provide notice of any such assignment and the proposed or signed assigning instrument no later than 30 days prior to the effective date of the assignment. Notwithstanding same, Tenant shall remain liable for all obligations and liabilities within this Lease, inclusive of rental and indemnity obligations.

14.2 **Landlord's Consent.** Landlord shall not unreasonably withhold its consent to any proposed Transfer of the Subject Space to the Transferee on the terms specified in the Transfer Notice. Without limitation as to other reasonable grounds for withholding consent, the parties hereby agree that it shall be reasonable under this Lease and under any applicable law for Landlord to withhold consent to any proposed Transfer where one or more of the following apply:

14.2.1 The Transferee is of a character or reputation or engaged in a business which is not consistent with the quality of the Building or the Project, or would be a significantly less prestigious occupant of the Building than Tenant;

14.2.2 The Transferee intends to use the Subject Space for purposes which are not permitted under this Lease;

14.2.3 Intentionally omitted.

14.2.4 The Transferee is not a party of reasonable financial worth and/or financial stability in light of the responsibilities to be undertaken in connection with the Transfer on the date consent is requested;

14.2.5 The proposed Transfer would cause a violation of another lease for space in the Project, or would give an occupant of the Project a right to cancel its lease;

14.2.6 The terms of the proposed Transfer shall include the assignment and transfer of the Extension Option and FRO only, as defined in the Addendum;

14.2.7 Either the proposed Transferee, or any person or entity which directly or indirectly, controls, is controlled by, or is under common control with, the proposed Transferee, (i) occupies space in the Project at the time of the request for consent, or (ii) is negotiating with Landlord (which for purposes of this item (ii) and (iii), below, shall be evidenced by the transmittal of one or more letters of intent, draft proposals or lease documents by

such Transferee to Landlord or Landlord to such Transferee) to lease space in the Project at such time, or (iii) has negotiated with Landlord during the three (3)-month period immediately preceding the Transfer Notice; or

14.2.8 The portion of the Premises to be sublet or assigned is irregular in shape with inadequate means of ingress and/or egress.

Notwithstanding anything to the contrary contained herein, in no event shall Tenant enter into any Transfer for the possession, use, occupancy or utilization (collectively, "use") of the part of the Premises which (i) provides for a rental or other payment for such use based in whole or in part on the income or profits derived by any person from the Premises (other than an amount based on a fixed percentage or percentages of gross receipts or sales), and Tenant agrees that all Transfers of any part of the Premises shall provide that the person having an interest in the use of the Premises shall not enter into any lease or sublease which provides for a rental or other payment for such use based in whole or in part on the income or profits derived by any person from the Premises (other than an amount based on a fixed percentage or percentages of gross receipts of sales), or (ii) would cause any portion of the amounts payable to Landlord hereunder to not constitute "rents from real property" within the meaning of Section 512(b)(3) of the Internal Revenue Code of 1986, and any such purported Transfer shall be absolutely void and ineffective as a conveyance of any right or interest in the possession, use, occupancy or utilization of any part of the Premises.

The calculations of the Rent paid during each annual period for the Subject Space shall be computed after adjusting such rent to the actual effective rent to be paid, taking into consideration any and all reasonable leasehold concessions granted in connection therewith, including, but not limited to, any rent credit and tenant improvement allowance. For purposes of calculating any such effective rent all such concessions shall be amortized on a straight-line basis over the relevant term.

If Landlord consents to any Transfer pursuant to the terms of this Section 14.2 (and does not exercise any recapture rights Landlord may have under Section 14.4 of this Lease), Tenant may within six (6) months after Landlord's consent, but not later than the expiration of said six (6)-month period, enter into such Transfer of the Subject Space, upon substantially the same terms and conditions as are set forth in the Transfer Notice furnished by Tenant to Landlord pursuant to Section 14.1 of this Lease, provided that if there are any changes in the terms and conditions from those specified in the Transfer Notice (i) such that Landlord would initially have been entitled to refuse its consent to such Transfer under this Section 14.2, or (ii) which would cause the proposed Transfer to be more favorable to the Transferee than the terms set forth in Tenant's original Transfer Notice, Tenant shall again submit the Transfer to Landlord for its approval and other action under this Article 14 (including Landlord's right of recapture, if any, under Section 14.4 of this Lease). Notwithstanding anything to the contrary in this Lease, if Tenant or any proposed Transferee claims that Landlord has unreasonably withheld or delayed its consent under Section 14.2 or otherwise has breached or acted unreasonably under this Article 14, their sole remedies shall be a declaratory judgment and an injunction for the relief sought without any monetary damages, and Tenant hereby waives all other remedies, including, without limitation, any right at law or equity to terminate this Lease, on its own behalf and, to the extent permitted under all applicable Laws, on behalf of the proposed Transferee. Tenant shall indemnify, defend and hold harmless Landlord from any and all liability, losses, claims, damages, costs, expenses, causes of action and proceedings involving any third party or parties (including without limitation Tenant's proposed subtenant or assignee) who claim they were damaged by Landlord's wrongful withholding or conditioning of Landlord's consent.

14.3 **Transfer Premium.** If Landlord consents to a Transfer, as a condition thereto which the parties hereby agree is reasonable, Tenant shall pay to Landlord fifty percent (50%) of any "Transfer Premium," as that term is defined in this Section 14.3, received by Tenant from such Transferee in any particular calendar month, which amount shall be paid to Landlord immediately following Tenant's receipt of the same. "Transfer Premium" shall mean all rent, additional rent or other consideration payable by such Transferee in connection with the Transfer in excess of the Rent and Additional Rent payable by Tenant under this Lease during the term of the Transfer on a per rentable square foot basis if less than all of the Premises is transferred, after deducting the reasonable expenses incurred by Tenant for (i) any changes, alterations and improvements to the Premises in connection with the Transfer, and (ii) any market rate, third party brokerage commissions incurred in connection with the Transfer. Transfer Premium shall also include, but not be limited to, key money, bonus money or other cash consideration paid by Transferee to Tenant in connection with such Transfer, and any payment in excess of fair market value for services rendered by Tenant to Transferee or for assets, fixtures, inventory, equipment, or

furniture transferred by Tenant to Transferee in connection with such Transfer. Notwithstanding the foregoing, if, at the time of any such sublease or assignment, Landlord determines that the foregoing "Transfer Premium" formula may result in the receipt by Landlord of amounts that Landlord may not be permitted to receive pursuant to any requirements, obligation or understanding applicable to Landlord, the parties agree to enter into an amendment to this Lease which revises the "Transfer Premium" formula in a manner that (x) is mutually agreed to by the parties and (y) does not result in any material increase in the expected costs or benefits to either party under this Section 14.3.

14.4 **Landlord's Option as to Subject Space.** Notwithstanding anything to the contrary contained in this Article 14, Landlord shall have the option, by giving written notice to Tenant within thirty (30) days after receipt of any Transfer Notice, to recapture the Subject Space for the remainder of the Lease Term. Such recapture notice shall cancel and terminate this Lease with respect to the Subject Space as of the date stated in the Transfer Notice as the effective date of the proposed Transfer (or at Landlord's option, shall cause the Transfer to be made to Landlord or its agent, in which case the parties shall execute the Transfer documentation promptly thereafter). In the event of a recapture by Landlord, if this Lease shall be canceled with respect to less than the entire Premises, the Rent reserved herein shall be prorated on the basis of the number of rentable square feet retained by Tenant in proportion to the number of rentable square feet contained in the Premises, and this Lease as so amended shall continue thereafter in full force and effect, and upon request of either party, the parties shall execute written confirmation of the same. If Landlord declines, or fails to elect in a timely manner to recapture the Subject Space under this Section 14.4, then, provided Landlord has consented to the proposed Transfer, Tenant shall be entitled to proceed to transfer the Subject Space to the proposed Transferee, subject to provisions of this Article 14.

14.5 **Effect of Transfer.** If Landlord consents to a Transfer, (i) the terms and conditions of this Lease shall in no way be deemed to have been waived or modified, (ii) such consent shall not be deemed consent to any further Transfer by either Tenant or a Transferee, (iii) Tenant shall deliver to Landlord, promptly after execution, an original executed copy of all documentation pertaining to the Transfer in form reasonably acceptable to Landlord, (iv) Tenant shall furnish upon Landlord's request a complete statement, certified by an independent certified public accountant, or Tenant's chief financial officer, setting forth in detail the computation of any Transfer Premium Tenant has derived and shall derive from such Transfer, and (v) no Transfer relating to this Lease or agreement entered into with respect thereto, whether with or without Landlord's consent, shall relieve Tenant from any liability under this Lease, including, without limitation, in connection with the Subject Space. In no event shall any Transferee assign, sublease or otherwise encumber its interest in this Lease or further sublet any portion of the Subject Space, or otherwise suffer or permit any portion of the Subject Space to be used or occupied by others. Landlord or its authorized representatives shall have the right at all reasonable times to audit the books, records and papers of Tenant relating to any Transfer, and shall have the right to make copies thereof. If the Transfer Premium respecting any Transfer shall be found understated, Tenant shall, within thirty (30) days after demand, pay the deficiency, and if understated by more than two percent (2%), Tenant shall pay Landlord's costs of such audit.

14.6 **Additional Transfers.** For purposes of this Lease, the term "Transfer" shall also include (i) if Tenant is a partnership, the withdrawal or change, voluntary, involuntary or by operation of law, of twenty-five percent (25%) or more of the partners, or transfer of twenty-five percent (25%) or more of partnership interests, within a twelve (12)-month period, or the dissolution of the partnership without immediate reconstitution thereof, and (ii) if Tenant is a closely held corporation (*i.e.*, whose stock is not publicly held and not traded through an exchange or over the counter), (A) the dissolution, merger, consolidation or other reorganization of Tenant, (B) the sale or other transfer of an aggregate of twenty-five percent (25%) or more of the voting shares of Tenant (other than to immediate family members by reason of gift or death), within a twelve (12)-month period, or (C) the sale, mortgage, hypothecation or pledge of an aggregate of twenty-five percent (25%) or more of the value of the unencumbered assets of Tenant within a twelve (12)-month period.

14.7 **Occurrence of Default.** Any Transfer hereunder shall be subordinate and subject to the provisions of this Lease, and if this Lease shall be terminated during the term of any Transfer, Landlord shall have the right to: (i) treat such Transfer as cancelled and repossess the Subject Space by any lawful means, or (ii) require that such Transferee attorn to and recognize Landlord as its landlord under any such Transfer. If Tenant shall be in default under this Lease, Landlord is hereby irrevocably authorized, as Tenant's agent and attorney-in-fact, to direct any Transferee to make all payments under or in connection with such Transfer directly

to Landlord (which Landlord shall apply towards Tenant's obligations under this Lease) until such default is cured. Such Transferee shall rely on any representation by Landlord that Tenant is in default hereunder, without any need for confirmation thereof by Tenant. Upon any assignment of Tenant's interest in this Lease, the assignee shall assume in writing all obligations and covenants of Tenant thereafter to be performed or observed under this Lease. No collection or acceptance of rent by Landlord from any Transferee shall be deemed a waiver of any provision of this Article 14 or the approval of any Transferee or a release of Tenant from any obligation under this Lease, whether theretofore or thereafter accruing. In no event shall Landlord's enforcement of any provision of this Lease against any Transferee be deemed a waiver of Landlord's right to enforce any term of this Lease against Tenant or any other person.

ARTICLE 15

SURRENDER OF PREMISES; OWNERSHIP AND REMOVAL OF TRADE FIXTURES

15.1 **Surrender of Premises.** No act or thing done by Landlord or any agent or employee of Landlord during the Lease Term shall be deemed to constitute an acceptance by Landlord of a surrender of the Premises unless such intent is specifically acknowledged in writing by Landlord. The delivery of keys to the Premises to Landlord or any agent or employee of Landlord shall not constitute a surrender of the Premises or effect a termination of this Lease, whether or not the keys are thereafter retained by Landlord, and notwithstanding such delivery Tenant shall be entitled to the return of such keys at any reasonable time upon request until this Lease shall have been properly terminated. The voluntary or other surrender of this Lease by Tenant, whether accepted by Landlord or not, or a mutual termination hereof, shall not work a merger, and at the option of Landlord shall operate as an assignment to Landlord of all subleases or subtenancies affecting the Premises or terminate any or all such sublessees or subtenancies.

15.2 **Removal of Tenant Property by Tenant.** Upon the expiration of the Lease Term, or upon any earlier termination of this Lease, Tenant shall, subject to the provisions of this Article 15, quit and surrender possession of the Premises to Landlord in as good order and condition as when Tenant took possession and as thereafter improved by Landlord and/or Tenant, reasonable wear and tear and repairs (but not including any damage caused by Tenant) which are specifically made the responsibility of Landlord. Upon such expiration or termination, Tenant shall, without expense to Landlord, remove or cause to be removed from the Premises all debris and rubbish, and such items of furniture, equipment, business and trade fixtures, free-standing cabinet work, movable partitions, cabling installed by or at the request of Tenant that is not contained in protective conduit or metal raceway and other articles of personal property owned by Tenant or installed or placed by Tenant at its expense in the Premises, and such similar articles of any other persons claiming under Tenant, as Landlord may, in its sole discretion, require to be removed, and Tenant shall repair at its own expense all damage to the Premises and Building resulting from such removal.

ARTICLE 16

HOLDING OVER

If Tenant holds over after the expiration of the Lease Term or earlier termination thereof, with or without the express or implied consent of Landlord, such tenancy shall be from month-to-month only ("Holdover Period"), and shall not constitute a renewal hereof or an extension for any further term, and in such case Rent shall be payable at a monthly rate equal to the product of one hundred fifty percent (150%) of the Rent applicable during the last rental period of the Lease Term under this Lease. Such month-to-month tenancy shall be subject to every other applicable term, covenant and agreement contained herein. For purposes of this Article 16, a holding over shall include Tenant's remaining in the Premises after the expiration or earlier termination of the Lease Term, or any deemed hold over pursuant to Section 8.5 above. Nothing contained in this Article 16 shall be construed as consent by Landlord to any holding over by Tenant, and Landlord expressly reserves the right to require Tenant to surrender possession of the Premises to Landlord as provided in this Lease upon the expiration or other termination of this Lease. The provisions of this Article 16 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law.

ARTICLE 17

ESTOPPEL CERTIFICATES

Within five (5) business days following receipt of a request in writing by Landlord, Tenant shall execute, acknowledge and deliver to Landlord an estoppel certificate, stating (a) that this Lease is unmodified and is in full force and effect (or, if there have been modifications, that this Lease is in full force and effect as modified, and setting forth such modifications), (b) the dates to which Rent and other sums payable hereunder have been paid, (c) either that, to the knowledge of Tenant, no default exists hereunder or, specifying each such default of which Tenant has knowledge and (d) any other information reasonably requested by Landlord or Landlord's current or prospective mortgagee. Any such certificate may be relied upon by any current or prospective mortgagee or purchaser of all or any portion of the Project. Tenant shall execute and deliver whatever other instruments may be reasonably required for such purposes. The County's RESD Director shall have the authority on behalf of County to execute an estoppel certificate substantially in the form as generally described in subsections (a-d) of this paragraph. The failure of Tenant to timely execute, acknowledge and deliver such estoppel certificate or other instruments, shall constitute an acceptance of the Premises and an acknowledgment by Tenant that statements included in the estoppel certificate are true and correct, without exception.

ARTICLE 18

SUBORDINATION

This Lease shall be subject and subordinate to all present and future ground or underlying leases of the Building or Project and to the lien of any mortgage, trust deed or other encumbrances now or hereafter in force against the Building or Project or any part thereof, if any, and to all renewals, extensions, modifications, consolidations and replacements thereof, and to all advances made or hereafter to be made upon the security of such mortgages or trust deeds, on such terms and subject to such conditions as the holders of such mortgages, trust deeds or other encumbrances may deem appropriate in its or their discretion without any further act of Tenant, unless the holders of such mortgages, trust deeds or other encumbrances, or the lessors under such ground lease or underlying leases, require in writing that this Lease be superior thereto. Tenant hereby agrees to execute such further instruments subordinating this Lease or attorning to the holder of any such mortgages, trust deeds or other encumbrances within fifteen (15) business days following Landlord's request therefor. Tenant covenants and agrees in the event any proceedings are brought for the foreclosure of any such mortgage or deed in lieu thereof (or if any ground lease is terminated), to attorn, without any deductions or set-offs whatsoever, to the lienholder or purchaser or any successors thereto upon any such foreclosure sale or deed in lieu thereof (or to the ground lessor), if so requested to do so by such purchaser or lienholder or ground lessor, and to recognize such purchaser or lienholder or ground lessor as the lessor under this Lease, provided such lienholder or purchaser or ground lessor shall agree to accept this Lease and not disturb Tenant's occupancy, so long as Tenant timely pays the rent and observes and performs the terms, covenants and conditions of this Lease to be observed and performed by Tenant. Landlord's interest herein may be assigned as security at any time to any lienholder. Tenant shall, within five (5) days of request by Landlord, execute such further instruments or assurances as Landlord may reasonably deem necessary to evidence or confirm the subordination or superiority of this Lease to any such mortgages, trust deeds, ground leases or underlying leases. Tenant waives the provisions of any current or future statute, rule or law which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligations of the Tenant hereunder in the event of any foreclosure proceeding or sale. As a condition precedent to Tenant's obligations under the Lease, upon execution hereof, Landlord shall endeavor promptly and in good faith to obtain from each holder of a lien or encumbrance on the Premises which is senior to the Lease a non-disturbance agreement, substantially in the form of the attornment provisions in Exhibit "G" (but subject to the senior mortgagee's approval thereof), attached hereto and incorporated herein by reference (the "SNDA"). If, after execution of the Lease, a subsequent lienor requires that the Lease be subordinate to any such encumbrance, the Lease shall be subordinate to that encumbrance if, and only if, Landlord first obtains from the subsequent lienor an executed SNDA, substantially in the form of Exhibit "G" (but subject to the senior mortgagee's approval thereof). County's RESD Director shall have the authority on behalf of County to execute a SNDA substantially in the form of Exhibit "G".

ARTICLE 19

DEFAULTS; REMEDIES

19.1 **Events of Default.** The occurrence of any of the following shall constitute a default of this Lease ("**Default**") by Tenant:

19.1.1 Any failure by Tenant to pay any Rent or any other charge required to be paid under this Lease, or any part thereof, when due; or

19.1.2 Except where a specific time period is otherwise set forth for Tenant's performance in this Lease, in which event the failure to perform by Tenant within such time period shall be a default by Tenant under this Section 19.1.2, any failure by Tenant to observe or perform any other provision, covenant or condition of this Lease to be observed or performed by Tenant where such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant; provided that if the nature of such default is such that the same cannot reasonably be cured within a thirty (30) day period, Tenant shall not be deemed to be in default if it diligently commences such cure within such period and thereafter diligently proceeds to rectify and cure such default, but in no event exceeding a period of time in excess of sixty (60) days after written notice thereof from Landlord to Tenant; or

19.1.3 The failure by Tenant to observe or perform according to the provisions of Articles 5 (including, without limitation, the provisions of the Development CC&R's, if applicable), 14, 17 or 18 of this Lease where such failure continues for more than two (2) business days after notice from Landlord; or

19.1.4 To the extent permitted by law, a general assignment by Tenant of this Lease for the benefit of creditors, or the taking of any corporate action in furtherance of bankruptcy or dissolution whether or not there exists any proceeding under an insolvency or bankruptcy law, or the filing by or against Tenant of any proceeding under an insolvency or bankruptcy law, unless in the case of a proceeding filed against Tenant the same is dismissed within sixty (60) days, or the appointment of a trustee or receiver to take possession of all or substantially all of the assets of Tenant, unless possession is restored to Tenant within thirty (30) days, or any execution or other judicially authorized seizure of all or substantially all of Tenant's assets located upon the Premises or of Tenant's interest in this Lease, unless such seizure is discharged within thirty (30) days; or

19.1.5 Tenant's failure to occupy the Premises for business operations for more than thirty (30) consecutive days at any time during the Lease Term (or any applicable option term); or

19.1.6 Tenant's failure to occupy the Premises within ten (10) business days after the Lease Commencement Date.

The notice periods provided herein are in lieu of, and not in addition to, any notice periods provided by law.

19.2 **Remedies Upon Default.** Upon the occurrence of any event of Default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity (all of which remedies shall be distinct, separate and cumulative), the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever:

19.2.1 Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim or damages therefor; and Landlord may recover from Tenant the following:

(i) The worth at the time of award of any unpaid rent which has been earned at the time of such termination; plus

(ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the Lease Term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(iv) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, specifically including but not limited to, unamortized Tenant Improvements; and

(v) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term "**rent**" as used in this Section 19.2 shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to Landlord or to others. As used in Paragraphs 19.2.1(i) and (ii), above, the "worth at the time of award" shall be computed by allowing interest at the rate set forth in Article 25 of this Lease, but in no case greater than the maximum amount of such interest permitted by law. As used in Paragraph 19.2.1(iii) above, the "worth at the time of award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

19.2.2 Landlord shall have the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease on account of any Default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all rent as it becomes due

19.2.3 Landlord shall at all times have the rights and remedies (which shall be cumulative with each other and cumulative and in addition to those rights and remedies available under Sections 19.2.1 and 19.2.2, above, or any law or other provision of this Lease), without prior demand or notice except as required by applicable law, to seek any declaratory, injunctive or other equitable relief, and specifically enforce this Lease, or restrain or enjoin a violation or breach of any provision hereof.

