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MHCSD

Trimark Communities, LLC
5665 N. Scottsdale Road, Suite#135
Scottsdale, AZ 85250

NOTICE TO TENANTS

December 31, 2012

Mimi Duzenski, Administrative Manager
MHCSD
230 S. Sterling Drive, Suite 100
Mountain House, CA 95391

Re: Mountain House Commercial Center; 557-593 Wicklund Crossing Way, Mountain House, CA 95391 (the "Property")

Ms. Duzenski:

Trimark Communities, LLC, a California limited liability company ("Trimark"), transferred its interest in the Property and assigned its interest in your lease at the Property (the "Lease") to SunChaser Real Estate Two LLC, a Delaware limited liability company ("SunChaser"). Consequently, SunChaser is now your landlord. The security deposit under the Lease was also transferred to SunChaser. SunChaser is now responsible to account to you under the Lease to the extent of the security deposit transferred to SunChaser.

All future notices and other communication should be delivered to SunChaser at the following address:

SunChaser Real Estate Two LLC
2260 Douglas Blvd., Suite 240
Roseville, CA 95661
916.773.1101

Rent payments, and payments of all other monetary obligations under the Lease, should be sent to SunChaser at the following address:

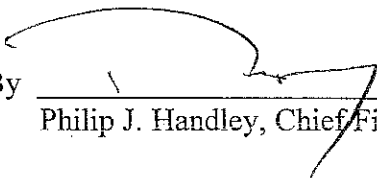
SunChaser Real Estate Two LLC
5665 North Scottsdale Blvd., Suite 135 85250
Scottsdale, Arizona 85250
480.398.2626

Thank you for your cooperation.

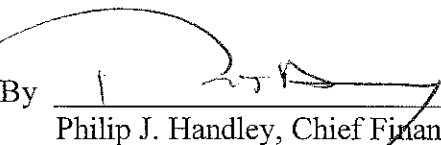
Very truly yours,

TRIMARK COMMUNITIES, LLC,
a California limited liability company

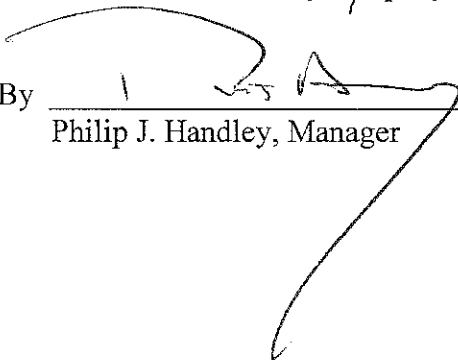
By: **HKHL OF CALIFORNIA, INC.,** a
California corporation, its Managing Member

By  _____
Philip J. Handley, Chief Financial Officer

By: **BHL OF CALIFORNIA, INC.,** a
California corporation, its Managing Member

By  _____
Philip J. Handley, Chief Financial Officer

SUNCHASER REAL ESTATE TWO LLC, a
Delaware limited liability company

By  _____
Philip J. Handley, Manager



Mountain House Community Services District

230 S. Sterling Drive, Suite 100, Mountain House, CA 95391

Tel (209) 831-2300 • Fax (209) 831-5610

www.mhcsd.com

August 9, 2012

Mr. Eric J. Bose
Director of Development
Trimark Communities, LLC
2260 E. Douglas Blvd., Suite 240
Roseville, CA 95661

Subject: Interest Notice Regarding First Extension Option per Commercial
Lease Agreement A-06-447 for Library Space at 569 and 579 Wicklund Crossing,
Mountain House, CA 95391

Dear Mr. Bose, *Eric*

The purpose of this letter is to provide Trimark Communities, LLC ("Trimark"), Interest Notice that the Mountain House Community Services District ("District") desires to exercise its First Extension Option to extend the term of The Commercial Lease Agreement (Agreement) referenced above for one (1) year in accordance Article 3 and Section 3 of Exhibit G of the Agreement. And while the Agreement provides that the Interest Notice must be provided to the Landlord no later than nine (9) months prior to the expiration of the initial Lease term, and the expiration of the initial Lease term is February 7, 2013, the District would again like to thank Trimark for its patience and agreement to extent that notice period to August 9, 2012.

The District is prepared to proceed with the extended Lease in accordance with Exhibit G to the Agreement.

Please do not hesitate to contact me if you have any questions or require additional information.

MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT

Mimi Duzenski
Mimi Duzenski
Acting General Manager

c: District Counsel

"To Provide Quality Services to the Community"

LIBRARY

EXHIBIT H

COMMENCEMENT LETTER

Date: December 20, 2006
Tenant: Mountain House Community Services District
Address: 230 South Sterling Drive, Suite 100, Mountain House, CA, 95391

Re: Commencement Letter with respect to that certain Commercial Lease (the "Lease") dated as of the 27th day of June, 2006, by and between Trimark Communities, LLC, a California limited liability company, as Landlord, and Mountain House Community Service District, as Tenant, for the Four Thousand Seven Hundred Twenty-Four (4,724) rentable square feet of space in the Building commonly known as Mountain House Commercial Center, located at 569 and 579 Wicklund Crossing Way, Mountain House, CA 95391

Dear Mr. Sensibaugh:

In accordance with the terms and conditions of the above referenced Lease, Tenant accepts possession of the Premises and agrees:


1. The Commencement Date of the Lease is February 8, 2007.
2. The Expiration Date of the Lease is February 7, 2013.

Please acknowledge your acceptance of possession and agreement to the terms set forth above by signing this Commencement Letter in the space provided and returning a fully executed counterpart to my attention. Tenant's failure to execute and return this letter, or to provide a good faith written objection to the statements contained in this letter, within ten (10) days after the date of this letter shall be deemed an approval by Tenant of the statements contained herein.

Sincerely,

**TRIMARK COMMUNITY, LLC, a
California limited Liability Company**

**By: STERLING PACIFIC ASSETS
It's Project Manager**

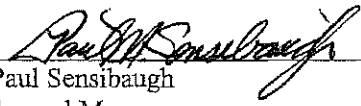
By: 

Duane A. Grimsman
Senior Vice President

Agreed to and Accepted

On 2/8/2007, 200~~6~~7

MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT

By: 

Paul Sensibaugh
Its: General Manager

LIBRARY

COMMERCIAL LEASE
A-06-447

This lease ("Lease") is made by the Landlord and Tenant named below, who agree as follows:

PART I - SUMMARY OF BASIC LEASE INFORMATION

The basic terms of this Lease are:

1. Date of the Lease: JUN 27 2006, 2006
2. Landlord: Trimark Communities, LLC, a California limited liability company
3. Tenant: Mountain House Community Services District.
4. Premises and Building:
 - (a) Building (section 1.1): Mountain House Commercial Center.
 - (b) Base Building (section 8.2): The Base Building is as described on Schedule 1 to Exhibit C attached hereto and incorporated herein.
 - (c) Tenant Improvement Allowance: Funds Landlord is to contribute for construction of Tenant Improvements pursuant to the Work Letter set forth in Exhibit C, in the amount of Thirty-Seven Thousand Seven Hundred Ninety-Two and No/100 Dollars (\$37,792.00) based on Four Thousand Seven Hundred Twenty-Four (4,724) Rentable Square Feet at a rate of Eight Dollars and No/100 Dollars (\$8.00) per Rentable Square Foot.
 - (d) Number of Rentable Square Feet in Building (section 1.1): Eleven Thousand Nine Hundred Sixty-Two (11,962) feet.
 - (e) Premises (section 1.1): Four Thousand Seven Hundred Twenty Four (4,724) Rentable Square Feet of space and Four Thousand Five Hundred and Fifty Three (4,553) Useable Square Feet of space, as set forth in Exhibit A, known as 569 and 579 Wicklund Crossing, Mountain House, CA 95391. Tenant acknowledges that the stated Rentable Square Feet and Useable Square Feet may vary from actual square footage, but such stated square footage is acceptable and for all purposes deemed to be the actual square footage. Tenant waives any and all rights to claim a difference or discrepancy in the Useable Square Feet or the Rentable Square Feet based on a measurement of the Premises except for those instances when measurement of the Premises is expressly called for in this Lease.
5. Lease Term:
 - (a) Duration (section 2.1): The Lease Term shall be six (6) years.
 - (b) Lease Commencement Date (section 2.1): Five (5) business days after Substantial Completion of the Tenant Improvements (subject to acceleration due to Tenant Delays (as defined in the Work Letter set forth in Exhibit C)). "Substantial Completion" shall mean: (i) the date that the Tenant Improvements have been substantially completed in accordance with the Approved Working Drawings (as defined in Exhibit C) (except minor punch list items which Landlord shall thereafter promptly complete); and (ii) Landlord has obtained a certificate of occupancy or a temporary certificate of occupancy for the Premises.
 - (c) Lease Expiration Date (section 2.1): The Lease shall expire on _____, 20__ (the day immediately preceding the sixth (6th) anniversary of the Lease Commencement Date).
 - (d) Extension Option (section 3): Tenant shall have three (3) options to extend the Lease Term, each of which shall be for a period of one (1) year, subject to the terms of Section 3.
6. Base Rent (section 4.1): See Exhibit A
7. Additional Rent (Article 5): Tenant's Share of Direct Expenses (subsection 5.2.5): 39%
8. Rent Concessions: N/A
9. Security Deposit (section 6.1): N/A
10. Permitted Use (section 7.1): Community Library
11. Liability insurance (minimum) (subject to and in accordance with the terms of subsection 14.5.10):
 - (a) General aggregate limit (other than products-completed operations): \$2,000,000
 - (b) Contractual liability limit \$1,000,000
 - (c) Personal injury and advertising injury limit: \$1,000,000
 - (d) Each occurrence limit: \$1,000,000