19.3 **Form of Payment After Default.** Following the occurrence of an event of Default by Tenant, Landlord shall have the right to require that any or all subsequent amounts paid by Tenant to Landlord hereunder, whether to cure the Default in question or otherwise, be paid in the form of cash, money order, cashier's or certified check drawn on an institution acceptable to Landlord, or by other means approved by Landlord, notwithstanding any prior practice of accepting payments in any different form. Such monthly Rent, other sums, and/or damages shall be payable to Landlord only at the same time and in the same manner as provided for the payment of monthly Rent.

19.4 **Efforts to Relet.** No re-entry or repossession, repairs, maintenance, changes, alterations and additions, reletting, appointment of a receiver to protect Landlord's interests hereunder, or any other action or omission by Landlord shall be construed as an election by Landlord to terminate this Lease or Tenant's right to possession, or to accept a surrender of the Premises, nor shall same operate to release Tenant in whole or in part from any of Tenant's obligations hereunder, unless express written notice of such intention is sent by Landlord to Tenant. Tenant hereby irrevocably waives any right otherwise available under any law to redeem or reinstate this Lease.

19.5 **Subleases of Tenant.** Whether or not Landlord elects to terminate this Lease on account of any Default by Tenant, as set forth in this Article 19, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and

affecting the Premises or may, in Landlord's sole discretion, succeed to Tenant's interest in such subleases, licenses, concessions or arrangements. In the event of Landlord's election to succeed to Tenant's interest in any such subleases, licenses, concessions or arrangements, Tenant shall, as of the date of notice by Landlord of such election, have no further right to or interest in the rent or other consideration receivable thereunder.

19.6 Landlord Default.

19.6.1 **General.** Notwithstanding anything to the contrary set forth in this Lease, Landlord shall not be in default in the performance of any obligation required to be performed by Landlord pursuant to this Lease unless Landlord fails to perform such obligation within thirty (30) days after the receipt of notice from Tenant specifying in detail Landlord's failure to perform; provided, however, if the nature of Landlord's obligation is such that more than thirty (30) days are required for its performance, then Landlord shall not be in default under this Lease if it shall commence such performance within such thirty (30) day period and thereafter diligently pursue the same to completion, provided that if such performance shall require more than 30 days, Landlord shall at all times diligently continue such performance to its completion without being in breach of this Lease. Upon any such default by Landlord under this Lease, Tenant may, except as otherwise specifically provided in this Lease to the contrary, exercise any of its rights provided at law or in equity; provided, however, Tenant may, at its option and in its sole discretion, after notice to Landlord, cure Landlord's default. If Tenant elects to cure Landlord's default, Landlord shall reimburse Tenant the sum actually expended by Tenant in curing Landlord's default. The sum expended by Tenant shall be due from Landlord to Tenant within twenty (20) days of notice of Tenant's invoice to Landlord along with documentation supporting the expended costs, and if paid at a later date, shall bear interest at the maximum rate Tenant is permitted by law to charge from the date the sum was paid by Tenant until Tenant is reimbursed by Landlord. If Landlord fails to reimburse Tenant as required by this paragraph, Tenant shall have the right to withhold from future Monthly Rent and other sums due the amount Tenant has paid until Tenant is reimbursed in full for the sum and interest on it; provided, however, such reimbursement shall be limited to a sum no greater than \$50,000, after providing proof of out-of-pocket expenditures to remedy the default of the Landlord. The remedies set forth in this paragraph are in addition to and do not in any manner limit other remedies set forth in the Lease. Tenant shall have no right (a) to offset or abate rent in the event of any default by Landlord under this Lease, except that offset rights are provided to Tenant in this Lease, but are limited to the \$50,000 reimbursement sum in total set forth above, nor; (b) to terminate this Lease. Tenant's rights and remedies hereunder shall be limited to the extent (i) Tenant has expressly waived in this Lease any of such rights or remedies and/or (ii) this Lease otherwise expressly limits Tenant's rights or remedies, including the limitation on Landlord's liability contained in Section 29.13 below.

ARTICLE 20

COVENANT OF QUIET ENJOYMENT

Landlord covenants that Tenant, on paying the Rent, charges for services and other payments herein reserved and on keeping, observing and performing all the other terms, covenants, conditions, provisions and agreements herein contained on the part of Tenant to be kept, observed and performed, shall, during the Lease Term, peaceably and quietly have, hold and enjoy the Premises subject to the terms, covenants, conditions, provisions and agreements hereof without interference by any persons lawfully claiming by or through Landlord. The foregoing covenant is in lieu of any other covenant express or implied.

ARTICLE 21

RESERVED

ARTICLE 22

RESERVED

ARTICLE 23

SIGNS

23.1 **Full Floors.** Subject to Landlord's prior written approval, in its sole discretion, and provided all signs are in keeping with the quality, design and style of the Building and Project, Tenant, if the Premises comprise an entire floor of the Building, at its sole cost and expense, may install identification signage anywhere in the Premises including in the elevator lobby of the Premises, provided that such signs must not be visible from the exterior of the Building.

23.2 **Multi-Tenant Floors.** If other tenants occupy space on the floor on which the Premises is located, Tenant's identifying signage shall be provided by Landlord, at Tenant's cost, and such signage shall be comparable to that used by Landlord for other similar floors in the Building and shall comply with Landlord's Building standard signage program.

23.3 **Building Directory.** Tenant shall be entitled, at no charge, to one line on the Building directory to display Tenant's name and location in the Building. The location, quality, design, style, and size of such signage shall be consistent with the Landlord's Building standard signage program. Any changes to Tenant's directory signage after the initial placement of the same shall be at Tenant's sole cost and expense.

23.4 **Prohibited Signage and Other Items.** Any signs, notices, logos, pictures, names or advertisements which are installed and that have not been separately approved by Landlord may be removed without notice by Landlord at the sole expense of Tenant. Notwithstanding anything in this Lease to the contrary, all signs, notices, logos, pictures, names and advertisements installed at the Project shall be subject to the sign criteria attached hereto as **Exhibit F**. Except as set forth in Section 23.5 below, Tenant may not install any signs on the exterior or roof of the Project or the Common Areas. Except as set forth in Section 23.5 below, any signs, window coverings, or blinds (even if the same are located behind the Landlord-approved window coverings for the Building), or other items visible from the exterior of the Premises or Building, shall be subject to the prior approval of Landlord, in its sole discretion.

ARTICLE 24

COMPLIANCE WITH LAW

As of the Lease execution, Landlord hereby affirms the following: (i) the Premises, the Building, and the Project comply with the applicable requirements of all municipal, county, state, federal, and regulatory laws, statutes, codes, ordinances, and regulations for public and government buildings then in effect, including, but not limited to, applicable Health, Safety, Fire and Building codes, notice of completion, certificate of occupancy, California Title 24, and the Americans with Disabilities Act (collectively, "Laws"); (ii) an accessible path of travel exists from public transportation to the Premises pursuant to California Title 24 requirements; (iii) all improvements in or on the Premises, the Building, and the Project (whether constructed by Landlord, prior tenants, or any third party) comply with all applicable covenants or restrictions of record for the Property and all applicable Laws; (iv) Landlord has not received any violations of Laws from any relevant government authority with respect to the Premises, the Building, or the Property; and (v) Landlord has no knowledge of any pending or threatened claims of any violations of Laws from any third party with respect to the Premises, the Building, or the Project. Landlord covenants that Landlord shall, at its sole cost and expense, maintain the Premises, the Building, and the Project in compliance with all applicable Laws for the duration of the Lease Term and any extensions thereof. Landlord represents and warrants to Tenant that the forgoing is true and accurate as of the Commencement Date. In the event of a breach of the foregoing representations, warranties, or covenants herein, Landlord shall, at its cost and sole expense, promptly remedy any non-compliance with Laws and indemnify, defend (with counsel reasonably approved by County), and hold harmless County and its officers, employees, agents, and volunteers from any and all claims, actions, losses, damages and/or liability arising out of or related to said breach. Landlord's indemnity obligation shall survive the expiration or earlier termination of the Lease. In the event of that the Premises, the Building or the Project requires modifications due to changes in Laws during the Lease Term or any extensions thereof, Landlord shall, at its sole cost and expense, promptly complete such modification.

Tenant shall not do anything or suffer anything to be done in or about the Premises or the Project which will in any way conflict with any law, statute, ordinance or other governmental rule, regulation or requirement now in force or which may hereafter be enacted or promulgated, including, without limitation, the Americans with Disabilities Act of 1990 (as may be amended) (collectively, the "Laws"). At its sole cost and expense, Tenant shall promptly comply with all such Laws, including, without limitation, the making of any alterations and improvements to the Premises. Notwithstanding the foregoing to the contrary, Landlord shall be responsible, as part of Operating Expenses to the extent permitted under Article 4 above, for making all alterations to the following portions of the Building and Project required by applicable Laws: (i) structural portions of the Premises and Building, but not including Tenant Improvements or any Alterations installed by or at the request of Tenant; and (ii) those portions of the Building and Project located outside the Premises; provided, however, Tenant shall reimburse Landlord (or Landlord's property manager), within ten (10) days after invoice, for the costs of any such improvements and alterations and other compliance costs to the extent necessitated by or resulting from (A) any Alterations or Tenant Improvements installed by or on behalf of Tenant, (B) the negligence or willful misconduct of Tenant or any Tenant's Parties that is not covered by insurance obtained by Landlord and as to which the waiver of subrogation applies, and/or (C) Tenant's specific manner of use of the Premises (as distinguished from general office use).

ARTICLE 25

LATE CHARGES

If any installment of Rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee within five (5) business days after said amount is due, then Tenant shall pay to Landlord a late charge equal to three percent (3%) of the overdue amount plus, if the Landlord is the prevailing party in any legal action arising out of Tenant's failure to pay rent, any attorneys' fees incurred by Landlord by reason of Tenant's failure to pay Rent and/or other charges when due hereunder. The late charge shall be deemed Additional Rent and the right to require it shall be in addition to all of Landlord's other rights and remedies hereunder or at law and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner. In addition to the late charge described above, any Rent or other amounts owing hereunder which are not paid within ten (10) days after that the date they are due shall bear interest from the date when due until paid at a rate per annum equal to the lesser of (i) the annual "Bank Prime Loan" rate cited in the Federal Reserve Statistical Release Publication G.13(415), published on the first Tuesday of each calendar month (or such other comparable index as Landlord and Tenant shall reasonably agree upon if such rate ceases to be published) plus four percent (4%), and (ii) the highest rate permitted by applicable law.

ARTICLE 26

LANDLORD'S RIGHT TO CURE DEFAULT; PAYMENTS BY TENANT

26.1 **Landlord's Cure.** All covenants and agreements to be kept or performed by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any reduction of Rent, except to the extent, if any, otherwise expressly provided herein. If Tenant shall fail to perform any obligation under this Lease, and, except in case of an emergency, such failure shall continue in excess of the time allowed under Section 19.1.2, above, unless a specific time period is otherwise stated in this Lease, Landlord may, but shall not be obligated to, make any such payment or perform any such act on Tenant's part without waiving its rights based upon any default of Tenant and without releasing Tenant from any obligations hereunder.

26.2 **Tenant's Reimbursement.** Except as may be specifically provided to the contrary in this Lease, Tenant shall pay to Landlord (or Landlord's property manager), upon delivery by Landlord to Tenant of statements therefor: (i) sums equal to expenditures reasonably made and obligations incurred by Landlord in connection with the remedying by Landlord of Tenant's defaults pursuant to the provisions of Section 26.1; and (ii) sums equal to all losses, costs, liabilities, damages and expenses referred to in Article 10 of this Lease. Tenant's obligations under this Section 26.2 shall survive the expiration or sooner termination of the Lease Term.

ARTICLE 27

ENTRY BY LANDLORD

Upon not less than twenty-four (24) hours prior written notice to Tenant and subject to Paragraph 29.28 Confidentiality, Landlord and its authorized employees, contractors, and agents shall have the right to enter the Premises at all reasonable times during Tenant's normal business hours, excluding any County Holidays, for any of the following purposes: (i) to determine Tenant's compliance with its obligations under the Lease; (ii) to perform any necessary maintenance, repair, and restoration of the Premises pursuant to the Lease; (iii) to serve, post, or keep posted any notices required by law; (iv) to post "for sale" signs at any time during the Lease Term or to post "for rent" or "for lease" signs during the last six (6) months of the Lease Term, provided such signs do not unreasonably interfere with the conduct of County operations, and (v) to show the Premises to (i) any third parties conducting services to the Premises, or (ii) insurers, prospective tenants/purchasers or existing mortgagee or prospective mortgagee representatives. Landlord's entry shall be made in a manner that will cause the least possible inconvenience, annoyance, or disturbance to County. Notwithstanding anything to the contrary contained in this Article 27, Landlord (or Landlord's property manager) may enter the Premises at any time to (A) perform services required of Landlord, including janitorial service; (B) take possession due to any breach of this Lease in the manner provided herein provided that Landlord obtains an order of eviction and writ of possession; and (C) perform any covenants of Tenant which Tenant fails to perform after providing of notice and a right to cure. Any entry into the Premises by Landlord in the manner hereinbefore described shall not be deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an actual or constructive eviction of Tenant from any portion of the Premises.

ARTICLE 28

TENANT PARKING

28.1 **Tenant Parking Passes.** Commencing on the Lease Commencement Date, Tenant shall (a) be entitled to use the number of unreserved parking passes set forth in Section 8 of the Summary, and (b) shall rent from Landlord the number of reserved passes set forth in Section 8 of the Summary. All such parking passes shall be utilized on a monthly basis throughout the Lease Term, shall pertain to the Project parking facility and shall entitle Tenant and/or its personnel to park one (1) vehicle in one (1) parking space per pass utilized. Any such passes for reserved parking spaces shall be at locations in the Project parking facility designated by Landlord. Any such passes for unreserved parking spaces shall be on a first-come, first-serve basis. Tenant shall pay to Landlord for reserved parking passes on a monthly basis the prevailing rate charged from time to time at the location of such parking passes. In addition, Tenant shall be responsible for the full amount of any taxes imposed by any governmental authority in connection with the renting of such parking passes by Tenant or the use of the parking facility by Tenant. Tenant's continued right to use the parking passes is conditioned upon Tenant abiding by all rules and regulations which are prescribed from time to time for the orderly operation and use of the parking facility where the parking passes are located, including any sticker or other identification system established by Landlord, Tenant's cooperation in seeing that Tenant's employees and visitors also comply with such rules and regulations, and Tenant not being in default under this Lease. In addition, Tenant shall comply with all applicable governmental resolutions, laws, rules and regulations. Accordingly, Tenant hereby agrees that Tenant shall not charge its employees for the parking passes utilized by such employees at the Project (notwithstanding any charge which may be imposed upon Tenant for such parking passes pursuant to the terms of this Lease).

28.2 **Other Terms.** Except as to the North Lot, Landlord specifically reserves the right to change the size, configuration, design, layout and all other aspects of the Project parking facility at any time and Tenant acknowledges and agrees that Landlord may, without incurring any liability to Tenant and without any abatement of Rent under this Lease, from time to time, close-off or restrict access to the Project parking facility for purposes of permitting or facilitating any such construction, alteration or improvements. Tenant agrees that Landlord shall not be liable for damages, by abatement of Rent or otherwise, for failure to provide any parking (whether in the North Lot or otherwise), including any failure to provide reserved parking spaces, when such failure is occasioned, in whole or in part, by construction, alteration, improvements, repairs or replacements, by any strike, lockout or other labor trouble, by inability to resolve any dispute with any other party to the Development CC&R's (as applicable) after reasonable effort to do so, by any riot or other dangerous condition, emergency, accident or casualty whatsoever, by act or default of Tenant or other parties, or by any other cause; and such failures shall

never be deemed to constitute an eviction or disturbance of Tenant's use and possession of the Premises or relieve Tenant from paying Rent or performing any of its obligations under this Lease. Furthermore, Landlord shall not be liable under any circumstances for a loss of, or injury to, property or for injury to, or interference with, Tenant's business, including, without limitation, loss of profits, however occurring, through or in connection with or incidental to a failure to furnish any parking as set forth in this Article 28. The parking passes utilized by Tenant pursuant to this Article 28 are provided to Tenant solely for use by Tenant's own personnel and such passes may not be transferred, assigned, subleased or otherwise alienated by Tenant without Landlord's prior approval. Tenant may validate visitor parking by such method or methods as may be established from time to time, at the validation rate from time to time generally applicable to visitor parking.

28.3 Parking Procedures. The parking passes initially will not be separately identified; however Landlord reserves the right in its sole and absolute discretion to separately identify by signs or other markings the area to which Tenant's parking passes relate. Landlord shall have no obligation to monitor the use of such parking facility, nor shall Landlord be responsible for any loss or damage to any vehicle or other property or for any injury to any person. Tenant's parking passes shall be used only for parking of automobiles no larger than full size passenger automobiles, sport utility vehicles or pick-up trucks in connection with Tenant's business operations at the Premises only during the hours that Tenant and/or its personnel are conducting business operations from the Premises; provided, however, occasional overnight parking associated with Tenant's or its personnel's conduct of business from the Premises shall be permitted, subject to Tenant's and/or its personnel's compliance with Landlord's rules related to such overnight parking. Tenant shall comply with all rules and regulations which may be prescribed from time to time with respect to parking and/or the parking facilities servicing the Project. Tenant shall not at any time use more parking spaces in the Project parking facility than the number of parking passes so allocated to Tenant or park its vehicles or the vehicles of others in any portion of the Project parking facility not designated by Landlord as a non-exclusive parking area. Tenant shall not have the exclusive right to use any specific parking space. If any person or entity has the exclusive right to use any particular parking space(s), Tenant shall not use such spaces. All trucks (other than pick-up trucks) and delivery vehicles shall be (i) parked at the designated areas of the surface parking lot (which designated areas are subject to change by Landlord at any time), (ii) loaded and unloaded in a manner which does not interfere with the businesses of other occupants of the Project, and (iii) permitted to remain on the Project only so long as is reasonably necessary to complete loading and unloading. In the event Landlord elects in its sole and absolute discretion or is required by any law or by the Development CC&R's (if applicable) to limit or control parking, whether by validation of parking tickets or any other method of assessment, Tenant agrees to participate in such validation or assessment program under such reasonable rules and regulations as are from time to time established by Landlord.

ARTICLE 29

MISCELLANEOUS PROVISIONS

29.1 Terms; Captions. The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. The necessary grammatical changes required to make the provisions hereof apply either to corporations or partnerships or individuals, men or women, as the case may require, shall in all cases be assumed as though in each case fully expressed. The captions of Articles and Sections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such Articles and Sections.

29.2 Binding Effect. Subject to all other provisions of this Lease, each of the covenants, conditions and provisions of this Lease shall extend to and shall, as the case may require, bind or inure to the benefit not only of Landlord and of Tenant, but also of their respective heirs, personal representatives, successors or assigns, provided this clause shall not permit any assignment by Tenant contrary to the provisions of Article 14 of this Lease.

29.3 No Air Rights. No rights to any view or to light or air over any property, whether belonging to Landlord or any other person, are granted to Tenant by this Lease. If at any time any windows of the Premises are temporarily darkened or the light or view therefrom is obstructed by reason of any repairs, improvements, maintenance or cleaning in or about the Project, the same shall be without liability to Landlord and without any reduction or diminution of Tenant's obligations under this Lease.

29.4 **Modification of Lease.** Should any current or prospective mortgagee or ground lessor for the Building or Project require a modification of this Lease, which modification will not cause an increased cost or expense to Tenant or in any other way materially and adversely change the rights and obligations of Tenant hereunder, then and in such event, Tenant agrees that this Lease may be so modified and agrees to execute whatever documents are reasonably required therefor and to deliver the same to Landlord within ten (10) days following a request therefor. At the request of Landlord or any mortgagee or ground lessor, Tenant agrees to execute a short form of Lease and deliver the same to Landlord within ten (10) days following the request therefor. If a mortgagee or ground lessor shall as a condition to any consent or the execution of any document requested by Tenant, require payment of its attorney's fees, lender fees or other costs, then Landlord shall notify Tenant of the same, which notification shall include an estimate of legal fees or costs relating to the review, consent or signature to such document requested by Tenant. Landlord shall have no obligation to pay any such fees or costs requested by such party.

29.5 **Transfer of Landlord's Interest.** Tenant acknowledges that Landlord has the right to transfer all or any portion of its interest in the Project or Building and in this Lease, and Tenant agrees that in the event of any such transfer, Landlord shall automatically be released from all liability under this Lease and Tenant agrees to look solely to such transferee for the performance of Landlord's obligations hereunder after the date of transfer and such transferee shall be deemed to have fully assumed and be liable for all obligations of this Lease to be performed by Landlord, including the return of any Security Deposit, and Tenant shall attorn to such transferee. Tenant further acknowledges that Landlord may assign its interest in this Lease to a mortgage lender as additional security and agrees that such an assignment shall not release Landlord from its obligations hereunder and that Tenant shall continue to look to Landlord for the performance of its obligations hereunder.

29.6 **Prohibition Against Recording.** Except as provided in Section 29.4 of this Lease, neither this Lease, nor any memorandum, affidavit or other writing with respect thereto, shall be recorded by Tenant or by anyone acting through, under or on behalf of Tenant.

29.7 **Landlord's Title.** Landlord's title is and always shall be paramount to the title of Tenant. Nothing herein contained shall empower Tenant to do any act which can, shall or may encumber the title of Landlord.

29.8 **Relationship of Parties.** Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Landlord and Tenant.

29.9 **Application of Payments.** Landlord shall have the right to apply payments received from Tenant pursuant to this Lease, regardless of Tenant's designation of such payments, to satisfy any obligations of Tenant hereunder, in such order and amounts as Landlord, in its sole discretion, may elect.

29.10 **Time of Essence.** Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

29.11 **Partial Invalidity.** If any term, provision or condition contained in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this Lease shall be valid and enforceable to the fullest extent possible permitted by law.

29.12 **No Warranty.** In executing and delivering this Lease, Tenant has not relied on any representations, including, but not limited to, any representation as to the amount of any item comprising Additional Rent or the amount of the Additional Rent in the aggregate or that Landlord is furnishing the same services to other tenants, at all, on the same level or on the same basis, or any warranty or any statement of Landlord which is not set forth herein or in one or more of the exhibits attached hereto.

29.13 **Landlord Exculpation.** The liability of Landlord or the Landlord Parties to Tenant for any default by Landlord under this Lease or arising in connection herewith or with Landlord's operation, management, leasing, repair, renovation, alteration or any other matter relating to the Project or the Premises shall be limited solely and exclusively to an amount which is equal to the interest of Landlord in the Building, provided that in no event shall such liability extend to any sales or insurance proceeds received by Landlord or the Landlord Parties in connection with the Project, Building or Premises. Neither Landlord, nor any of the Landlord Parties shall have any personal liability therefor, and Tenant hereby expressly waives and releases such personal liability on behalf of itself and all persons claiming by, through or under Tenant. The limitations of liability contained in this Section 29.13 shall inure to the benefit of Landlord's and the Landlord Parties' present and future partners, beneficiaries, officers, directors, trustees, shareholders, agents and employees, and their respective partners, heirs, successors and assigns. Under no circumstances shall any present or future partner of Landlord (if Landlord is a partnership), or trustee or beneficiary (if Landlord or any partner of Landlord is a trust), have any liability for the performance of Landlord's obligations under this Lease. Notwithstanding any contrary provision herein, neither Landlord nor the Landlord Parties shall be liable under any circumstances for injury or damage to, or interference with, Tenant's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring.

29.14 **Entire Agreement.** It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Lease and this Lease constitutes the parties' entire agreement with respect to the leasing of the Premises and supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. None of the terms, covenants, conditions or provisions of this Lease can be modified, deleted or added to except in writing signed by the parties hereto.

29.15 **Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war, acts of terrorism, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent and other charges to be paid by Tenant pursuant to this Lease and except as to Tenant's obligations under Articles 5 and 24 of this Lease (collectively, a "Force Majeure"), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure.

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

29.17 **Notices.** All notices, demands, designations, approvals or other material lease communications (collectively, "Notices") given or required to be given by either party to the other hereunder or by law shall be in writing, shall be (A) sent by United States certified or registered mail, postage prepaid, return receipt requested ("Mail"), or (B) transmitted by facsimile, if such facsimile is promptly followed by a Notice sent by Mail, or (C) delivered by a nationally recognized overnight courier, or (D) delivered personally. Any Notice shall be sent, transmitted, or delivered, as the case may be, to Tenant at the appropriate address set forth in Section 9 of the Summary, or to such other place as Tenant may from time to time designate in a Notice to Landlord, or to Landlord at the addresses set forth in Section 10 of the Summary, or to such other places as Landlord may from time to time designate in a Notice to Tenant. Any Notice will be deemed given (i) three (3) days after the date it is posted if sent by Mail, (ii) the date the telecopy is transmitted, (iii) the date the overnight courier delivery is made, or (iv) the date personal delivery is made or attempted to be made. If Tenant is notified of the identity and address of Landlord's mortgagee or ground or underlying lessor, Tenant shall give to such mortgagee or ground or underlying lessor written notice of any default by Landlord under the terms of this Lease by registered or certified mail, and such mortgagee or ground or underlying lessor shall be given a reasonable opportunity to cure such default prior to Tenant's exercising any remedy available to Tenant.

29.18 **Joint and Several.** If there is more than one Tenant, the obligations imposed upon Tenant under this Lease shall be joint and several.

29.19 **Authority; Tenant Representation.** If Tenant is a corporation, trust, partnership, limited liability company or political entity, each individual executing this Lease on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in their state of formation and in the State of California and that Tenant has full right and authority to execute and deliver this Lease and that each person signing on behalf of Tenant is authorized to do so. In such event, Tenant shall, within ten (10) days after execution of this Lease, deliver to Landlord satisfactory evidence of such authority and, upon demand by Landlord, also deliver to Landlord satisfactory evidence of (i) good standing in Tenant's state of formation and (ii) qualification to do business in the State of California. Tenant hereby represents to Landlord that neither Tenant nor any members, partners, subpartners, parent organization, affiliate or subsidiary, or their respective officers, directors, contractors, agents, servants, employees, invitees or licensees (collectively, "**Tenant Individuals**"), to Tenant's current actual knowledge, appears on any of the following lists (collectively, "**Government Lists**") maintained by the United States government:

29.19.1 The two (2) lists maintained by the United States Department of Commerce (Denied Persons and Entities; the Denied Persons list can be found at <http://www.bis.doc.gov/dpl/thedeniallist.asp>; the Entity List can be found at <http://www.bis.doc.gov/entities/default.htm>);

29.19.2 The list maintained by the United States Department of Treasury (Specially Designated Nationals and Blocked Persons, which can be found at <http://www.ustreas.gov/ofac/t11sdn.pdf>);

29.19.3 The two (2) lists maintained by the United States Department of State (Terrorist Organizations and Debarred Parties; the State Department List of Terrorists can be found at <http://www.state.gov/s/ct/rls/other/des/123085.html>; the List of Debarred Parties can be found at <http://www.pmdtc.state.gov/compliance/debar.html>); and

29.19.4 Any other list of terrorists, terrorist, organizations or narcotics traffickers maintained pursuant to any of the rules and regulations of the Office of Foreign Assets Control, United States Department of Treasury, or by any other government or agency thereof.

29.19.5 Should any Tenant Individuals appear on any Government Lists at any time during the Lease Term, Landlord shall be entitled to terminate this Lease by written notice to Tenant effective as of the date specified in such notice.

29.20 **Attorneys' Fees.** If any legal action is instituted to enforce or declare a Party's rights hereunder, each Party, including the prevailing Party, must bear its own attorneys' fees and costs. This paragraph shall not apply to those attorneys' fees and costs directly arising from any third party legal action against County or Landlord, including such attorneys' fees and costs payable under Paragraphs 5.3 and 5.4, Hazardous Materials, Paragraph 10.1, Indemnification, Paragraph 29.24 Brokers; Paragraph 29.28, Confidentiality; and Paragraph 29.37, Public Records Disclosure.

29.21 **Governing Law; Venue: WAIVER OF TRIAL BY JURY.** This Lease shall be construed and enforced in accordance with the laws of the State of California. The parties acknowledge and agree that the Lease was entered into and intended to be performed in the County of San Bernardino, California. The parties agree that the venue for any action or claim brought by any party to the Lease will be the Superior Court of California, County of San Bernardino. Each party hereby waives any law, statute (including but not limited to Code of Civil Procedure section 394), or rule of court that would allow them to request or demand a change of venue. If any third party brings an action or claim concerning the Lease, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino. IN ANY ACTION OR PROCEEDING ARISING HEREFROM, LANDLORD AND TENANT HEREBY CONSENT TO (I) SERVICE OF PROCESS BY ANY MEANS AUTHORIZED BY CALIFORNIA LAW, AND (II) IN THE INTEREST OF SAVING TIME AND EXPENSE, TRIAL WITHOUT A JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR THEIR SUCCESSORS IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY.

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

29.23 **Brokers.** Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, excepting only the real estate brokers or agents specified in Section 10 of the Summary (the "**Brokers**"), and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Lease. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, other than the Brokers, occurring by, through, or under the indemnifying party.

29.24 **Independent Covenants.** This Lease shall be construed as though the covenants herein between Landlord and Tenant are independent and not dependent and Tenant hereby expressly waives the benefit of any statute to the contrary and agrees that if Landlord fails to perform its obligations set forth herein, Tenant shall not be entitled to make any repairs or perform any acts hereunder at Landlord's expense or to any setoff of the Rent or other amounts owing hereunder against Landlord.

29.25 **Project or Building Name and Signage.** Landlord shall have the right at any time to change the name of the Project and to install, affix and maintain any and all signs on the exterior and on the interior of the Project as Landlord may, in Landlord's sole discretion, desire. Tenant shall not use the name of the Project or use pictures or illustrations of the Project in advertising or other publicity or for any purpose other than as the address of the business to be conducted by Tenant in the Premises, without the prior written consent of Landlord.

29.26 **Counterparts.** The Lease may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Lease. The parties shall be entitled to sign and transmit an electronic signature of this Lease (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Lease upon request.

29.27 **Confidentiality.** Landlord acknowledges that the Premises will be used by County for the processing and storage of confidential information that is protected from unlawful access and disclosure by municipal, county, state, and federal laws ("Confidential Information"). Landlord and its officers, agents, volunteers, employees, contractors, and any third parties under Landlord's control (including, but not limited, to property management, maintenance, and custodial providers) hereby agree to comply with all applicable municipal, county, state, and federal laws pertaining to the security and protection of Confidential Information and will prevent and not permit any unlawful access to or disclosure of Confidential Information discovered by entering the Premises as permitted by the Lease. Prior to any permitted entry of the Premises, except in the event of a life-threatening emergency or an imminent and substantial destruction of the Premises, Landlord and its officers, agents, volunteers, employees, contractors and any third parties under Landlord's control shall: (i) provide not less than twenty-four (24) hours prior written notice of its desired entry; (ii) enter only during County's normal business hours; (iii) be escorted by County during its entry; and (iv) remain in the Premises only for so long as reasonably necessary to complete Landlord's obligations under the Lease. Should it be necessary for Landlord to enter the Premises due to a life-threatening emergency or imminent and substantial destruction of the Premises, Landlord and its agents, volunteers, employees, contractors, and any third parties under Landlord's control shall: (a) immediately notify County of such entry, (b) remain in the Premises only for so long as reasonably necessary to abate such emergency or destruction, and (c) upon departure, secure the Premises in the same manner as the Premises were secured upon entry, (i.e., arming alarm system and locking entry points). During any permitted entry of the Premises, Landlord and its officers, agents, volunteers, employees or any third parties under Landlord's control shall not access, disclose, or remove any Confidential Information from the Premises, including but not limited to, access of file cabinets, locked storage rooms, and desks. Any entry of the Premises that does not comply with the requirements of this paragraph is unauthorized. Landlord agrees to include the entry requirements contained in this paragraph in its agreements with all third party providers who may enter

the Premises. Landlord acknowledges that any unlawful access to or disclosure of Confidential Information may result in the imposition of civil and criminal sanctions.

29.28 **Transportation Management.** Tenant shall fully comply with all present or future government-mandated programs intended to manage parking, transportation or traffic in and around the Building, and in connection therewith, Tenant shall take responsible action for the transportation planning and management of all employees located at the Premises by working directly with Landlord, any governmental transportation management organization or any other transportation-related committees or entities.

29.29 **No Violation.** Tenant hereby warrants and represents that neither its execution of nor performance under this Lease shall cause Tenant to be in violation of any agreement, instrument, contract, law, rule or regulation by which Tenant is bound, and Tenant shall protect, defend, indemnify and hold Landlord harmless against any claims, demands, losses, damages, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees and costs, arising from Tenant's breach of this warranty and representation.

29.30 **Communications and Computer Lines.** Tenant may install, maintain, replace, remove or use any communications or computer wires and cables (collectively, the "Lines") at the Project in or serving the Premises, provided that (i) Tenant shall obtain Landlord's prior written consent, use an experienced and qualified contractor approved in writing by Landlord, and comply with all of the other provisions of Articles 7 and 8 of this Lease, (ii) an acceptable number of spare Lines and space for additional Lines shall be maintained for existing and future occupants of the Project, as determined in Landlord's reasonable opinion, (iii) the Lines therefor (including riser cables) shall be appropriately insulated to prevent excessive electromagnetic fields or radiation, and shall be surrounded by a protective conduit reasonably acceptable to Landlord, and clearly marked with adhesive plastic labels (or plastic tags attached to such Lines with wire) to show Tenant's name, suite number, and the purpose of such Lines every six (6) feet outside the Premises (including the electrical room risers and any Common Areas) and at their termination points, (iv) any new or existing Lines servicing the Premises shall comply with all applicable governmental laws and regulations, (v) as a condition to permitting the installation of new Lines, Landlord may require that Tenant remove existing Lines located in or serving the Premises and repair any damage in connection with such removal, and (vi) Tenant shall pay all costs in connection therewith, including any fees charged by Landlord for Tenant's use of the Building's telecommunications capacity in excess of Tenant's pro rata share thereof. Landlord reserves the right to require that Tenant remove any Lines located in or serving the Premises which are installed in violation of these provisions, or which are at any time in violation of any Laws or represent a dangerous or potentially dangerous condition.

29.31 **Office and Communications Services.**

29.31.1 **The Provider.** Landlord has advised Tenant that certain office and communications services may be offered to tenants of the Building by a concessionaire under contract to Landlord ("Provider"). Tenant shall be permitted to contract with Provider for the provision of any or all of such services on such terms and conditions as Tenant and Provider may agree.

29.31.2 **Other Terms.** Tenant acknowledges and agrees that: (i) Landlord has made no warranty or representation to Tenant with respect to the availability of any such services, or the quality, reliability or suitability thereof; (ii) the Provider is not acting as the agent or representative of Landlord in the provision of such services, and Landlord shall have no liability or responsibility for any failure or inadequacy of such services, or any equipment or facilities used in the furnishing thereof, or any act or omission of Provider, or its agents, employees, representatives, officers or contractors; (iii) Landlord shall have no responsibility or liability for the installation, alteration, repair, maintenance, furnishing, operation, adjustment or removal of any such services, equipment or facilities; and (iv) any contract or other agreement between Tenant and Provider shall be independent of this Lease, the obligations of Tenant hereunder, and the rights of Landlord hereunder, and, without limiting the foregoing, no default or failure of Provider with respect to any such services, equipment or facilities, or under any contract or agreement relating thereto, shall have any effect on this Lease or give to Tenant any offset or defense to the full and timely performance of its obligations hereunder, or entitle Tenant to any abatement of rent or additional rent or any other payment required to be made by Tenant hereunder, or constitute any accrual or constructive eviction of Tenant, or otherwise give rise to any other claim of any nature against Landlord.

29.32 **Development CC&R's.** This Lease and the terms hereof shall be subject in all respects to the provisions of the Development CC&R's, if applicable. The term "**Development CC&R's,**" as used in this Lease, shall mean and refer to any and all declaration of easements, covenants, conditions and restrictions and other like agreements affecting the Building and/or the Project, as the same may be amended from time to time.

29.33 **Intentionally Omitted.**

29.34 **Building Renovations.** It is specifically understood and agreed that Landlord has made no representation or warranty to Tenant and has no obligation and has made no promises to alter, remodel, improve, renovate, repair or decorate the Premises, Building, or any part thereof and that no representations respecting the condition of the Premises or the Building have been made by Landlord to Tenant except as specifically set forth herein or in the Tenant Work Letter. However, Tenant hereby acknowledges that Landlord may during the Lease Term renovate, improve, alter, or modify (collectively, the "**Renovations**") the Project, the Building and/or the Premises including without limitation the parking structure (excluding the North Lot), Common Areas, systems and equipment, roof, and structural portions of the same, which Renovations may include, without limitation, (i) installing sprinklers in the Building Common Areas and tenant spaces, (ii) modifying the Common Areas and tenant spaces to comply with applicable Laws and regulations, including regulations relating to the physically disabled, seismic conditions, and building safety and security, and (iii) installing new floor covering, lighting, and wall coverings in the Building Common Areas, and in connection with any Renovations, Landlord may, among other things, erect scaffolding or other necessary structures in the Building, limit or eliminate access to portions of the Project, including portions of the Common Areas, or perform work in the Building, which work may create noise, dust or leave debris in the Building. Tenant hereby agrees that such Renovations and Landlord's actions in connection with such Renovations shall in no way constitute a constructive eviction of Tenant nor entitle Tenant to any abatement of Rent. Landlord shall have no responsibility or for any reason be liable to Tenant for any direct or indirect injury to or interference with Tenant's business arising from the Renovations, nor shall Tenant be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Premises or of Tenant's personal property or improvements resulting from the Renovations or Landlord's actions in connection with such Renovations, or for any inconvenience or annoyance occasioned by such Renovations or Landlord's actions.

29.35 **CASp Disclosure.** For purposes of Section 1938(a) of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Premises have not undergone inspection by a Certified Access Specialist (CASp). In addition, the following notice is hereby provided pursuant to Section 1938(e) of the California Civil Code: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." In furtherance of and in connection with such notice: (i) Tenant, having read such notice and understanding Tenant's right to request and obtain a CASp inspection and with advice of counsel, hereby elects not to obtain such CASp inspection and forever waives its rights to obtain a CASp inspection with respect to the Premises, Building and/or Project to the extent permitted by Laws now or hereafter in effect; and (ii) if the waiver set forth in clause (i) hereinabove is not enforceable pursuant to Laws now or hereafter in effect, then Landlord and Tenant hereby agree as follows (which constitute the mutual agreement of the parties as to the matters described in the last sentence of the foregoing notice): (A) Tenant shall have the one-time right to request for and obtain a CASp inspection, which request must be made, if at all, in a written notice delivered by Tenant to Landlord on or before the Lease Commencement Date; (B) any CASp inspection timely requested by Tenant shall be conducted (1) between the hours of 9:00 a.m. and 5:00 p.m. on any business day, (2) only after ten (10) days' prior written notice to Landlord of the date of such CASp inspection, (3) in a professional manner by a CASp designated by Landlord and without any testing that would damage the Premises, Building or Project in any way, and (4) at Tenant's sole cost and expense, including, without limitation, Tenant's payment of the fee for such CASp inspection, the fee for any reports prepared by the CASp in connection with such CASp inspection (collectively, the "**CASp Reports**") and all other costs and expenses in connection therewith; (C) Tenant shall deliver a copy of any CASp Reports to Landlord within two (2) business

days after Tenant's receipt thereof; (D) Tenant, at its sole cost and expense, shall be responsible for making any improvements, alterations, modifications and/or repairs only to Tenant's Improvements, Alterations and construction to or within the Premises to correct violations of construction-related accessibility standards including, without limitation, any violations disclosed by such CASp inspection; and (E) if such CASp inspection identifies any improvements, alterations, modifications and/or repairs necessary to correct violations of Tenant's construction-related accessibility standards relating to those items of the Building and Project located outside the Premises that are Landlord's obligation to repair as set forth in Article 24 above, then Landlord shall perform such improvements, alterations, modifications and/or repairs as and to the extent required by applicable laws to correct such violations, and Tenant shall reimburse Landlord for the cost of such improvements, alterations, modifications and/or repairs within ten (10) business days after Tenant's receipt of an invoice therefor from Landlord. Landlord certifies to Tenant that as of the Commencement Date, an inspection of the Premises, the Building, or the Project has not been performed by a Certified Access Specialist in conjunction with the Lease. Notwithstanding that an access inspection has not been performed, Landlord remains obligated for the compliance of the Premises, the Building, and the Project with Laws for the duration of the Lease Term including any extensions thereof. In the event that an access inspection is performed by Landlord at any time during the Lease Term including any extensions thereof, Landlord shall provide Tenant with a copy of the inspection report and Landlord shall, at its sole cost and expense, promptly complete all required and recommended repairs and modifications to the Premises, the Building, or the Project identified in the inspection report.

29.36 Public Records Disclosure. Landlord acknowledges and agrees that all information received by County from Landlord or any source concerning the Lease or the Property, including the Lease itself, may be treated by County as public information, subject to disclosure under the provisions of the California Public Records Act (Government Code Section 7920.000 et seq.), the Ralph M Brown Act, or any other open records laws ("Public Records Laws"). Landlord further acknowledges and agrees that, although all information received by County in connection with the Lease or the Property are intended for the exclusive use of County, such information is potentially subject to disclosure under Public Records Laws. In the event Landlord, at the time any information is provided to County, has reasonably requested in writing that certain information as to the Lease or the Property be held in confidence and a request for disclosure of such information is thereafter received by County, County shall endeavor to notify Landlord of said request and shall thereafter disclose the requested information unless Landlord, within five (5) days of County's notice of such disclosure request: (i) requests that the information not be disclosed; (ii) provides a legally sound basis for nondisclosure (as determined in County's sole discretion); and (iii) agrees in writing to indemnify, defend (with counsel reasonably approved by County), and hold harmless County and its officers, employees, agents, and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of or related the required disclosure. Notwithstanding anything to the contrary in the Lease, if County does not notify Landlord of such disclosure request or if County does not deem Landlord's basis for nondisclosure to be legally sufficient, as determined by County in its sole discretion, County shall not be liable for any claims for damages, lost profits, or other injuries of any and all kinds and Landlord waives any and all such claims against County. Landlord's indemnity obligation shall survive the expiration or earlier termination of the Lease.