12. Late charge and interest (Article ()):

(a) Late charge (section 24.1): Five percent (5%) of monthly base rent.

(b) Interest on delinquent Rent (section 24.2): See section 24.2.

13. Parking (section 29.1): 19 unreserved spaces.

14. Addresses for notices:

(a) Landlord's address (subsection 30.11.3): Trimark Communities, LLC
c/o Sterling Pacific Assets
2260 Douglas Boulevard, Suite 240
Roseville, CA 95661
Attn: Duane G. Grimsman

(b) Tenant's address prior to the Lease
Commencement Date (subsection 30.11.3):

MHCSD
11 S. San Joaquin St.
7th Floor
Stockton, CA 95202

(c) Tenant's address from and after the Lease Commencement Date shall be the address of the Premises (subsection 30.11.3).

15. Brokers (section 30.23):

(a) Tenant Broker: N/A

(b) Landlord Broker: N/A

16. Guarantor: N/A

PART II - LEASE PROVISIONS

ARTICLE 1: REAL PROPERTY, BUILDING, AND PREMISES

1.1. **Lease of Premises.** Landlord leases to Tenant and Tenant leases from Landlord the premises described in Summary of Basic Lease Information section 4(e) ("Premises"); which are located in the building described in Summary section 4(a) ("Building"), reserving to Landlord the rights described in Lease section 1.2. The outline of the Premises is set forth in Exhibit B-1. The Rentable Area and Useable Area of the Premises and the Rentable Area of the Building are set forth in Summary sections 4(d) and 4(e). The Building, the areas servicing the Building (including any adjacent parking structure and parking area), and the land on which the Building and those areas are located (as shown on the site plan attached to this Lease as Exhibit B-2) are sometimes collectively referred to as the Real Property ("Real Property"). Tenant acknowledges that Landlord has made no representation or warranty regarding the condition of the Real Property except as specifically stated in this Lease.

1.2. **Landlord's Reservation of Rights.** The following rights are reserved to Landlord: (a) The right to all of the Building, except for the space within the Premises; (b) The right to change all elements of the Real Property (Landlord's rights under this subsection (b) shall not include the right to change the Tenant Improvements in the Premises); (c) The rights reserved to Landlord by provisions of this Lease or by operation of law; (d) The exclusive right to consent to the use or occupancy of the Premises by any person other than Tenant; (e) All rights in the economic value of the leasehold estate in the Premises, as stated in Articles 16-17; and (f) The right to impose covenants, conditions and restrictions ("CC&R's") on the Building, Common Areas and Real Property, or any portion thereof, including the Premises, so long as the CC&R's do not change or modify the terms of this Lease.

1.3. **Preparation of Premises; Acceptance.** The rights and obligations of the parties regarding the construction of the Premises are stated in the Tenant Improvement Agreement attached to this Lease as Exhibit C. If this Lease conflicts with the Tenant Improvement Agreement, the Tenant Improvement Agreement shall prevail.

1.4. **Rentable Area and Useable Area.**

1.4.1. **Standard of Calculation.** For purposes of this Lease: (1) "Rentable Area," and "Useable Area" shall be as set forth in Summary of Basic Lease Information section 4(e); (2) "Rentable Square Feet" and "Rentable Footage" shall have the same meaning as the term "Rentable Area"; and (3) "Useable Square Feet" and "Useable Square Footage" shall have the same meaning as the term "Useable Area."