29.37 Former County Officials. Landlord has set forth on Exhibit "H" of the Lease certain information on former County administrative officials (as defined below) who are employed by or represent Landlord. The information provided includes a list of the full names of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of Landlord. The information should also include the title/description of the official's last position with County, the date the official terminated County employment, the official's current employment and/or representative capacity with Landlord, and the date the official entered Landlord's employment and/or representation. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

29.38 Time Of Essence. Time is of the essence of each provision of the Lease which specifies a time within which performance is to occur. In the absence of any specific time for performance, performance may be made within a reasonable time.

29.39 **Campaign Contribution Disclosure (SB 1439)**. Landlord has disclosed to the County using Exhibit I - Campaign Contribution Disclosure Senate Bill 1439, whether it has made any campaign contributions of more than \$500 to any member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the earlier of: (1) the date of the submission of Landlord's proposal to the County, or (2) 12 months before the date this Lease was approved by the Board of Supervisors. Landlord acknowledges that under Government Code section 84308, Landlord is prohibited from making campaign contributions of more than \$500 to any member of the Board of Supervisors or other County elected officer for 12 months after the County's consideration of the Lease.

In the event of a proposed amendment to this Lease, the Landlord will provide the County a written statement disclosing any campaign contribution(s) of more than \$500 to any member of the Board of Supervisors or other County elected officer within the preceding 12 months of the date of the proposed amendment.

29.40 **Authorized Signators**. The Parties to the Lease represent that the signators executing this document are fully authorized to enter into this agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed the day and date first above written.

"Landlord":

**KB Tri-City II MT, LLC,
a Delaware limited liability company**

By: KB Tri-City II SPE Member, LLC
a Delaware limited liability company,
its manager

By: Kingsbarn Real Estate Capital, LLC,
a California limited liability company,
its Manager

By: Kingsbarn Realty Capital, LLC,
a Nevada limited liability company,
its Manager

By: _____
Name: Jeff Pori, Chief Executive Officer

[SIGNATURES OF TENANT CONTINUES ON NEXT PAGE]

“Tenant”:

SAN BERNARDINO COUNTY

Dawn Rowe

By:

Dawn Rowe, Chair
Board of Supervisors

Date:

MAR 25 2025

SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED TO
THE CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of
Supervisors
San Bernardino County

By:

Lynna Monell
Deputy

Date:

MAR 25 2025

Approved as to Legal Form.

TOM BUNTON, County Counsel
San Bernardino County, California

By:

Tom Bunton
John Tubbs II, Deputy County Counsel

Date:

3-11-25

EXHIBIT A
CONCEPTUAL OUTLINE OF PREMISES
[TO BE PROVIDED]



EXHIBIT A-1
SITE PLAN OF PROJECT

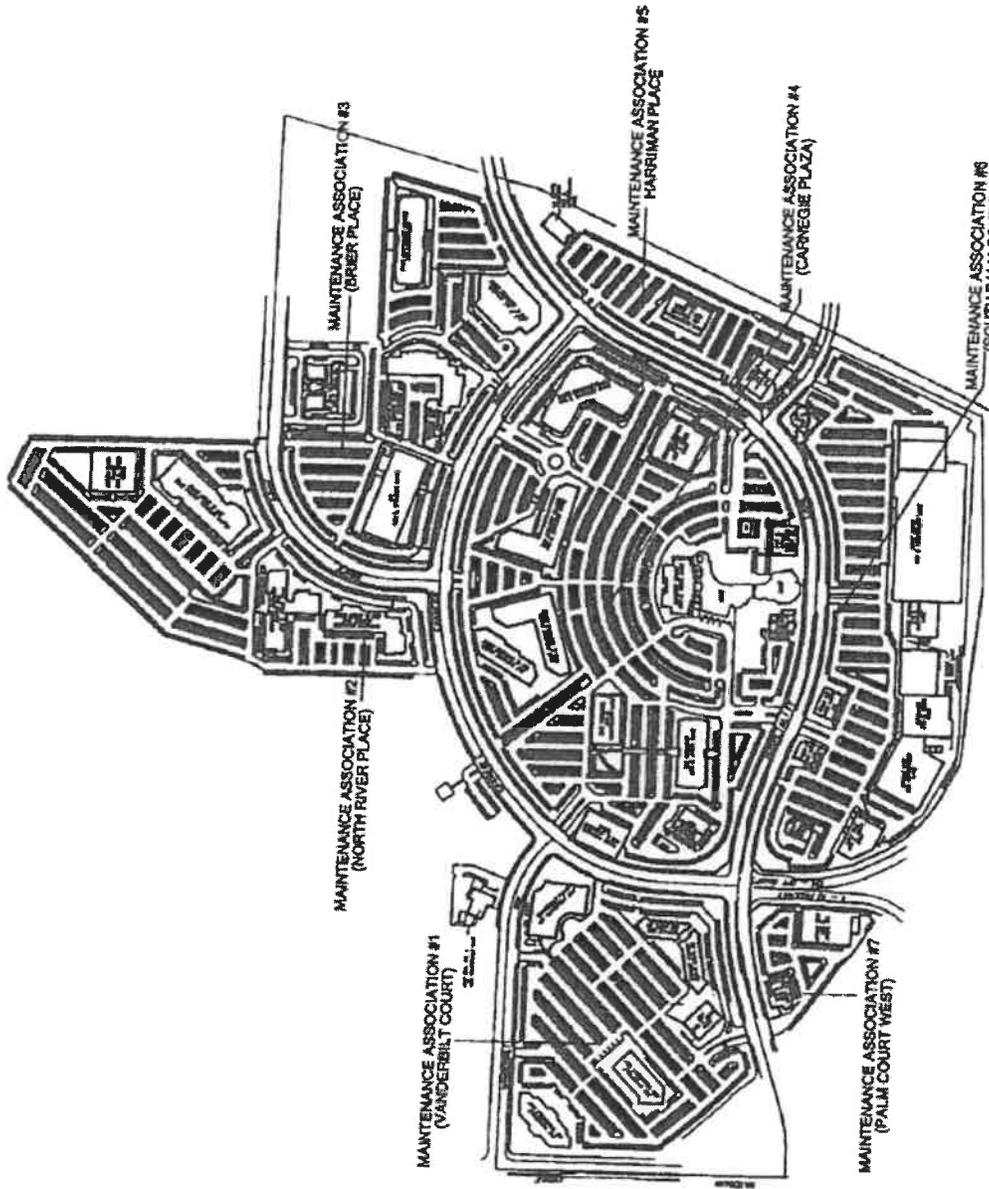
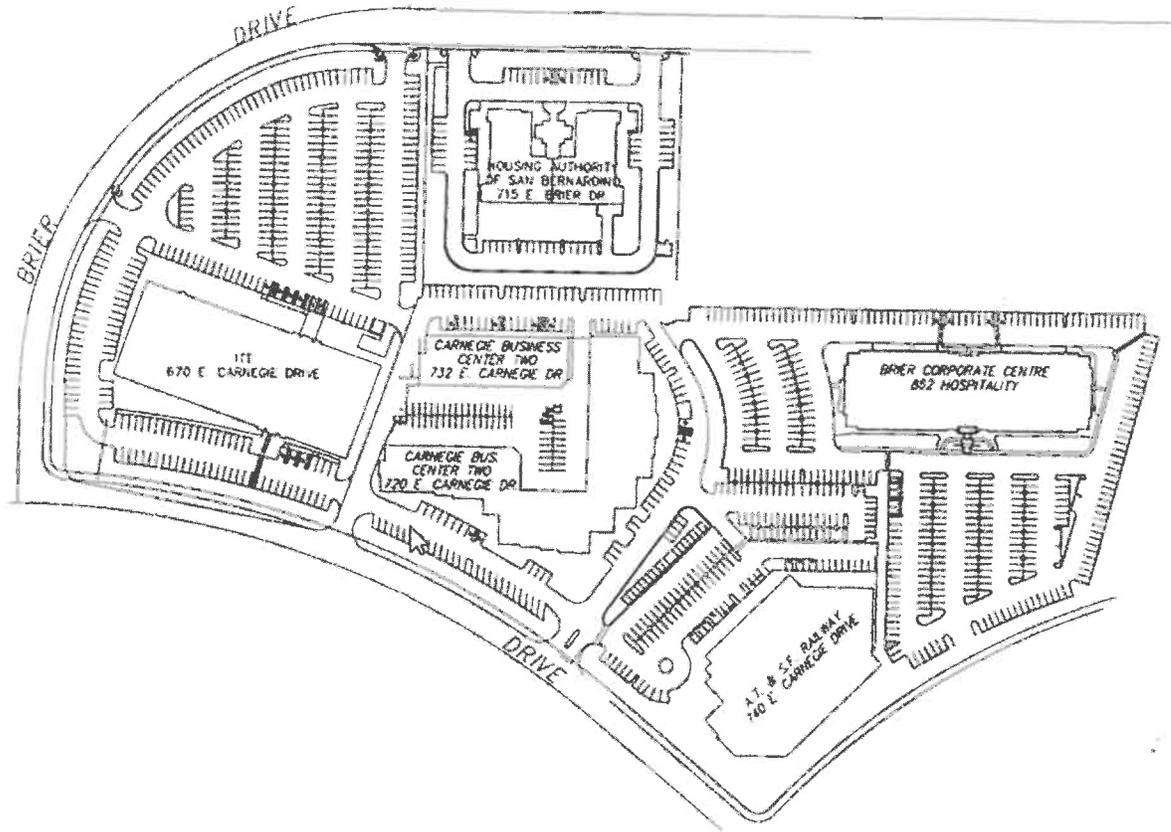


EXHIBIT A-2

SITE PLAN OF ASSOCIATION 3



Association 3

EXHIBIT B
TENANT WORK LETTER
(TURNKEY)

Concurrently with the execution of this Tenant Work Letter, Landlord and Tenant have entered into the Lease for the Premises. All terms not defined herein have the same meaning as set forth in the Lease. To the extent applicable, the provisions of the Lease are incorporated herein by this reference.

1. TENANT IMPROVEMENTS.

a. **Reserved.**

b. **Tenant's Contribution of Construction Costs.** All improvements to be made to the Premises (the "Tenant Improvements") are described and depicted in the attached plan (the "Plan") and bid ("Bid") for the Tenant Improvements work. Both the Plan and Bid are attached to this Exhibit as **Exhibit B-1**. The Plan specifications for Tenant Improvements are attached hereto as **Exhibit B-2**. Any and all hard and soft construction costs (the "Tenant's Contribution") for the buildout of Tenant Improvements will be required to be funded by Tenant to an escrow (plus all of Tenant's Work Supervision Fees defined as four percent (4%) of all hard and soft costs and expenses incurred for all tenant improvements costs making up the Tenant's Contribution and any County Change Orders and shortfalls thereon, if any), which shall disburse Tenant's Contribution in satisfaction of payment to all suppliers, laborers and contractors (collectively the "Contractors") constructing the Tenant Improvements. The current Tenant's Contribution as of the date of the execution of this Lease (exclusive of Tenant's Work Supervision Fees) is the estimated sum of **\$4,643,327.00**. All construction control administration through Escrow (defined below) shall be at Tenant's sole cost and expense with any interest borne on the Tenant's Contribution being, if any, being credited or paid to Tenant. Landlord's obligation to commence construction shall be conditioned on Tenant having first made the entire Tenant's Contribution to Escrow. Tenant acknowledges and agrees that, it shall be solely responsible for any and all costs and expenses to plan, design and construct all Tenant Improvements. Tenant shall indemnify, defend and hold harmless Landlord and all of Landlord's successors, assigns, agents and other similar persons harmless therefrom, and shall be required to fund any shortfall (not to exceed the greater of ten percent (10%) of Tenant's Contribution, or \$464,333, defined as the "Overage Limit", as applicable) in construction funds within three days of written notice by Landlord to Tenant of any such shortfall of monies required to fully fund the total construction costs of the Tenant Improvements. Notwithstanding anything to the contrary herein, Tenant shall be obligated to pay within sixty business days *all* shortfalls for work arising from any County Change Order (defined below), regardless of the shortfall amount. Tenant shall indemnify and hold Landlord harmless for any expense, cost or obligation arising from failure to pay cost overages whether for approved County Change Orders or for construction expenses exceeding Tenant's Contribution. Tenant's failure to promptly pay shortfalls which result in the halting of ongoing construction or interferes with the work/scheduling of other trades shall be deemed a Tenant Delay and a default of the Lease.

c. **Escrowing of Tenant's Contribution for Construction Costs.** No later than fifteen (15) days prior to commencement of construction of the Tenant Improvements, an escrow shall be opened with Nevada Construction Services, 7674 W. Lake Mead Blvd., Suite 110, Las Vegas, Nevada 89128 ("Escrow"), with Deborah A. Vogel (702) 251-1150, email dvogel@partnerESI.com, acting as the escrow officer thereof ("Escrow Agent"). The Escrow is to be funded with the entirety of Tenant's Contribution before construction on the Tenant Improvements commence. Tenant agrees to indemnify Landlord for any claim or damage against Landlord arising from the failure of Tenant to timely fund the Tenant's Contribution with Escrow. Tenant may elect to deposit the Tenant's Contribution into an interest bearing account pending disbursement to the Contractors, the interest for which shall be credited/paid to Tenant. Tenant and Landlord agree to negotiate and execute the

agreements that Escrow may reasonably require for the services of administering payment of Tenant's Contribution, which agreements shall provide for conditions to payments to the Contractors in accordance with Escrow's standard protocol in making payment for actual work performed, and to assure the Tenant Improvements are completed without the imposition of mechanics or other liens being record against the Property. Notwithstanding the foregoing, Tenant and Landlord shall be required to approve of any payments from the Escrow account, and such payment amounts shall be in accordance with the terms of the agreements with Contractors utilized to build the Tenant Improvements.

- d. **Changes to the Plans and Bid.** After execution of the Lease to which this **Exhibit B** is attached, Tenant may request changes to the Plans provided that (a) the changes shall not be of a lesser quality than Landlord's standard specifications for tenant improvements for the Building, as the same may be changed from time to time by Landlord (the "**Standards**"); (b) the changes conform to applicable governmental regulations and necessary governmental permits and approvals can be secured; (c) the changes do not require building service beyond the levels normally provided to other tenants in the Building; (d) the changes do not have any adverse effect on the structural integrity or systems of the Building; (e) the changes will not, in Landlord's opinion, unreasonably delay construction of the Tenant Improvements; and (f) Landlord has determined in its sole discretion that the changes are of a nature and quality consistent with the overall objectives of Landlord for the Building. If Landlord approves a change requested by Tenant, then, as a condition to the effectiveness of Landlord's approval, Tenant shall pay to Escrow upon demand by Landlord the increased cost attributable to such change, as reasonably determined by Landlord. To the extent any such change results in a delay of completion of construction of the Tenant Improvements, then such delay shall constitute a Tenant Delay caused by Tenant as described below.

2. **CONSTRUCTION OF TENANT IMPROVEMENTS.** Upon Tenant's payment to Escrow of Tenant's Contribution and any of the total amount of the cost of any changes to the Plans, if any, Landlord's contractor shall commence and diligently proceed with the construction of the Tenant Improvements, subject to Tenant Delays (as described in Section 4 below) and Force Majeure Delays (as described in Section 5 below). Promptly upon the commencement of the Tenant Improvements, Landlord shall furnish Tenant with a construction schedule letter setting forth the projected completion dates therefor and showing the deadlines for any actions required to be taken by Tenant during such construction, and Landlord may from time to time during construction of the Tenant Improvements modify such schedule. After substantial completion, Landlord shall not modify the Tenant Improvements without obtaining the prior written consent of the County's RESD representative, as the authorized County agent for the Tenant Improvements. In the event Landlord makes any modifications to the Tenant Improvements without County's prior written consent, County shall have no liability for any costs incurred and Landlord shall be solely responsible for said costs and for any costs incurred to return the affected portion of the Tenant Improvements to its original specifications. During construction of the Tenant Improvements, if County's authorized County RESD representative proposes any modifications to or additional work that are not set forth in the Plans, Landlord shall, prior to commencing any proposed work, promptly provide pricing and schedule impacts to County for the proposed work. If the parties mutually agree to proceed with the proposed modification or additional work to the Tenant Improvements ("**County Change Order Work**"), the authorized representatives of the Parties shall execute a change order document ("**County Change Order**") setting forth the agreed specifications, costs (with an invoice from the contractor), and schedule impact or schedule modification agreed upon by Landlord and Tenant, if any, for the County Change Order Work and Landlord shall promptly complete said County Change Order Work and pay the cost of the County Change Order Work into Escrow for disbursement for County Change Order Work. County shall pay to Escrow or Landlord's contractor (to contractor where the work is immediately required) for the County Change Order Work by separate purchase order within the sooner of (a) thirty (30) days after execution of the Change Order, or (b) five days prior to the date in which the failure to commence with the County Change Order Work would materially interfere with continuing buildout of other Tenant Improvements. Where not immediately paid to the contractor, payment for the Change Order Work shall be through Escrow, with Escrow obtaining lien releases for the Change Order Work, and any other documents reasonably requested by County for the County Change Order Work (which documentation shall be articulated in the agreement with Escrow). The

authorized County RESD representative may process one or more County Change Orders in accordance with this Paragraph 2, provided that, notwithstanding anything to the contrary in the Lease or this Tenant Work Letter, the cumulative total of all agreed County Change Orders shall not exceed \$200,000.00. Any proposed County Change Order(s) that cause the cumulative total of all agreed County Change Orders to exceed \$200,000.00 shall be processed by a mutually agreed amendment to the Lease that is executed by the parties. In the event that any County Change Order Work interferes with completion of the scheduled Tenant Improvements, such delay shall constitute a Tenant Delay, unless a schedule modification for the County Change Order Work is agreed upon by the parties in writing.

3. **Prevailing Wage Requirements.** In the event Landlord contracts for the construction of the Tenant Improvements or any portion thereof, Landlord shall comply with the provisions of the California Public Contract Code 22000 through 22045 regarding bidding procedures and Labor Code Section 1720.2 and 1770 et seq. regarding general prevailing wages, including, but not limited to, those requirements set forth on Exhibit "J", attached hereto and incorporated herein by reference. Landlord shall indemnify, defend (with counsel reasonably approved by County) and hold harmless County and its officers, employees, agents, and contractors from any and all claims, actions, losses, damages and/or liability arising out of or related to the obligations set forth in this paragraph. Landlord's indemnity obligations shall survive the expiration or earlier termination of the Lease and such obligations shall not be limited by the existence or availability of insurance.

4. **SUBSTANTIAL COMPLETION; READY FOR OCCUPANCY.**

(a) **Substantial Completion; Punch-List.** For purposes of this Tenant Work Letter and the Lease, the Tenant Improvements shall be deemed to be "**substantially completed**" and the Premises shall be deemed to be "**Ready for Occupancy**" when Landlord: (i) is able to provide Tenant reasonable access to the Premises; (ii) has substantially completed the Tenant Improvements in accordance with the Plans, other than decoration and minor "punch-list" type items and adjustments which do not materially interfere with Tenant's access to or use of the Premises; and (iii) has obtained a temporary certificate of occupancy or other required equivalent approval from the local governmental authority permitting occupancy of the Premises; provided, however, that if substantial completion of the Tenant Improvements is delayed as a result of any Tenant Delays described in Section 4 below, then the Lease Commencement Date as would otherwise have been established pursuant to the Lease shall be accelerated by the number of days of such Tenant Delays.

(b) **Delivery of Possession.** Landlord agrees to deliver possession of the Premises to Tenant when the Tenant Improvements have been substantially completed in accordance with clause (a) above. The parties estimate that Landlord will deliver possession of the Premises to Tenant and the Term of this Lease will commence on or before the Estimated Lease Commencement Date set forth in Section 3.2 of the Summary. Landlord shall use its commercially reasonable efforts to cause the Premises to be substantially completed on or before the Estimated Lease Commencement Date. Tenant agrees that if Landlord is unable to deliver possession of the Premises to Tenant on or prior to the Estimated Lease Commencement Date specified in Section 3.2 of the Summary, the Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom.

(c) **Early Access.** During construction of the Tenant Improvements, Landlord shall allow County to: (i) have early access ("Early Access") to the Premises at no cost and at any time prior to the Commencement Date for the purpose of County or its representatives installing communications equipment, modular furniture, alarms and such other items that County may reasonably desire and to inspect the status of the construction of the Tenant Improvements, provided that nothing herein contained shall be construed as creating an obligation upon County to make such inspections, and it is Landlord's obligation to ensure that the Tenant Improvements are completed in compliance with the plans and specifications. County shall exercise its Early Access rights at a time and in a manner that will not unreasonably interfere with Landlord's construction of the Tenant Improvements and any such Early Access shall not affect the Commencement Date or the Expiration Date; and/or (ii) have early use ("Early Use") of the Premises or any portion thereof at any time prior to the Commencement Date. County shall exercise its Early Use rights at a time and in a manner that will not unreasonably interfere with Landlord's construction of the Tenant Improvements. If County exercises its Early Use rights as to the Premises or any portion thereof, the terms of the Lease shall

be in effect, provided if County's Early Use is as to a portion of the Premises, Monthly Rent shall be prorated based on the area of County's Early Use and such Early Use or vacation thereof shall not constitute County's acceptance of the Premises or the Tenant Improvements or any portion thereof as Substantially Complete. Any such Early Use shall not affect the Commencement Date or the Expiration Date. All other terms of the Lease shall, however, be in effect during such period.

5. **TENANT DELAYS.** As used in the Lease, "**Tenant Delays**" shall mean any delay resulting from any or all of the following: (a) Tenant's failure to timely perform any of its obligations pursuant to this Tenant Work Letter, including any failure to complete, on or before the due date therefor, any action item which is Tenant's responsibility pursuant to any schedule delivered by Landlord to Tenant pursuant to this Tenant Work Letter; (b) Tenant's changes to the Plans, inclusive of County Change Orders, unless the parties agree to modify the schedule; (c) Tenant's request for materials, finishes, or installations which are not readily available or which are incompatible with the Standards; (d) any delay of Tenant in making payment to Landlord for Tenant's share of any costs in excess of the cost of the Tenant Improvements as described in the Plans; (e) Tenant's failure to conduct a walk-through of the Premises and accept the Tenant Improvements (subject to its provision of punch list items to Landlord) within three (3) business days after Landlord has substantially completed the Tenant Improvements and provided notice to Tenant thereof, or (f) any other act or failure to act by Tenant, Tenant's employees, agents, architects, independent contractors, consultants and/or any other person performing or required to perform services on behalf of Tenant.
6. **FORCE MAJEURE DELAYS.** As used in the Lease, "**Force Majeure Delays**" shall mean any actual delay beyond the reasonable control of Landlord, which is not a Tenant Delay and which is caused by any of the causes described in Section 29.16 of the Lease.
7. **CONSTRUCTION REPRESENTATIVES.** Landlord hereby appoints the following person(s) as Landlord's representative ("**Landlord's Representative**") to act for Landlord in all matters covered by this Tenant Work Letter: Sheena Bokamper – sbokamper@nasassets.com – (310) 490-1560.

Tenant hereby appoints the following person(s) as Tenant's representative ("**Tenant's Representative**") to act for Tenant in all matters covered by this Tenant Work Letter:

_____.

All communications with respect to the matters covered by this Tenant Work Letter are to be made to Landlord's Representative or Tenant's Representative, as the case may be, in writing in compliance with the notice provisions of the Lease. Either party may change its representative under this Tenant Work Letter at any time by written notice to the other party in compliance with the notice provisions of the Lease.

EXHIBIT B-1
LANDLORD PROVIDED WORK (BID AND PLANS)

**EXHIBIT B-2
PLANS AND SPECIFICATIONS FOR ALL TENANT IMPROVEMENTS**

EXHIBIT C

NOTICE OF LEASE TERM DATES

To: _____

Re: Office Lease dated _____, 20__ between _____
("Landlord"), and _____, a _____ ("Tenant")
concerning Suite _____ on floor(s) _____ of the office building located at
_____, _____, California.

Ladies and gentlemen:

In accordance with the Office Lease (the "Lease"), we wish to advise you and/or confirm as follows:

1. The Lease Term shall commence on or has commenced on _____ for a term of _____ ending on _____.
2. Rent commenced to accrue on _____, in the amount of _____.
3. If the Lease Commencement Date is other than the first day of the month, the first billing will contain a pro rata adjustment. Each billing thereafter, with the exception of the final billing, shall be for the full amount of the monthly installment as provided for in the Lease.
4. Your rent checks should be made payable to _____ at _____.

"Landlord":

**KB Tri-City II MT, LLC,
a Delaware limited liability company**

By: _____
Name: **Jeff Pori**
Title: **Chief Executive Officer**

Agreed to and Accepted
as of _____, 20__.

"Tenant":

a _____

By: _____
Its: _____

EXHIBIT D

RULES AND REGULATIONS

Tenant shall faithfully observe and comply with the following Rules and Regulations. Landlord shall not be responsible to Tenant for the nonperformance of any of said Rules and Regulations by or otherwise with respect to the acts or omissions of any other tenants or occupants of the Project. In the event of any conflict between the Rules and Regulations and the other provisions of this Lease, the latter shall control.

1. Tenant shall not alter any lock or install any new or additional locks or bolts on any doors or windows of the Premises without obtaining Landlord's prior written consent. Tenant shall bear the cost of any lock changes or repairs required by Tenant. Two keys will be furnished by Landlord for the Premises, and any additional keys required by Tenant must be obtained from Landlord at a reasonable cost to be established by Landlord. Upon the termination of this Lease, Tenant shall restore to Landlord all keys of stores, offices, and toilet rooms, either furnished to, or otherwise procured by, Tenant and in the event of the loss of keys so furnished, Tenant shall pay to Landlord the cost of replacing same or of changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such changes.

2. All doors opening to public corridors shall be kept closed at all times except for normal ingress and egress to the Premises.

3. Landlord reserves the right to close and keep locked all entrance and exit doors of the Building during such hours as are customary for comparable buildings in the Project. Tenant, its employees and agents must be sure that the doors to the Building are securely closed and locked when leaving the Premises if it is after the normal hours of business for the Building. Any tenant, its employees, agents or any other persons entering or leaving the Building at any time when it is so locked, or any time when it is considered to be after normal business hours for the Building, may be required to sign the Building register. Access to the Building may be refused unless the person seeking access has proper identification or has a previously arranged pass for access to the Building. Landlord will furnish passes to persons for whom Tenant requests same in writing. Tenant shall be responsible for all persons for whom Tenant requests passes and shall be liable to Landlord for all acts of such persons. The Landlord and his agents shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. In case of invasion, mob, riot, public excitement, or other commotion, Landlord reserves the right to prevent access to the Building or the Project during the continuance thereof by any means it deems appropriate for the safety and protection of life and property.

4. No furniture, freight or equipment of any kind shall be brought into the Building without prior notice to Landlord. All moving activity into or out of the Building shall be scheduled with Landlord and done only at such time and in such manner as Landlord designates. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy property brought into the Building and also the times and manner of moving the same in and out of the Building. Safes and other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such safe or property in any case. Any damage to any part of the Building, its contents, occupants or visitors by moving or maintaining any such safe or other property shall be the sole responsibility and expense of Tenant.

5. No furniture, packages, supplies, equipment or merchandise will be received in the Building or carried up or down in the elevators, except between such hours established by Landlord from time to time, in such specific elevator and by such personnel as shall be designated by Landlord.

6. The requirements of Tenant will be attended to only upon application at the management office for the Project or at such office location designated by Landlord. Employees of Landlord shall not perform any work or do anything outside their regular duties unless under special instructions from Landlord.

7. No sign, advertisement, notice or handbill shall be exhibited, distributed, painted or affixed by Tenant on any part of the Premises or the Building without the prior written consent of the Landlord. Tenant shall not

disturb, solicit, peddle, or canvass any occupant of the Project and shall cooperate with Landlord and its agents of Landlord to prevent same.

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

9. Tenant shall not overload the floor of the Premises, nor mark, drive nails or screws, or drill into the partitions, woodwork or drywall or in any way deface the Premises or any part thereof without Landlord's prior written consent.

10. Except for vending machines intended for the sole use of Tenant's employees and invitees, no vending machine or machines other than fractional horsepower office machines shall be installed, maintained or operated upon the Premises without the written consent of Landlord.

11. Tenant shall not use or keep in or on the Premises, the Building, or the Project any kerosene, gasoline, explosive material, corrosive material, material capable of emitting toxic fumes, or other inflammable or combustible fluid chemical, substitute or material. Tenant shall provide material safety data sheets for any Hazardous Material used or kept on the Premises.

12. Tenant shall not without the prior written consent of Landlord use any method of heating or air conditioning other than that supplied by Landlord.

13. Tenant shall not use, keep or permit to be used or kept, any foul or noxious gas or substance in or on the Premises, or permit or allow the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Project by reason of noise, odors, or vibrations, or interfere with other tenants or those having business therein, whether by the use of any musical instrument, radio, phonograph, or in any other way. Tenant shall not throw anything out of doors, windows or skylights or down passageways.

14. Tenant shall not bring into or keep within the Project, the Building or the Premises any animals, birds, fish, aquariums, or, except in areas designated by Landlord, bicycles or other vehicles.

15. No cooking shall be done or permitted on the Premises, nor shall the Premises be used for the storage of merchandise, for lodging or for any improper, objectionable or immoral purposes.

16. The Premises shall not be used for manufacturing or for the storage of merchandise except as such storage may be incidental to the use of the Premises provided for in the Summary. Tenant shall not occupy or permit any portion of the Premises to be occupied as an office for a messenger-type operation or dispatch office, public stenographer or typist, or for the manufacture or sale of liquor, narcotics, or tobacco in any form, or as a medical office, or as a barber or manicure shop, or as an employment bureau without the express prior written consent of Landlord. Tenant shall not engage or pay any employees on the Premises except those actually working for such tenant on the Premises nor advertise for laborers giving an address at the Premises.

17. Landlord reserves the right to exclude or expel from the Project any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of these Rules and Regulations.

18. Tenant, its employees and agents shall not loiter in or on the entrances, corridors, sidewalks, lobbies, courts, halls, stairways, elevators, vestibules or any Common Areas for the purpose of smoking tobacco products or for any other purpose, nor in any way obstruct such areas, and shall use them only as a means of ingress and egress for the Premises.

19. Tenant shall not waste electricity, water or air conditioning and agrees to cooperate fully with Landlord to ensure the most effective operation of the Building's heating and air conditioning system, and shall refrain from attempting to adjust any controls. Tenant shall participate in recycling programs undertaken by Landlord.

20. Tenant shall store all its trash and garbage within the interior of the Premises. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in the Project without violation of any law or ordinance governing such disposal. All trash, garbage and refuse disposal shall be made only through entry-ways and elevators provided for such purposes at such times as Landlord shall designate. Tenant shall make alternate arrangements, at Tenant's cost, for the disposal of high volumes of trash in excess of the amount determined by Landlord to be an office tenant's typical volume of trash (i.e., excessive moving boxes or shipping materials). If the Premises is or becomes infested with vermin as a result of the use or any misuse or neglect of the Premises by Tenant, its agents, servants, employees, contractors, visitors or licensees, Tenant shall forthwith, at Tenant's expense, cause the Premises to be exterminated from time to time to the satisfaction of Landlord and shall employ such licensed exterminators as shall be approved in writing in advance by Landlord.

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

22. Any persons employed by Tenant to do janitorial work shall be subject to the prior written approval of Landlord, and while in the Building and outside of the Premises, shall be subject to and under the control and direction of the Building manager (but not as an agent or servant of such manager or of Landlord), and Tenant shall be responsible for all acts of such persons.

23. No awnings or other projection shall be attached to the outside walls of the Building without the prior written consent of Landlord, and no curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises other than Landlord standard drapes. All electrical ceiling fixtures hung in the Premises or spaces along the perimeter of the Building must be fluorescent and/or of a quality, type, design and a warm white bulb color approved in advance in writing by Landlord. Neither the interior nor exterior of any windows shall be coated or otherwise sunscreened without the prior written consent of Landlord. Tenant shall be responsible for any damage to the window film on the exterior windows of the Premises and shall promptly repair any such damage at Tenant's sole cost and expense. Tenant shall keep its window coverings closed during any period of the day when the sun is shining directly on the windows of the Premises. Prior to leaving the Premises for the day, Tenant shall draw or lower window coverings and extinguish all lights. Tenant shall abide by Landlord's regulations concerning the opening and closing of window coverings which are attached to the windows in the Premises, if any, which have a view of any interior portion of the Building or Common Areas.

24. The sashes, sash doors, skylights, windows, and doors that reflect or admit light and air into the halls, passageways or other public places in the Building shall not be covered or obstructed by Tenant, nor shall any bottles, parcels or other articles be placed on the windowsills.

25. Tenant must comply with requests by Landlord concerning the informing of their employees of items of importance to Landlord.

26. Tenant must comply with all applicable "NO-SMOKING" or similar ordinances. If Tenant is required under the ordinance to adopt a written smoking policy, a copy of said policy shall be on file in the office of the Building.

27. Tenant hereby acknowledges that Landlord shall have no obligation to provide guard service or other security measures for the benefit of the Premises, the Building or the Project. Tenant hereby assumes all responsibility for the protection of Tenant and its agents, employees, contractors, invitees and guests, and the property thereof, from acts of third parties, including keeping doors locked and other means of entry to the Premises closed, whether or not Landlord, at its option, elects to provide security protection for the Project or any portion thereof. Tenant further assumes the risk that any safety and security devices, services and programs which Landlord elects, in its sole discretion, to provide may not be effective, or may malfunction or be circumvented by an unauthorized third party, and Tenant shall, in addition to its other insurance obligations under this Lease, obtain its own insurance

coverage to the extent Tenant desires protection against losses related to such occurrences. Tenant shall cooperate in any reasonable safety or security program developed by Landlord or required by law.

28. All office equipment of any electrical or mechanical nature shall be placed by Tenant in the Premises in settings approved by Landlord, to absorb or prevent any vibration, noise and annoyance.

29. Tenant shall not use in any space or in the public halls of the Building, any hand trucks except those equipped with rubber tires and rubber side guards.

30. No auction, liquidation, fire sale, going-out-of-business or bankruptcy sale shall be conducted in the Premises without the prior written consent of Landlord.

31. No tenant shall use or permit the use of any portion of the Premises for living quarters, sleeping apartments or lodging rooms.

32. Tenant shall not purchase spring water, ice, towels, linens, janitorial or maintenance or other similar services from any company or persons not approved by Landlord. Landlord shall approve a sufficient number of sources of such services to provide Tenant with a reasonable selection, but only in such instances and to such extent as Landlord in its judgment shall consider consistent with the security and proper operation of the Building.

33. Tenant shall install and maintain, at Tenant's sole cost and expense, an adequate, visibly marked and properly operational fire extinguisher next to any duplicating or photocopying machines or similar heat producing equipment, which may or may not contain combustible material, in the Premises.

34. Tenant shall not permit any portion of the Project, including the Parking Facilities, to be used for the washing, detailing or other cleaning of automobiles.

35. All low voltage and data cable installed at the Premises must be plenum rated.

36. "Smoking," as used herein, shall be deemed to include the use of e-cigarettes, smokeless cigarettes and other similar products. All rules and regulations set forth in this Exhibit applicable to smoking also apply to the use of e-cigarettes, smokeless cigarettes and other similar products.

Landlord reserves the right at any time to change or rescind any one or more of these Rules and Regulations, or to make such other and further reasonable Rules and Regulations as in Landlord's judgment may from time to time be necessary for the management, safety, care and cleanliness of the Premises, Building, the Common Areas and the Project, and for the preservation of good order therein, as well as for the convenience of other occupants and tenants therein. Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular tenants, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of any other tenant, nor prevent Landlord from thereafter enforcing any such Rules or Regulations against any or all tenants of the Project. Tenant shall be deemed to have read these Rules and Regulations and to have agreed to abide by them as a condition of its occupancy of the Premises.

EXHIBIT "E"

CUSTODIAL, JANITORIAL, AND PEST CONTROL (Janitorial Service to provide/supply all sanitary and paper goods.)

The shift hours scheduled for the Day Janitor are to be reviewed and approved by COUNTY. Following are the services to be performed by a licensed janitorial contractor - Day Janitor:

DAILY SERVICES FIVE (5) DAYS PER WEEK:

1. Empty all waste baskets and other waste containers.
2. Dust mop all tiled/terrazzo floors.
3. Dust all desks, chairs, tables, filing cabinets and other office furniture.
4. Clean and sanitize rest room fixtures, mirrors, chrome pipes, etc.
5. Clean splash marks from walls of rest rooms.
6. Refill soap, towel, and paper containers.
7. Clean and sanitize drinking fountains.
8. Damp clean tabletops in coffee rooms.
9. Clean kitchen sinks and counters.
10. Remove papers and debris outside main entry.

TWICE-MONTHLY SERVICE:

1. Clean lobby directories and fire extinguisher glass.

The following services are to be performed by a licensed janitorial contractor - Evening Janitor:

WEEKLY SERVICE:

1. Wet mop all tiled/terrazzo floors.
2. Clean all desktops that are cleared.
3. Clean hand marks from walls, doors and woodwork.
4. Vacuum all carpeting completely. All carpeted areas are to be vacuumed using a dual motor vacuum with a rotating cylindrical brush, rather than a beater bar.

TWICE-MONTHLY SERVICE:

1. Dust high areas, including window coverings.
2. Machine clean and seal all tiled floors.

EVERY THREE MONTHS:

1. Vacuum dust and dirt accumulation from air conditioning vents.
2. Brush down cobwebs inside building.
3. Replace cartridge in rest room automatic air fresheners.

DAILY SERVICES FIVE (5) DAYS PER WEEK:

1. Empty all waste baskets and other waste containers.
2. Dust mop all tiled/terrazzo floors.
3. Vacuum traffic lanes of carpeting. All carpeted areas are to be vacuumed using a dual motor vacuum with a rotating cylindrical brush, rather than a beater bar.
4. Dust all desks, chairs, tables, filing cabinets and other office furniture.
5. Damp clean lobby counters.
6. Clean and sanitize rest room fixtures, mirrors, chrome pipes, etc.
7. Clean splash marks from walls of rest rooms.
8. Wet mop and sanitize rest room floors.

9. Refill soap, towel, and paper containers.
10. Clean and sanitize drinking fountains.
11. Clean hand marks off glass on entrance doors.
12. Damp clean tabletops in coffee rooms.
13. Clean kitchen sinks and counters.
14. Sweep entryway.
15. Brush down steps of inside stairwells.
16. Vacuum elevator carpet. All carpeted areas are to be vacuumed using a dual motor vacuum with a rotating cylindrical brush, rather than a beater bar.
17. Spot clean all walls and doors including elevator.
18. Spot clean carpets of small spillage, footprints, etc.
19. Keep janitor closets clean and orderly.

The above are considered the minimum standard janitorial items, and are to be performed by a licensed janitorial contractor. Landlord is responsible for providing all services related to the health and cleanliness of the leased facility.

The following services are to be performed by a licensed maintenance contractor.

WEEKLY SERVICE:

1. Replace light bulbs and tubes inside building when needed.

ONCE-MONTHLY SERVICE:

1. Licensed pest control.

EVERY SIX MONTHS:

1. Carpet to be cleaned by a professional carpet cleaning company using hot water extraction process
2. Wash exterior windows and partitions.

EVERY YEAR:

1. Wash interior windows and partitions.

EXHIBIT F

SIGN CRITERIA

The Tri-City Corporate Centre sign program has been comprehensively designed to ensure that exterior signs for each facility, and the overall project, perform their basic function of consistently providing identification and directional information.

Exterior building signs must have the approval of both Landlord and the City Of San Bernardino Planning Department. Landlord must sign off on the sign permit issued by the City before the sign is installed. Any exterior building sign must be installed by a reputable sign company. Landlord reserves the right to reasonably approve the use of any particular sign company. Any sign company performing work within the Project must be insured for a minimum of 1 million dollars in worker's compensation and liability coverage. Landlord must be named as additional insured on such policy.

Graphic standards for signage have been established to compliment the environment with the consistent implementation of a carefully designed sign program. Standards set forth by the City Of San Bernardino Development Code (Signs) are generally consistent with the Tri-City Corporate Centre design guidelines. Where standards are different, the Tri-City Corporate Centre guidelines, if more restrictive, shall be applicable.

DIRECTORY SIGNS

Each tenant shall be entitled to a listing in the directory located in the ground floor lobby. The size, type and color of the directory strip may vary depending upon the specific directory in the building. All company listings shall be in alphabetical order by floor. Each tenant shall be entitled to one or more directory strips as space may permit on the directory. Landlord reserves the right to limit the number of directory strips. Corporate trademarks, logos and colors are not approved for the directory.

SUITE ENTRY SIGNS

Each suite entry door may have a sign adjacent to, or in some cases, located on the suite entry door(s). Landlord has a proprietary vendor which supplies all suite entry signs. Such signs may list the name of the company, the suite number or other key information as Tenant may request, subject to landlord's approval and as limitations of the size of the sign allow. An example of a suite entry sign is below:



BUILDING TOP SIGNAGE

Subject to availability and approval by Landlord, and subject to the City Of San Bernardino Planning Department, building top signage is allowed subject to the following:

Exterior building signs shall be limited to the identification of a single entity and shall be limited to 2 non-adjacent elevations. These signs shall be internally illuminated. The location of each sign shall be designed to be

complimentary and proportional to each individual building. The allowable size and total square footage shall be as follows:

<u>Building Height (stories)</u>	<u>Max Sign Height</u>	<u>Maximum Sign Length</u>	<u>Maximum Sq. Ft.</u>
1 and 2	18"	30'	45 sq. ft.
3 and 4	36"	30'	75 sq. ft.
5 and 6	42"	30'	105 sq. ft.

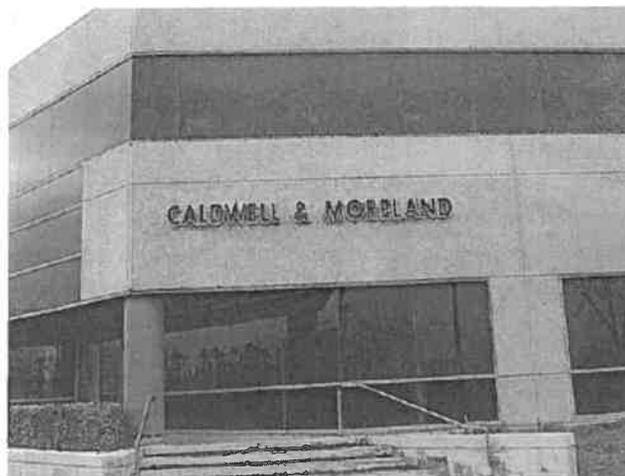
An example of an approved building top sign is shown below:



GROUND FLOOR TENANT (EYEBROW) SIGNS

This sign shall be used to identify any tenant with a maximum of 1 sign per tenant unless the ground floor is occupied by only 1 tenant, in which case 2 signs may be permitted. In no event shall there be more than 4 ground floor wall signs per building and no more than 2 signs per building elevation. Eyebrow signs shall be limited to two elevations of the building.

The size and location of each eyebrow sign shall be designed to be complimentary and proportional to each individual building and shall be located between the first and second floors. Each eyebrow sign shall be a maximum of 12 inches in height and 50 square feet in total area. A maximum of 50% of the immediate horizontal plane between the first floor vision glass head height and second floor vision glass sill height shall be used. An example of an approved eyebrow sign is shown below:



MONUMENT SIGNS

Major tenants may, with Landlord and City Of San Bernardino approval, utilize a monument sign to identify their presence in a particular building. Monument signs are typically utilized for ground floor tenants, although exceptions may be made in Landlord's sole discretion. Monument signs may contain one tenant name only.

A maximum number of 2 monument signs is permitted for each building. Each sign shall be located at the base of the building, standing parallel to an elevation with street or parking area frontage. The sign shall be located at a distance not to exceed 10 feet from the building façade. For buildings with no actual street frontage, these limits shall apply to the frontage along adjacent parking areas. Note: Any single tenant shall be limited to either a single building top sign or a monument sign.

The monument sign shall have a maximum height of 3' 6", a length of 10' and a maximum area of 35 square feet. An example of an approved monument sign is shown below:

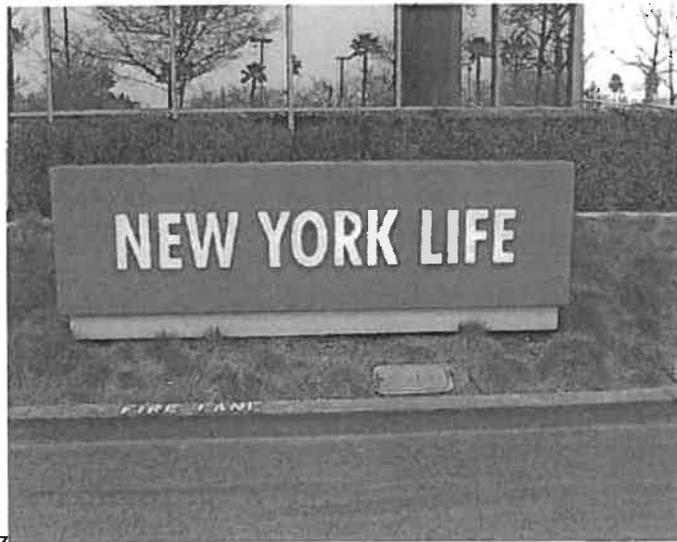


EXHIBIT "G"
Subordination, Nondisturbance and Attornment Agreement
(Subject to Mortgagee's Approval)

(attached)

SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT
(JPMCC 2019-COR4, Loan No. 03-0501651)

THIS SUBORDINATION, NONDISTURBANCE, AND ATTORNMENT AGREEMENT (this "**Agreement**") is entered into as of _____, 2025 (the "**Effective Date**"), among **WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE BENEFIT OF THE REGISTERED HOLDERS OF JPMCC COMMERCIAL MORTGAGE SECURITIES TRUST 2019-COR4, COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2019-COR4** ("**Lender**"), whose address is c/o Midland Loan Services, a division of PNC Bank, National Association, 10851 Mastin Street, Suite 300, Overland Park, Kansas 66210 (Re: KB Tri-City II DST; Loan No. 03-0501651), **SAN BERNARDINO COUNTY** ("**Tenant**"), whose address is Attention: Real Estate Services Department, 385 North Arrowhead Avenue, Third Floor, San Bernardino, California 92415, **KB TRI-CITY II MT, LLC**, a Delaware limited liability company ("**Landlord**"), whose address is c/o Kingsbarn Real Estate Capital, LLC, 11622 El Camino Real, 1st Floor, Del Mar, California 92130, and **KB TRI-CITY II DST**, a Delaware statutory trust ("**Fee Owner**"), whose address is c/o Kingsbarn Real Estate Capital, LLC, 11622 El Camino Real, 1st Floor, Del Mar, California 92130, with reference to the following facts:

A. Fee Owner owns the real properties known as Brier Corporate Center, having a street address of 862 East Hospitality Lane, San Bernardino, California 92406 and One Hospitality, having a street address of 473 East Carnegie Lane, San Bernardino, California 92406, such real properties, including all buildings, improvements, structures and fixtures located thereon (all or any portion thereof being referred to herein, *collectively*, as the "**Property**"), as more particularly described on **Exhibit A** attached hereto.

B. LoanCore Capital Markets LLC, a Delaware limited liability company ("**Original Lender**") made a loan to Landlord in the original principal amount of \$16,600,000.00 (the "**Loan**") evidenced by a certain promissory note dated October 9, 2018, given by Fee Owner to Original Lender (the "**Note**"; the Security Instrument (defined below), the Note and each of the other documents now or hereafter evidencing, governing, securing or otherwise executed and/or delivered in connection with the Loan, as such documents may be amended, renewed, extended, supplemented, increased, modified or otherwise changed from time to time, are hereinafter referred to collectively as, the "**Loan Documents**").

C. To secure the Loan, Fee Owner encumbered the Property by entering into that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of October 9, 2018, to Commonwealth Land Title Company, as trustee, for the benefit of Original Lender (as amended, increased, renewed, extended, spread, consolidated, severed, restated, or otherwise changed from time to time, the "**Security Instrument**") recorded in the applicable land records of San Bernardino County, California.

D. Lender is now the holder of the Security Instrument and has authority to enter into this Agreement.

E. Pursuant to a Master Lease Agreement dated as of October 9, 2018, together with any amendments, modifications and renewals approved in writing by Lender to the extent such approval is required by the Security Instrument (the “**Master Lease**”), Fee Owner demised to Landlord the Property.

F. Pursuant to that certain Office Lease dated as of _____, 2025, together with any amendments, modifications and renewals approved in writing by Lender to the extent such approval is required by the Security Instrument or the other Loan Documents (the “**Sublease**”), Landlord demised to Tenant a portion of the Property (the “**Leased Premises**”) located at 862 East Hospitality Lane, San Bernardino, California 92406.

H. Lender has been requested by Fee Owner, Landlord and Tenant to enter into this Agreement, and Fee Owner, Landlord, Tenant and Lender desire to agree upon the relative priorities of their interests in the Property and their rights and obligations if certain events occur.

NOW, THEREFORE, for good and sufficient consideration, Tenant, Landlord, Fee Owner and Lender agree as follows:

1. **Definitions.** The following terms shall have the following meanings for purposes of this Agreement:

1.1. “**Construction-Related Obligation**” means any obligation of Former Landlord (as hereinafter defined) under the Sublease to make, pay for, or reimburse Tenant for any alterations, demolition, or other improvements or work at the Property, including the Leased Premises. “**Construction-Related Obligation**” shall not include: (a) reconstruction or repair following any fire, casualty or condemnation which occurs after the Date of Attornment (as hereinafter defined), but only to the extent of the insurance or condemnation proceeds actually received by Successor Landlord for such reconstruction and repair, less Successor Landlord’s actual expenses in administering such proceeds; or (b) day-to-day maintenance and repairs.

1.2. “**Date of Attornment**” means the date Successor Landlord (as hereinafter defined) takes title to the Property.

1.3. “**Foreclosure Event**” means (a) foreclosure under the Security Instrument; (b) any other exercise by Lender of rights and remedies (whether under the Security Instrument or under applicable law, including bankruptcy law) as holder of the Loan and/or the Security Instrument, as a result of which Successor Landlord becomes owner of the Property; or (c) delivery by Former Landlord to Lender (or its designee or nominee) of a deed or other conveyance of Former Landlord’s interest in the Property in lieu of any of the foregoing.

1.4. “**Former Landlord**” means Landlord and/or any other party that was landlord under the Sublease at any time before the Date of Attornment.

1.5. “**Offset Right**” means any right or alleged right of Tenant to any offset, defense (other than one arising from actual payment and performance, which payment and performance would bind a Successor Landlord pursuant to this Agreement), claim, counterclaim, reduction, deduction, or abatement against Tenant’s payment of Rent or performance of Tenant’s other obligations under the Sublease, arising (whether under the Sublease or other applicable law) from acts or omissions of Former Landlord and/or from Former Landlord’s breach or default under the Sublease.

- 1.6. **“Rent”** means any fixed rent, base rent or additional rent under the Sublease.
- 1.7. **“Successor Landlord”** means any party that becomes owner of the Property as the result of a Foreclosure Event.
- 1.8. **“Termination Right”** means any right of Tenant to cancel or terminate the Sublease or to claim a partial or total eviction arising (whether under the Sublease or under applicable law) from Former Landlord’s breach or default under the Sublease.
2. Subordination. The Sublease, and all right, title and interest of Tenant thereunder and of Tenant to and in the Leased Premises, are, shall be, and shall at all times remain, subject and subordinate to the Security Instrument, the lien imposed by the Security Instrument, and all advances made under the Security Instrument.
3. Rent Payment Notice. In the event Tenant receives written notice (the **“Rent Payment Notice”**) from Lender or from a receiver for the Property that there has been a default under the Security Instrument and that rentals due under the Sublease are to be paid to Lender or to the receiver (whether pursuant to the terms of the Security Instrument or of that certain Assignment of Rents and Leases executed by Landlord as additional security for the Loan), Tenant shall pay to Lender or to the receiver, as applicable, or shall pay in accordance with the directions of Lender or of the receiver, all Rent and other monies due or to become due to Landlord under the Sublease, notwithstanding any contrary instruction, direction or assertion of Former Landlord. Landlord hereby expressly and irrevocably directs and authorizes Tenant to comply with any Rent Payment Notice, notwithstanding any contrary instruction, direction or assertion of Landlord, and Landlord hereby releases and discharges Tenant of and from any liability to Landlord on account of any such payments. The delivery by Lender or the receiver to Tenant of a Rent Payment Notice, or Tenant’s compliance therewith, shall not be deemed to: (i) cause Lender to succeed to or to assume any obligations or responsibilities as landlord under the Sublease, all of which shall continue to be performed and discharged solely by Landlord unless and until a Foreclosure Event has occurred pursuant to this Agreement; or (ii) relieve Landlord of any obligations under the Sublease. Tenant shall be entitled to rely on any Rent Payment Notice. Tenant shall be under no duty to controvert or challenge any Rent Payment Notice. Tenant’s compliance with a Rent Payment Notice shall not be deemed to violate the Sublease. Tenant shall be entitled to full credit under the Sublease for any Rent paid to Lender or the receiver, as applicable, pursuant to a Rent Payment Notice to the same extent as if such Rent were paid directly to Landlord.
4. Recognition.
- 4.1. Recognition Agreement. Fee Owner, Landlord and Tenant acknowledge and agree that the Sublease and all the rights of Landlord and Tenant under the Sublease are subject and subordinate to the Master Lease. If the Master Lease expires or is terminated for any reason prior to the end of the Sublease, so long as (i) the Master Lease has not expired or otherwise been terminated by Fee Owner, and (ii) there is no existing default under or breach of the Master Lease by Landlord that has continued beyond applicable cure periods, then (a) Fee Owner shall assume the obligations of Landlord under the Sublease accruing from and after the termination date of the Master Lease and (b) Tenant shall recognize and attorn to Fee Owner as Tenant’s direct landlord under the Sublease (collectively, the **“Recognition Event”**).
- 4.2. Attornment. In the event Fee Owner succeeds to Landlord’s interest under the Sublease through the termination (or expiration) of the Master Lease or other means, Subtenant shall be bound to Fee Owner under all of the provisions of the Sublease for the remainder of the term thereof with the same force and effect as if Fee Owner were the Landlord named in the Sublease, and Subtenant

shall attorn to Fee Owner as its Landlord, such attornment to be effective and self-operative, without the execution of any further instruments, immediately upon Fee Owner succeeding to Landlord's interest under the Sublease. Fee Owner agrees that Subtenant shall be under no obligation to pay any Rent (as defined in the Sublease) to Fee Owner until Fee Owner has succeeded to Landlord's interest under the Sublease and has notified Subtenant thereof in writing. The respective rights and obligations of Subtenant and Fee Owner upon such attornment shall, for the remainder of the term of the Sublease, be the same as now set forth in the Sublease, it being the intention of the parties for this purpose to incorporate the Sublease into this Agreement by reference with the same force and effect as if set forth at length herein.

4.3. Landlord's Obligations. In the event the Master Lease is terminated for any reason (or expires) and Fee Owner succeeds to Landlord's interest under the Sublease, Fee Owner shall be bound to Subtenant under all of the provisions of the Sublease, and Subtenant shall, from and after such event, have the same remedies against Fee Owner for the breach of any provision of the Sublease that Subtenant might have had under the Sublease against Landlord. In no event shall Fee Owner be liable for any act or omission of Landlord, or be subject to any offsets or defenses that Subtenant might have against Sublandlord, except for any acts or omissions or any offsets or defenses of which Fee Owner received notice prior to Fee Owner's succession to Landlord's interest under the Sublease.

5. Nondisturbance, and Attornment.

5.1. No Exercise of Security Instrument Remedies against Tenant. So long as (i) the Sublease has not expired or otherwise been terminated by Former Landlord (or Fee Owner upon a Recognition Event) and (ii) there is no default under or breach of the Sublease by Tenant that has occurred and is continuing beyond applicable notice and cure periods (an "**Event of Default**"), Lender shall not name or join Tenant as a defendant in any exercise of Lender's rights and remedies arising upon a default under the Security Instrument or the other Loan Documents unless applicable law requires Tenant to be made a party thereto as a condition to proceeding against Former Landlord or prosecuting such rights and remedies. In the latter case, Lender may join Tenant as a defendant in such action only for such purpose and not to terminate the Sublease or otherwise diminish or interfere with Tenant's rights under the Sublease or this Agreement in such action.

5.2. Nondisturbance and Attornment. So long as (i) the Sublease has not expired or otherwise been terminated by Former Landlord, (ii) an Event of Default has not occurred, and (iii) no condition exists which would cause or entitle Former Landlord to terminate the Sublease on its terms, or to dispossess Tenant that would not be an Event of Default, then, if and when Successor Landlord takes title to the Property, Successor Landlord shall not terminate or disturb Tenant's possession of the Leased Premises under the Sublease, except in accordance with the terms of the Sublease and this Agreement. In addition, if a Recognition Event occurred prior to the Date of Attornment, then (a) Successor Landlord shall be bound to Tenant under all the terms and conditions of the Sublease (except as provided in this Agreement); (b) Tenant shall recognize and attorn to Successor Landlord as Tenant's direct landlord under the Sublease as affected by this Agreement; (c) the Sublease shall continue in full force and effect as a direct lease, in accordance with its terms (except as provided in this Agreement), between Successor Landlord and Tenant; and (d) Successor Landlord shall have all the rights and remedies of the landlord under the Sublease, including, without limitation, rights or remedies arising by reason of any Event of Default by Tenant under the Sublease, whether occurring before or after the Successor Landlord takes title to the Property.

5.3. Protection of Successor Landlord. Upon the Date of Attornment, if a Recognition Event has occurred, then the Sublease shall not be terminated or affected thereby but shall continue in full force and effect as a direct lease between Successor Landlord and Subtenant in accordance with its

terms. Notwithstanding the foregoing, or anything to the contrary in the Sublease, the Security Instrument or the other Loan Documents, neither Lender nor Successor Landlord shall be liable for or bound by any of the following matters:

a. Claims against Former Landlord. Any Offset Right or Termination Right that Tenant may have against any Former Landlord relating to any event or occurrence before the Date of Attornment, including any claim for damages of any kind whatsoever as the result of any breach by Former Landlord that occurred before the Date of Attornment. The foregoing shall not limit Tenant's right to exercise against Successor Landlord any Offset Right or Termination Right otherwise available to Tenant because of events occurring after the Date of Attornment.

b. Construction-Related Obligations. Any Construction-Related Obligation of Former Landlord.

c. Prepayments. Any payment of Rent that Tenant may have made to Former Landlord for more than one (1) month in advance of its due date.

d. Payment; Security Deposit. Any obligation: (a) to pay Tenant any sum(s) that any Former Landlord owed to Tenant or (b) with respect to any security deposited with Former Landlord, unless such security was actually received by Lender or Successor Landlord.

e. Modification, Amendment or Waiver. Any modification or amendment of the Sublease, or any waiver of any terms of the Sublease, made without Lender's written consent if such consent is required by the Security Instrument.

f. Surrender, Etc. Any consensual or negotiated surrender, cancellation, or termination of the Sublease, in whole or in part, agreed between Former Landlord and Tenant, unless effected unilaterally by Tenant pursuant to the express terms of the Sublease.

g. Sublease Assignment. Any assignment of the Sublease of the Leased Premises, or any portion thereof, other than if pursuant to the provisions of the Sublease.

h. Covenants. Any covenants or obligations of or applicable to Former Landlord to the extent they apply to or affect any property other than the Property.

6. Lender's Right to Cure.

6.1. Notice to Lender. After a Recognition Event has occurred, copies of all notices and other communications given by Tenant to Former Landlord of a breach of or default under the Sublease by Former Landlord shall also be simultaneously provided to Lender. Notwithstanding anything to the contrary in the Sublease, this Agreement, or the Loan Documents, before exercising any Termination Right or Offset Right, Tenant shall provide Lender with notice of the breach or default under the Sublease by Former Landlord giving rise to same (the "**Default Notice**") and, thereafter, the opportunity to cure such breach or default as provided for below.

6.2. Lender's Cure Period. After a Recognition Event has occurred, after Lender receives a Default Notice, Lender shall have a period of thirty (30) days beyond the time available to Former Landlord under the Sublease in which to cure the breach or default by Former Landlord (the "**Initial Cure Period**"), or, in the event that such cure cannot be completed within such cure period, provided Lender commences the cure within the Initial Cure Period, Lender shall have such reasonable period of time as is required to diligently prosecute such cure to its completion. Lender shall have no

obligation to cure (and shall have no liability or obligation for not curing) any breach or default by Former Landlord. Tenant agrees to accept performance by Lender of any terms of the Sublease required to be performed by Former Landlord with the same force and effect as though performed by Former Landlord.

7. Exculpation of Successor Landlord. Notwithstanding anything to the contrary in this Agreement or the Sublease, upon any attornment pursuant to this Agreement, the Sublease shall be deemed to have been automatically amended to provide that Successor Landlord's obligations and liabilities under the Sublease shall never extend beyond Successor Landlord's (or its successors' or assigns') interest, if any, in the Property from time to time, including insurance and condemnation proceeds (except to the extent reinvested in the Property), Successor Landlord's interest in the Sublease, and the proceeds from any sale or other disposition of the Property by Successor Landlord (collectively, "**Successor Landlord's Interest**"). Tenant shall look exclusively to Successor Landlord's Interest (or that of its successors and assigns) for payment or discharge of any obligations of Successor Landlord under the Sublease as affected by this Agreement. If Tenant obtains any money judgment against Successor Landlord with respect to the Sublease or the relationship between Successor Landlord and Tenant, then Tenant shall look solely to Successor Landlord's Interest (or that of its successors and assigns) to collect such judgment. Tenant shall not collect or attempt to collect any such judgment out of any other assets of Successor Landlord.
8. Lender's Rights and Obligations.
 - a. Except as expressly provided for in this Agreement, Lender shall have no obligations to Tenant with respect to the Sublease. If an attornment occurs pursuant to this Agreement, then all rights and obligations of Lender under this Agreement shall terminate, without thereby affecting in any way the rights and obligations of Successor Landlord provided for in this Agreement.
 - b. Neither this Agreement, the Security Instrument or any of the other Loan Documents, nor the Sublease shall, prior to any acquisition of the Property by Lender, operate to give rise to or create any responsibility or liability for the control, care, management or repair of the Property upon Lender, or impose responsibility for the carrying out by Lender of any of the covenants, terms or conditions of the Sublease, nor shall said instruments operate to make Lender responsible or liable for any waste committed on the Property by any party whatsoever, or for dangerous or defective conditions of the Property, or for any negligence in the management, upkeep, repair or control of the Property, which may result in loss, injury or death to Tenant, or to any tenant, licensee, invitee, guest, employee, agent or stranger.
 - c. Lender may assign to any person or entity its interest under the Security Instrument and/or the other Loan Documents, without notice to, the consent of, or assumption of any liability to, any other party hereto. In the event Lender becomes the Successor Landlord, Lender may assign to any other party its interest as the Successor Landlord without the consent of any other party hereto.
9. Landlord's Rights and Obligations. Nothing herein contained is intended, nor shall it be construed, to abridge or adversely affect any right or remedy of Landlord under the Sublease, including upon the occurrence of an Event of Default by Tenant under the Sublease. This Agreement shall not alter, waive or diminish any of Landlord's obligations under the Security Instrument, any of the other Loan Documents, or the Sublease.
10. Notice. All notices or other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been properly given (i) one (1) Business day (defined below) after being deposited for overnight delivery with a nationally recognized overnight courier service that

regularly maintains records of items delivered, or (ii) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent registered or certified mail, postage prepaid, return receipt requested. Each party's address is as set forth in the opening paragraph of this Agreement. If the recipient refuses or rejects delivery, notice shall be deemed given on the date which the notice is so refused or rejected. Any party to this Agreement may change the address to which notices intended for it are to be directed by means of notice given to the other party in accordance with this Section 10.

For purposes of this Section 10, the term "**Business Day**" shall mean a day on which commercial banks are not authorized or required by law to close in the state or commonwealth where the Property is located.

11. Miscellaneous.

11.1. Successors and Assigns. This Agreement shall bind and benefit the parties, their successors and assigns, any Successor Landlord, and its successors and assigns. Upon assignment of the Security Instrument by Lender, all liability of Lender/assignor shall terminate.

11.2. Entire Agreement. This Agreement constitutes the entire agreement between Lender and Tenant and Landlord regarding the subordination of the Sublease to the Security Instrument and the rights and obligations of Tenant, Lender and Landlord as to the subject matter of this Agreement.

11.3. Interaction with Sublease and with Security Instrument. If this Agreement conflicts with the Sublease, then this Agreement shall govern as between the parties and any Successor Landlord, including upon any attornment pursuant to this Agreement. This Agreement supersedes, and constitutes full compliance with, any provisions in the Sublease that provide for subordination of the Sublease to, or for delivery of a non-disturbance agreement by the holder of, the Security Instrument. Lender confirms that Lender has consented to Landlord's entering into the Sublease.

11.4. Option or Right to Purchase Landlord's Premises or the Loan.

a. Notwithstanding anything to the contrary contained in the Sublease or this Agreement, Tenant shall deliver to Lender a copy of Tenant's notice of its exercise of Tenant's option to purchase the Leased Premises under Section 32 or Section 33 of the Addendum to Office Lease, which is attached to and made part of the Sublease (the "**Purchase Option**") simultaneously with the delivery of such notice to Landlord.

b. Notwithstanding anything to the contrary in this Agreement or the Sublease, any provision in the Sublease allowing or providing for any right or option to Tenant, any affiliate of Tenant or any successor or assignee of Tenant to purchase, in whole or in part, either the Leased Premises or the Loan or any of the instruments or documents evidencing the Loan or securing payment of the Loan, including without limitation, Tenant's option to purchase the Leased Premises pursuant to Section 32 or Section 33 of the Addendum to Office Lease, shall in all events be subject to all terms and conditions of the Security Instrument and other Loan Documents held by Lender in connection therewith (as well as any approval rights of Lender described therein). Neither Lender, in its capacity as "lender" under the Loan Documents, nor any assignee of or successor to Lender in such capacity, shall be bound in any way by any such right or option, and Tenant may not exercise such right or option until the Debt (as defined in the Loan Documents) has been paid in full subject to and in accordance with the Security Instrument and other Loan Documents. Nothing contained in this Agreement shall be construed to

waive or modify the restrictions set forth in the Loan Documents related to the prepayment of the Debt or the transfer of the Leased Premises or any portion thereof.

c. Tenant acknowledges and agrees that, notwithstanding anything to the contrary in the Sublease, any of the Loan Documents, or this Agreement, none of the following events (“**Remedial Actions**”) shall be deemed to constitute an offer to purchase the Leased Premises or any portion thereof for purposes of Sections 32 and 33 of the Addendum to Office Lease and Tenant shall have no preferential right to purchase or other rights under Sections 32 and 33 of the Addendum to Office Lease as a result of any such events: (i) the judicial or nonjudicial foreclosure of the Security Instrument; (ii) the delivery of a deed in lieu of judicial or nonjudicial foreclosure of the Security Instrument; (iii) any offer, notice, pleading, agreement, transaction or other event or condition of any kind arising out of or relating to any of the events referred to in foregoing clauses (i) or (ii); or (iv) the first subsequent transfer following any of the events referred to in foregoing clauses (i) or (ii). In addition, Tenant acknowledges and agrees that, notwithstanding anything to the contrary in the Sublease, nothing contained therein shall be deemed to restrict Lender’s pursuit of any of the Remedial Actions.

11.5. Interpretation; Governing Law. The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the internal laws of the state where the Property is located, excluding its principles of conflict of laws.

11.6. Amendments. This Agreement may be amended, discharged or terminated, or any of its provisions waived, only by a written instrument executed by the parties hereto.

11.7. Due Authorization. Each party represents that it has full authority to enter into this Agreement, which has been duly authorized by all necessary actions.

11.8. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

11.9. [Intentionally Omitted].

11.10. Headings. The headings in this Agreement are intended to be for convenience of reference only, and shall not define the scope, extent or intent or otherwise affect the meaning of any portion hereof.

11.11. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.

11.12. LENDER AUTHORIZATION. BY SIGNING AND DELIVERING ITS SIGNATURE AND NOTARY PAGES TO THIS AGREEMENT, EACH PARTY HERETO CONSENTS TO LENDER PERFORMING THE FOLLOWING ACTIONS IN ORDER TO CREATE AN EXECUTION VERSION OF THIS AGREEMENT: (A) INSERTING THE EFFECTIVE DATE OF THIS AGREEMENT AND THE DATE OF THE SUBLEASE; (II) ATTACHING THE LEGAL DESCRIPTION AS EXHIBIT A TO THIS AGREEMENT; AND (III) PUTTING THIS AGREEMENT IN RECORDABLE FORM, IF APPLICABLE.

11.13. WAIVER OF JURY TRIAL. TENANT AND LANDLORD EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY, AFTER CAREFUL CONSIDERATION AND AN OPPORTUNITY TO SEEK LEGAL ADVICE, WAIVE THEIR

RESPECTIVE RIGHTS TO HAVE A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY OF THE PROVISIONS OF THIS AGREEMENT, OR ANY OTHER DOCUMENTS EXECUTED IN CONJUNCTION HEREWITH, ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT, THE PROPERTY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF LANDLORD, TENANT OR LENDER. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER TO ENTER INTO THIS AGREEMENT.

(REMAINDER OF PAGE LEFT INTENTIONALLY BLANK)

IN WITNESS WHEREOF, this Agreement has been duly executed by Lender, Tenant, Landlord and Fee Owner as of the Effective Date.

LENDER:

WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE BENEFIT OF THE REGISTERED HOLDERS OF JPMCC COMMERCIAL MORTGAGE SECURITIES TRUST 2019-COR4, COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2019-COR4

By: Midland Loan Services, a division of PNC Bank, National Association as its Master Servicer and attorney in fact

By: _____
Name: _____
Title: _____

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On this _____ day of _____, 2025, before me, a Notary Public in and for the State of Kansas, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged that he/she is the Senior Vice President and Servicing Officer of Midland Loan Services, a division of PNC Bank, National Association to be the free and voluntary act and deed of said company for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

(seal)

(Print Name)
NOTARY PUBLIC in and for the State of Kansas

My appointment expires: _____

TENANT:

SAN BERNARDINO COUNTY

By: _____
Name: Dawn Rowe, Chair
Title: Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

LYNNA MONELL, Clerk of the Board of Supervisors

By: _____
Deputy

Date: _____

Approved as to Legal Form:

TOM BUNTON, County Counsel
San Bernardino County, California

By: _____
Deputy

Date: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF SAN BERNARDINO)

On _____, 2025 before me, _____ a Notary Public, personally appeared Dawn Rowe, who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under **PENALTY OF PERJURY** under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)

LANDLORD:

KB TRI-CITY II MT, LLC,
a Delaware limited liability company

By: KB Tri-City II SPE Member, LLC
a Delaware limited liability company,
its Manager

By: Kingsbarn Real Estate Capital, LLC,
a California limited liability company,
its Manager

By: Kingsbarn Realty Capital, LLC,
a Nevada limited liability
company, its Manager

By: _____
Name: Jeff Pori
Title: Manager

STATE OF NEVADA)
)
COUNTY OF CLARK)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2025, by Jeff Pori as Manager of Kingsbarn Realty Capital, LLC, a Nevada limited liability company, Manager of Kingsbarn Real Estate Capital, LLC, a California limited liability company, Manager of KB Tri-City II SPE Member LLC, a Delaware limited liability company, Manager of KB Tri-City II MT, LLC, a Delaware limited liability company, on behalf of the limited liability company. He is personally known to me or has produced a driver's license as identification.

NOTARY PUBLIC, STATE OF NEVADA

Print or Stamp Name of Notary

My Commission Expires: _____

[Notarial Seal]

FEE OWNER:

KB TRI-CITY II DST,
a Delaware statutory trust

By: KB Tri-City II ST, LLC,
a Delaware limited liability company,
its Signatory Trustee

By: KB Tri-City II SPE Member, LLC,
a Delaware limited liability company,
its Manager

By: Kingsbarn Real Estate Capital, LLC,
a California limited liability company,
its Manager

By: Kingsbarn Realty Capital, LLC,
a Nevada limited liability company,
its Manager

By: _____
Name: Jeff Pori
Title: Manager

STATE OF NEVADA)
)
COUNTY OF CLARK)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2025, by Jeff Pori as Manager of Kingsbarn Realty Capital, LLC, a Nevada limited liability company, Manager of Kingsbarn Real Estate Capital, LLC, a California limited liability company, Manager of KB Tri-City II SPE Member, LLC, a Delaware limited liability company, Manager of KB Tri-City II ST, LLC, a Delaware limited liability company, Signatory Trustee of KB Tri-City II DST, a Delaware statutory trust, on behalf of the statutory trust. He is personally known to me or has produced a driver’s license as identification.

NOTARY PUBLIC, STATE OF NEVADA

Print or Stamp Name of Notary

My Commission Expires: _____

[Notarial Seal]

EXHIBIT A

LEGAL DESCRIPTION

BRIER CORPORATE CENTER

862 East Hospitality Lane
San Bernardino, San Bernardino County, California 92406

All that certain real property situated in the County of San Bernardino, State of California, described as follows:

PARCEL A:

THOSE PORTIONS OF LOTS 12, 13 AND 14, TRACT 12034, AS SHOWN BY MAP ON FILE IN BOOK 168 OF MAPS, PAGES 75 THROUGH 87 INCLUSIVE, RECORDS OF SAN BERNARDINO COUNTY, DESCRIBED AS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 14;
THENCE SOUTH 14° 50' 38" WEST ALONG THE EAST LINE OF SAID LOT A DISTANCE OF 412.44 FEET TO A POINT ON THE NORTHERLY LINE OF HOSPITALITY LANE AS SHOWN ON SAID TRACT, ALSO BEING ON A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 1045.00 FEET THROUGH WHICH A RADIAL LINE BEARS NORTH 17° 18' 48" WEST;
THENCE SOUTHWESTERLY ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 18° 12' 37", AN ARC LENGTH OF 332.13 FEET, TO A POINT ON A NON-TANGENT LINE THROUGH WHICH A RADIAL LINE BEARS NORTH 35° 31' 24" WEST;
THENCE NORTH 00° 14' 12" EAST, A DISTANCE OF 303.59 FEET;
THENCE NORTH 89° 45' 48" WEST, A DISTANCE OF 268.30 FEET, TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 150.00 FEET, THROUGH WHICH A RADIAL LINE BEARS SOUTH 67° 03' 41" EAST;
THENCE NORTHERLY ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 57° 57' 21", AN ARC LENGTH OF 151.73 FEET;
THENCE NORTH 35° 01' 02" WEST, A DISTANCE OF 49.06 FEET;
THENCE NORTH 00° 14' 12" EAST, A DISTANCE OF 59.35 FEET TO THE NORTH LINE OF LOTS 12 AND 13;
THENCE SOUTH 89° 45' 48" EAST ALONG THE NORTH LINE OF LOTS 12 AND 13 AND 14, A DISTANCE OF 712.11 FEET, TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE SIDEWALKS, SEWERS, STORM DRAINS, WATER MAINS, CURBS, GUTTERS, PAVING, ELECTROLLERS, STREET LIGHTS, STREET NAME SIGNS, TRAFFIC SIGNALS AND ALL APPURTENANCES AND APPURTENANT IMPROVEMENTS AND RIGHTS (COLLECTIVELY, THE "IMPROVEMENTS") WITHIN ASSESSMENT DISTRICT NO. 961 IN THE CITY OF SAN BERNARDINO, CALIFORNIA, WHICH ASSESSMENT DISTRICT IS SHOWN AND DESCRIBED IN THE ASSESSMENT DIAGRAM FOR ASSESSMENT DISTRICT NO. 961, RECORDED FEBRUARY 6, 1985, IN BOOK 31 OF ASSESSMENT DISTRICT MAPS, PAGES 64, 65 AND 66, RECORDS OF

SAN BERNARDINO COUNTY, CALIFORNIA, AS DESCRIBED IN THE DEED TO THE CITY OF SAN BERNARDINO RECORDED APRIL 11, 1985 AS INSTRUMENT NO. 85-085510 OF OFFICIAL RECORDS.

SAID LAND IS DESCRIBED PURSUANT TO A CERTIFICATE OF COMPLIANCE. LOT LINE ADJUSTMENT, NO. 90-27 BY CITY OF SAN BERNARDINO, RECORDED NOVEMBER 9, 1990 AS INSTRUMENT NO. 90- 450872 OF OFFICIAL RECORDS.

PARCEL B-1:

RECIPROCAL APPURTENANT EASEMENTS FOR THE USE AND BENEFIT OF THE RESPECTIVE PARCELS SERVED, AS DOMINANT TENEMENTS, ON, UNDER AND ACROSS THE PARCELS BURDENED THEREBY, AS SERVIENT TENEMENTS, FOR INGRESS AND EGRESS FOR INSTALLATION, MAINTENANCE AND REPAIR OF UTILITY FACILITIES, INCLUDING TELEPHONE LINES, SEWER AND DRAINAGE PIPES, WATER AND SPRINKLER SYSTEMS, LINES, CONDUITS AND CULVERTS, AND UTILITY METERS. THE SPECIFIC LOCATION OF EACH SUCH UTILITY FACILITY SHALL BE DETERMINED BY THE PHYSICAL LOCATION OF THE IMPROVEMENTS THEREON AND THEREUNDER INSTALLED, CONSTRUCTED AND COMPLETED AT THE TIME OF THE FIRST CONVEYANCE OF EACH RESPECTIVE SERVIENT TENEMENT AS THE SAME ARE CREATED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF TRI-CITY CORPORATE CENTRE, RECORDED DECEMBER 10, 1987 AS INSTRUMENT NO. 87-433972 OF OFFICIAL RECORDS.

AND THE MODIFICATIONS THERETO, RECORDED JANUARY 8, 1991 AS INSTRUMENT NO. 91- 007218; JANUARY 14, 1992 AS INSTRUMENT NO. 92-013837; OCTOBER 16, 1992 AS INSTRUMENT NO. 92-430716, ALL OF OFFICIAL RECORDS AND MARCH 16, 2015 AS INSTRUMENT NO. 2015- 0100786 OFFICIAL RECORDS.

PARCEL B-2:

ALL EASEMENTS, CONCERNING LOTS 8 THROUGH 14 OF TRACT 12034, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 168 OF MAPS, PAGES 75 THROUGH 87, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA, THAT ARE APPURTENANT TO THE REAL PROPERTY DESCRIBED AS PARCEL "A" ABOVE, INCLUDING WITHOUT LIMITATION A RECIPROCAL EASEMENT FOR ACCESS PARKING AND PEDESTRIAN TRAFFIC AS ESTABLISHED BY DOCUMENT ENTITLED, "MAJOR BLOCK DECLARATION, MAJOR BLOCK NO. 3 - BRIER PLACE, TRI-CITY CORPORATE CENTRE," RECORDED ON MAY 28, 1992 AS INSTRUMENT NO. 92-223952 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA.

APN: 0281-351-25

ONE HOSPITALITY

473 East Carnegie Lane
San Bernardino, San Bernardino County, California 92406

All that certain real property situated in the County of San Bernardino, State of California, described as follows:

PARCEL A:

THAT PORTION OF PARCEL "A" OF PARCEL MAP 14712, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 178, PAGES 41 THROUGH 44 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CURVED NORTHWESTERLY LINE OF SAID PARCEL "A", SHOWN ON SAID MAP AS CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 657.00 FEET, DISTANT NORTHEASTERLY THEREON THROUGH A CENTRAL ANGLE OF 2° 56' 27" AN ARC LENGTH OF 33.72 FEET FROM THE MOST WESTERLY CORNER OF SAID PARCEL "A", A RADIAL LINE TO SAID POINT BEARS NORTH 74° 28' 48" WEST;

THENCE ALONG SAID CURVED NORTHWESTERLY LINE, THROUGH A CENTRAL ANGLE OF 18° 02' 22" AN ARC LENGTH OF 206.85 FEET;

THENCE SOUTH 65° 23' 17" EAST, 133.78 FEET;

THENCE SOUTH 24° 36' 43" WEST, 206.00 FEET;

THENCE NORTH 65° 23' 17" WEST, 133.53 FEET TO THE POINT OF BEGINNING.

EXCEPTING THE SIDEWALKS, SEWERS, STORM DRAINS, WATER MAINS, CURBS, GUTTERS, PAVING, ELECTROLLERS, STREET LIGHTS, STREET NAME SIGNS, TRAFFIC SIGNALS AND ALL APPURTENANCES AND APPURTENANT IMPROVEMENTS AND RIGHTS (COLLECTIVELY, THE "IMPROVEMENTS") WITHIN ASSESSMENT DISTRICT NO. 961 IN THE CITY OF SAN BERNARDINO, CALIFORNIA, WHICH ASSESSMENT DISTRICT IS SHOWN AND DESCRIBED IN THE ASSESSMENT DIAGRAM FOR ASSESSMENT DISTRICT NO. 961, RECORDED FEBRUARY 6, 1985 IN BOOK 31 OF ASSESSMENT DISTRICT MAPS, PAGES 64, 65 AND 66, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, AS DESCRIBED IN THE DEED TO THE CITY OF SAN BERNARDINO RECORDED APRIL 11, 1985 AS INSTRUMENT NO. 85-085510 OFFICIAL RECORDS.

SAID DESCRIPTION WAS CREATED BY THAT CERTAIN CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT NO. LLA 07-05, RECORDED JUNE 20, 2008 AS INSTRUMENT NO. 2008-0282430 OF OFFICIAL RECORDS.

PARCEL B-1:

RECIPROCAL APPURTENANT EASEMENTS FOR THE USE AND BENEFIT OF THE RESPECTIVE PARCELS SERVED, AS DOMINANT TENEMENTS, ON, UNDER AND ACROSS THE PARCELS BURDENED THEREBY, AS SERVIENT TENEMENTS, FOR INGRESS AND EGRESS FOR INSTALLATION, MAINTENANCE AND REPAIR OF

UTILITY FACILITIES, INCLUDING TELEPHONE LINES, SEWER AND DRAINAGE PIPES, WATER AND SPRINKLER SYSTEMS, LINES, CONDUITS AND CULVERTS, AND UTILITY METERS. THE SPECIFIC LOCATION OF EACH SUCH UTILITY FACILITY SHALL BE DETERMINED BY THE PHYSICAL LOCATION OF THE IMPROVEMENTS THEREON AND THEREUNDER INSTALLED, CONSTRUCTED AND COMPLETED AT THE TIME OF THE FIRST CONVEYANCE OF EACH RESPECTIVE SERVIENT TENEMENT AS THE SAME ARE CREATED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF TRI-CITY CORPORATE CENTRE, RECORDED DECEMBER 10, 1987 AS INSTRUMENT NO. 87-433972, OFFICIAL RECORDS.

AND THE MODIFICATIONS THERETO, RECORDED JANUARY 8, 1991 AS INSTRUMENT NO. 91- 007218; JANUARY 14, 1992 AS INSTRUMENT NO. 92-013837, OCTOBER 16, 1992 AS INSTRUMENT NO. 92-430716, ALL OF OFFICIAL RECORDS AND MARCH 16, 2015 AS INSTRUMENT NO. 2015- 0100786 OFFICIAL RECORDS.

PARCEL B-2:

ALL EASEMENTS, CONCERNING PARCEL 1 OF PARCEL MAP NO. 13708, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 155, PAGES 6 AND 7 OF PARCEL MAPS AND PARCELS A AND B OF PARCEL MAP 13910 AS PER PLAT RECORDED IN BOOK 162, PAGES 76 THROUGH 79 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA, THAT ARE APPURTENANT TO THE REAL PROPERTY DESCRIBED AS PARCEL "A" ABOVE, INCLUDING WITHOUT LIMITATION A RECIPROCAL EASEMENT FOR ACCESS, PARKING AND PEDESTRIAN TRAFFIC AS ESTABLISHED BY DOCUMENT ENTITLED "MAJOR BLOCK DECLARATION, MAJOR BLOCK NO. 4 - CARNEGIE PLAZA, TRI-CITY CORPORATE CENTRE," RECORDED ON DECEMBER 20, 1990 AS INSTRUMENT NO. 90- 501243 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA, AND ALL EASEMENTS AND RIGHTS CREATED OR GRANTED BY ANY OF THE FOLLOWING INSTRUMENTS:

THAT CERTAIN MAJOR BLOCK DECLARATION FOR MAJOR BLOCK NO. 4 - CARNEGIE PLAZA, TRI- CITY CORPORATE CENTRE, DATED DECEMBER 19, 1990 RECORDED ON DECEMBER 20, 1990 AS INSTRUMENT NO. 90-501244 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA.

THAT CERTAIN FIRST AMENDMENT TO MAJOR BLOCK DECLARATION, MAJOR BLOCK NO. 4 - CARNEGIE PLAZA, TRI-CITY CORPORATE CENTRE, DATED OCTOBER 3, 1991 AND RECORDED ON OCTOBER 8, 1991 AS INSTRUMENT NO. 91-384835 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA.

THAT CERTAIN SECOND AMENDMENT TO MAJOR BLOCK DECLARATION, MAJOR BLOCK NO. 4 - CARNEGIE PLAZA, TRI-CITY CORPORATE CENTRE, DATED

JANUARY 1, 1992 AND RECORDED ON APRIL 13, 1992 AS INSTRUMENT NO. 92-155910 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA.

THAT CERTAIN THIRD AMENDMENT TO COVENANT, CONDITIONS AND RESTRICTIONS (THIRD AMENDMENT TO MAJOR BLOCK DECLARATION MAJOR BLOCK NO. 4-CARNEGIE PLAZA TRI-CITY CORPORATE CENTRE), DATED JANUARY 20, 2017 AND RECORDED APRIL 6, 2018 AS INSTRUMENT NO. 2018-0122733 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA.

APN: 0281-372-21

EXHIBIT "H"

LIST OF FORMER COUNTY OFFICIALS

INSTRUCTIONS: List the full names of former COUNTY Administrative Officials, the title/description of the Official's last position with COUNTY, the date the Official terminated COUNTY employment, the Official's current employment and/or representative capacity with LANDLORD, and the date the Official entered LANDLORD's employment and/or representation.

<u>OFFICIAL'S NAME:</u>	<u>REQUIRED INFORMATION</u>
(1)	
(2)	

LANDLORD hereby certifies the information it has provided in this Exhibit "G" is true, complete, and accurate.

LANDLORD:

By: _____
(Name)

Title: _____

Date: _____



Exhibit "I"

Levine Act Campaign Contribution Disclosure (formerly referred to as Senate Bill 1439)

The following is a list of items that are not covered by the Levine Act. A Campaign Contribution Disclosure Form will not be required for the following:

- Contracts that are competitively bid and awarded as required by law or County policy
- Contracts with labor unions regarding employee salaries and benefits
- Personal employment contracts
- Contracts under \$50,000
- Contracts where no party receives financial compensation
- Contracts between two or more public agencies
- The review or renewal of development agreements unless there is a material modification or amendment to the agreement
- The review or renewal of competitively bid contracts unless there is a material modification or amendment to the agreement that is worth more than 10% of the value of the contract or \$50,000, whichever is less
- Any modification or amendment to a matter listed above, except for competitively bid contracts.

DEFINITIONS

Actively supporting the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources, or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

Lessor must respond to the questions on the following page. If a question does not apply respond N/A or Not Applicable.

1. Name of Lessor: [KB Tri-City I MT, LLC, a Delaware limited liability company](#)

2. Is the entity listed in Question No. 1 a non-profit organization under Internal Revenue Code section 501(c)(3)?

Yes If yes, skip Question Nos. 3 - 4 and go to Question No. 5.

No

3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision: [Jeff Pori, CEO](#)

4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded ("closed corporation"), identify the major shareholder(s): [N/A](#)

5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):

Company Name	Relationship
KB Tri-City I SPE Member, LLC	Manager
Kingsbarn Real Estate Capital, LLC	Manager
Kingsbarn Realty Capital, LLC	Manager

6. Name of agent(s) of Lessor:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)
Newmark	John Ewart	N/A
Richard L. Tobler, LTD	Richard Tobler	N/A

7. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district:

Company Name	Subcontractor(s):	Principal and/or Agent(s):
N/A		

8. Name of any known individuals/companies who are not listed in Questions 1-7, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name
N/A	

9. Was a campaign contribution, of more than \$500, made to any member of the San Bernardino County Board of Supervisors or other County elected officer within the prior 12 months, by any of the individuals or entities listed in Question Nos. 1-8?

No If no, please skip Question No. 10. Yes If yes, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer: N/A

Name of Contributor: N/A

Date(s) of Contribution(s): N/A

Amount(s): N/A

Please add an additional sheet(s) to identify additional Board Members or other County elected officers to whom anyone listed made campaign contributions.

By signing below, Lessor certifies that the statements made herein are true and correct. Lessor understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$500 to any member of the Board of Supervisors or other County elected officer while this matter is pending and for 12 months after a final decision is made by the County.

Signature Jeff Pori

Jeff Pori

Print Name

3/17/2025
Date

KB Tri-City I. MT, LLC, a Delaware limited liability company

Print Entity Name, if applicable

EXHIBIT "J"

PREVAILING WAGE REQUIREMENTS

A. All or a portion of the Scope of Work in the Contract requires the payment of prevailing wages and compliance with the following requirements:

1. Determination of Prevailing Rates:

Pursuant to Labor Code sections 1770, et seq., the County has obtained from the Director of the Department of Industrial Relations (DIR) pursuant to the California Labor Code, the general prevailing rates of per diem wages and the prevailing rates for holiday and overtime work in the locality in which the Scope of Work is to be performed. Copies of said rates are on file with the County, will be made available for inspection during regular business hours, may be included elsewhere in the specifications for the Scope of Work, and are also available online at www.dir.ca.gov. The wage rate for any classification not listed, but which may be required to execute the Scope of Work, shall be commensurate and in accord with specified rates for similar or comparable classifications for those performing similar or comparable duties. In accordance with Labor Code section 1773.2, the Contractor shall post, at appropriate and conspicuous locations on the job site, a schedule showing all applicable prevailing wage rates and shall comply with the requirements of Labor Code sections 1773, et seq.

2. Payment of Prevailing Rates

Each worker of the Contractor, or any subcontractor, engaged in the Scope of Work, shall be paid not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor, and such worker.

3. Prevailing Rate Penalty

The Contractor shall, as a penalty, forfeit two hundred dollars (\$200.00) to the County for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of the DIR for such work or craft in which such worker is employed by the Contractor or by any subcontractor in connection with the Scope of Work. Pursuant to California Labor Code section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

4. Ineligible Contractors:

Pursuant to the provisions of Labor Code section 1777.1, the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a contractor or subcontractor on a public works project. This list of debarred contractors is available from the DIR website at <http://www.dir.ca.gov/Public-Works/PublicWorks.html>. Any contract entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the County. The Contractor shall be responsible for the payment of wages to workers as a debarred subcontractor who has been allowed to work on the Scope of Work.

5. Payroll Records:

a. Pursuant to California Labor Code section 1776, the Contractor and each subcontractor, shall keep accurate certified payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by them in connection with the Scope of Work. The payroll records enumerated herein shall be verified by a written declaration made under penalty of perjury that the information contained in the payroll record is true and correct and that the Contractor or subcontractor has complied with the requirements of the California Labor Code sections 1771, 1811, and 1815 for any Scope of Work performed by his or her employees. The payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

- i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request;
- ii. A certified copy of all payroll records shall be made available for inspection or furnished upon request to the County, the Division of Labor Standards Enforcement of the DIR;
- iii. A certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the County or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to the County or the Division of Labor Standards Enforcement, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, subcontractor and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor;
- iv. The Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; and
- v. Copies provided to the public, by the County or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any subcontractor, performing a part of the Scope of Work shall not be marked or obliterated. The Contractor shall inform the County of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address.

b. The Contractor shall have ten (10) days from receipt of the written notice specifying in what respects the Contractor must comply with the above requirements. In the event Contractor does not comply with the requirements of this section within the ten (10) day period, the Contractor shall, as a penalty to the County, forfeit one-hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, such penalty shall be withheld from any portion of the payments then due or to become due to the Contractor.

6. Limits on Hours of Work:

Pursuant to California Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code section 1811, the time of service of any worker employed at any time by the Contractor or by a subcontractor, upon the Scope of Work or upon any part of the Scope of Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as provided for under Labor Code section 1815. Notwithstanding the foregoing provisions, work performed by employees of Contractor or any subcontractor, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

7. Penalty for Excess Hours:

The Contractor shall pay to the County a penalty of twenty-five dollars (\$25.00) for each worker employed on the Scope of Work by the Contractor or any subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Contractor is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

8. Senate Bill 854 (Chapter 28, Statutes of 2014) and Senate Bill 96 (Chapter 28, Statutes of 2017) Requirements:

- a. Contractor shall comply with Senate Bill 854 and Senate Bill 96. The requirements include, but are not limited to, the following:
- i. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirements for bid purposes only as allowed under Labor Code section 1771.1(a).
 - ii. No contractor or subcontractor may be awarded a contract for public work or perform work on a public works project unless registered with the DIR pursuant to Labor Code section 1725.5.
 - iii. This project is subject to compliance monitoring and enforcement by the DIR.
 - iv. As required by the DIR, Contractor is required to post job site notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.
 - v. Contractors and all subcontractors must submit certified payroll records online to the Labor Commissioner for all public works projects.
 - 1) The certified payroll must be submitted at least monthly to the Labor Commissioner.
 - 2) The County reserves the right to require Contractor and all subcontractors to submit certified payroll records more frequently than monthly to the Labor Commissioner.
 - 3) The certified payroll records must be in a format prescribed by the Labor Commissioner.
 - vi. Registration with the DIR and the submission of certified payroll records to the Labor Commissioner are not required if the public works project is \$25,000 or less when the project is for construction, alteration, demolition, installation or repair work, or if the public works project is \$15,000 or less when the project is for maintenance work.

"A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, "contractor" includes a subcontractor as defined by Section 1722.1.

- (a) To qualify for registration under this section, a contractor shall do all of the following:
- (1) (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.
 - (B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.
 - (2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:
 - (A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be

evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

(i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or

after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.

(f) This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.”

b. Labor Code section 1771.1 states the following:

“(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted nor any contract or subcontract entered into without proof of the contractor or subcontractor’s current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(h)(1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars (\$100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(3) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works contractor or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(j)(1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.

(2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:

(A) Manual delivery of the order to the contractor or subcontractor personally.

(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at one of the following:

(i) The address of the contractor or subcontractor on file with either the Secretary of State or the Contractors' State License Board.

(ii) If the contractor or subcontractor has no address on file with the Secretary of State or the Contractors' State License Board, the address of the site of the public work.

(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

(4) Any employee of an unregistered contractor or subcontractor who is affected by a work stoppage ordered by the commissioner pursuant to this subdivision shall be paid at his or her regular hourly prevailing wage rate by that employer for any hours the employee would have worked but for the work stoppage, not to exceed 10 days.

(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work."

c. Labor Code section 1771.4 states the following:

"a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

(3) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(A) At least monthly or more frequently if specified in the contract with the awarding body.

(B) In a format prescribed by the Labor Commissioner.

(4) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.

(5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.

(b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:

(1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.

(2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.

(d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016."

B. STATE PUBLIC WORKS APPRENTICESHIP REQUIREMENTS

1. State Public Works Apprenticeship Requirements:

a. The Contractor is responsible for compliance with Labor Code section 1777.5 and the California Code of Regulations, title 8, sections 230 – 230.2 for all apprenticeable occupations (denoted with "#" symbol next to craft name in DIR Prevailing Wage Determination), whether employed by the Contractor, subcontractor, vendor or consultant. Included in these requirements is (1) the Contractor's requirement to provide notification (i.e. DAS-140) to the appropriate apprenticeship committees; (2) pay training fund contributions for each apprenticeable hour employed on the Contract; and (3) utilize apprentices in a minimum ratio of not less than one apprentice hour for each five

journeyman hours by completion of Contract work (unless an exception is granted in accordance with Labor Code section 1777.5) or request for the dispatch of apprentices.

b. Any apprentices employed to perform any of the Scope of Work shall be paid the standard wage to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code sections 3070 et seq. are eligible to be employed for the Scope of Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training.

2. Compliance with California Labor Code section 1777.5 requires all public works contractors to:

a. Submit Contract Award Information (DAS-140):

- i. Although there are a few exemptions (identified below), all Contractors, regardless of union affiliation, must submit contract award information when performing on a California public works project.
- ii. The DAS-140 is a notification "announcement" of the Contractor's participation on a public works project—*it is not a request for the dispatch of an apprentice.*
- iii. Contractors shall submit the contract award information (you may use form DAS 140) within 10 days of the execution of the prime contract or subcontract, but in no event later than the first day in which the Contractor has workers employed on the public work.
- iv. Contractors who are already approved to train apprentices (i.e. check "Box 1" on the DAS-140) shall only be required to submit the form to their approved program.
- v. Contractors who are NOT approved to train apprentices (i.e. those that check either "Box 2" or "Box 3" on the DAS-140) shall submit the DAS-140 TO EACH of the apprenticeship program sponsors in the area of your public works project. For a listing of apprenticeship programs see <http://www.dir.ca.gov/Databases/das/pwaddrstart.asp>.

b. Employ Registered Apprentices

- i. Labor Code section 1777.5 requires that a contractor performing work in an "apprenticeable" craft must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman. This ratio shall be met prior to the Contractor's completion of work on the project. "Apprenticeable" crafts are denoted with a pound symbol "#" in front of the craft name on the prevailing wage determination.
- ii. All Contractors who do not fall within an exemption category (see below) must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required.
- iii. Contractors may use the "DAS-142" form for making a request for the dispatch of an apprentice.
- iv. Contractors who are participating in an approved apprenticeship training program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from ALL OTHER apprenticeship committees in the project area in order to fulfill this requirement.
- v. Contractor should maintain and submit proof (when requested) of its DAS-142 submittal to the apprenticeship committees (e.g. fax transmittal confirmation). A Contractor has met its requirement to employ apprentices only after it has successfully made a dispatch request to all apprenticeship programs in the project area.

- vi. Only "registered" apprentices may be paid the prevailing apprentice rates and must, at all times work under the supervision of a Journeyman (Cal. Code Regs., tit 8, § 230.1).

c. Make Training Fund Contributions

- i. Contractors performing in apprenticeable crafts on public works projects, must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices.
- ii. Contractors may use the "CAC-2" form for submittal of their training fund contributions.
- iii. Contractors who do not submit their training fund contributions to an approved apprenticeship training program must submit their contributions to the California Apprenticeship Council (CAC), PO Box 420603, San Francisco, CA 94142-0603.
- iv. Training fund contributions to the CAC are due and payable on the 15th day of the month for work performed during the preceding month.
- v. The "training" contribution amount identified on the prevailing wage determination shall not be paid to the worker, unless the worker falls within one of the exemption categories listed below.

3. Exemptions to Apprenticeship Requirements:

a. The following are exempt from having to comply with California apprenticeship requirements. These types of contractors do not need to submit a DAS-140, DAS-142, make training fund contributions, or utilize apprentices:

- i. When the Contractor holds a sole proprietor license ("Owner-Operator") and no workers were employed by the Contractor. In other words, the contractor performed the entire work from start to finish and worked alone.
- ii. Contractors performing in non-apprenticeable crafts. "Apprenticeable" crafts are denoted with a pound symbol "#" in front of the craft name on the prevailing wage determination.
- iii. When the Contractor has a direct contract with the Public Agency that is under \$30,000.
- iv. When the project is 100% federally-funded and the funding of the project does not contain any city, county, and/or state monies (unless the project is administered by a state agency in which case the apprenticeship requirements apply).
- v. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720.

4. Exemption from Apprenticeship Ratios:

a. The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions are met:

- i. Unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%); or
- ii. The number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen; or
- iii. The Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis; or
- iv. If assignment of an apprentice to any work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

b. When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

5. Contractor's Compliance:

a. The responsibility of compliance with this Section for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Section are subject to the provisions of California Labor Code section 3081 and penalties are pursuant to Labor Code section 1777.7 and the determination of the Labor Commissioner.

OFFICE LEASE

KB Tri-City II MT, LLC, a Delaware limited liability company,

as Landlord,

and

SAN BERNARDINO COUNTY

as Tenant

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 PREMISES, BUILDING, PROJECT, AND COMMON AREAS	4
ARTICLE 2 LEASE TERM	5
ARTICLE 3 BASE RENT	5
ARTICLE 4 ADDITIONAL RENT	6
ARTICLE 5 USE OF PREMISES	12
ARTICLE 6 SERVICES AND UTILITIES	13
ARTICLE 7 REPAIRS	14
ARTICLE 8 ADDITIONS AND ALTERATIONS	15
ARTICLE 9 COVENANT AGAINST LIENS	17
ARTICLE 10 INSURANCE	17
ARTICLE 11 DAMAGE AND DESTRUCTION	19
ARTICLE 12 NONWAIVER	20
ARTICLE 13 CONDEMNATION	20
ARTICLE 14 ASSIGNMENT AND SUBLETTING	21
ARTICLE 15 SURRENDER OF PREMISES; OWNERSHIP AND REMOVAL OF TRADE FIXTURES	24
ARTICLE 16 HOLDING OVER	25
ARTICLE 17 ESTOPPEL CERTIFICATES	25
ARTICLE 18 SUBORDINATION	26
ARTICLE 19 DEFAULTS; REMEDIES	26
ARTICLE 20 COVENANT OF QUIET ENJOYMENT	29
ARTICLE 21 SECURITY DEPOSIT	29
ARTICLE 22 SUBSTITUTION OF OTHER PREMISES	30
ARTICLE 23 SIGNS	30
ARTICLE 24 COMPLIANCE WITH LAW	30
ARTICLE 25 LATE CHARGES	31
ARTICLE 26 LANDLORD'S RIGHT TO CURE DEFAULT; PAYMENTS BY TENANT	31
ARTICLE 27 ENTRY BY LANDLORD	31
ARTICLE 28 TENANT PARKING	32
ARTICLE 29 MISCELLANEOUS PROVISIONS	33

EXHIBITS

A	CONCEPTUAL OUTLINE OF PREMISES
A-1	SITE PLAN OF PROJECT
A-2	SITE PLAN OF ASSOCIATION []
B	TENANT WORK LETTER
C	NOTICE OF LEASE TERM DATES
D	RULES AND REGULATIONS
E	CUSTODIAL JANITORIAL AND PEST CONTROL
F	SIGN CRITERIA
G	SUBORDINATION NONDISTURBANCE AND ATTORMENT AGREEMENT
H	LIST OF FORMER COUNTY OFFICIALS
I	CAMPAIGN CONTRIBUTION DISCLOSURE
J	PREVAILING WAGE REQUIREMENTS

INDEX

	<u>Page(s)</u>
Additional Rent.....	6
After Hours HVAC.....	14
After Hours HVAC Rate.....	14
Alterations.....	15
Base Building.....	15
Base Rent.....	5
Base Year.....	6
Base, Shell, and Core.....	5
BOMA Standard.....	4
Brokers.....	36
Building.....	4
Building Hours.....	13
CC&R Payments.....	7
Common Areas.....	4
Cost Pools.....	10
Default.....	26
Development CC&R's.....	38
Direct Expenses.....	6
Eligibility Period.....	29
Energy Disclosure Requirements.....	39
Estimate.....	10
Estimate Statement.....	10
Estimated Excess.....	10
Estimated Lease Commencement Date.....	1
Excess.....	10
Expense Year.....	6
Force Majeure.....	35
Government Lists.....	35
Hazardous Materials.....	12
Holidays.....	13
HVAC.....	13
Index	7
Landlord.....	1
Landlord Indemnified Parties.....	12
Landlord Parties.....	17
Landlord Repair Notice.....	19
Landlord's Representative.....	Exhibit B
Laws.....	30
Lease.....	1
Lease Commencement Date.....	5
Lease Expiration Date.....	5
Lease Term.....	5
Lease Year.....	5
Lines.....	37

	<u>Page(s)</u>
Mail	35
Net Worth.....	24
Non-Transferee Assignee.....	24
Notices	35
Operating Expenses	6
Original Improvements	18
Overage	10
Permitted Non-Transfer	24
Permitted Non-Transferee.....	24
Plans.....	Exhibit B
Premises	4
Project	4
Proposition 13	9
Provider.....	37
punch-list.....	Exhibit B
Ready for Occupancy.....	Exhibit B
Renovations.....	38
rent	28
Rent.....	6
Statement.....	10
Subject Space	21
Substantial Completion.....	<i>Exhibit B</i>
substantially completed.....	Exhibit B
Summary	1
Tax Expenses	9
Tenant	1
Tenant Delays	Exhibit B
Tenant Energy Use Disclosure.....	39
Tenant Improvements	Exhibit B
Tenant Individuals	35
Tenant Work Letter.....	4
Tenant's Parties	12
Tenant's Representative	Exhibit B
Tenant's Share	10
Transfer Notice	21
Transfer Premium	23
Transferee	21
Transfers	21
use	22