1.4.2. **Verification of Rentable Area of Premises and Building.** The Rentable Area and Useable Area of the Premises and the Building is subject to verification by Landlord. The determination of Landlord's agent, however, shall be conclusive and binding on the parties. Landlord shall have no obligation or duty to verify the Rentable Area or Useable Area.

1.4.3. **Adjustment of Rent.** If Landlord's agent reasonably determines that the Rentable Area of the Premises or the Building is different from that stated in this Lease, all Rent that is based on that incorrect amount shall be modified in accordance with that determination. If that determination is made, it shall be confirmed in writing by Landlord to Tenant. Notwithstanding the foregoing, Landlord's right to re-measure or adjust the Rentable Area of the Premises shall expire thirty (30) days following the Lease Commencement Date.

ARTICLE 2: LEASE TERM

2.1. **Lease Term.** The provisions of this Lease shall be effective as of the date of this Lease. The term of this Lease ("Lease Term") shall be the period stated in Summary of Basic Lease Information section 5(a). The Lease Term shall commence on the date ("Lease Commencement Date") stated in Summary section 5(b) and shall expire on the date ("Lease Expiration Date") stated in Summary section 5(c) unless this Lease is sooner terminated as provided in this Lease.

2.2. **Confirmation of Lease Commencement Date and Lease Expiration Date.** Promptly after the determination of the Lease Commencement Date, Landlord and Tenant shall enter into a commencement letter agreement in the form attached hereto as Exhibit H, and Tenant shall execute and return such commencement letter agreement to Landlord within ten (10) days after delivery by Landlord. Tenant's failure to execute and return the commencement letter agreement, or to provide written objection to the statements contained therein, within ten (10) days after delivery of the letter to Tenant shall be deemed an approval by Tenant of the statements contained therein. Tenant's failure to timely execute and deliver the commencement letter agreement shall be a material breach of this Lease.

2.3. **Lease Year.** For purposes of this Lease, the term Lease Year ("Lease Year") means each consecutive twelve-month (12-month) period during the Lease Term as long as: (a) The first Lease Year commences on the Lease Commencement Date and ends on the day immediately preceding the first anniversary date of the Lease Commencement Date; (b) The second (2nd) and each succeeding Lease Year commences on the anniversary date of the Lease Commencement Date; and (c) The last Lease Year ends on the Lease Expiration Date (subject to Tenant's right to extend the Lease Term as provided herein) or earlier date of termination.

2.4. **Possession.** Possession of the Premises shall be delivered to Tenant upon the Lease Commencement Date or at such later date as the parties may agree in writing. If Landlord delivers possession of the Premises by the Lease Commencement Date, Rent shall commence on the Lease Commencement Date whether or not Tenant actually occupies the Premises, subject to the Rent Concessions, if any. If Landlord fails to deliver possession of the Premises to Tenant on or before the Lease Commencement Date, Landlord shall not be subject to any liability for its failure to do so. Landlord shall not be liable for any damage caused for failing to deliver possession and this Lease shall not be void or voidable, but the Lease Term shall be extended by one day for each day of the delay in delivery of the Premises to Tenant. If Landlord is unable to deliver possession of the Premises by the Lease Commencement Date due to an act or omission of Tenant, the Rent will not be abated and the Lease Term will not be extended by the delay. Notwithstanding anything in this Lease to the contrary, Landlord shall permit Tenant to enter into non-exclusive possession of the Premises upon Substantial Completion of the Tenant Improvements (the "Early Possession Period"), provided, however, the obligation to pay Rent shall, for a period not to exceed five (5) business days, be abated during the Early Possession Period. All other terms of this Lease, however, including, but not limited to, the obligation to carry the insurance required by section 14.5, shall be in effect during the entire Early Possession Period. The Early Possession Period shall not exceed five (5) business days. Any such early possession shall not affect or advance the Expiration Date of the Term. If Tenant fails to take possession of the Premises following execution of this Lease, Tenant shall reimburse Landlord promptly upon demand for all costs incurred by Landlord in connection with entering into this Lease including, but not limited to, broker fees and commissions, sums paid for the preparation of a floor and/or space plan for the Premises, costs expended by Landlord in connection with the design and construction of the Tenant Improvements, if any, pursuant to Exhibit C, loss of rental income, attorneys' fees and costs, and any other damages for breach of this Lease established by Landlord.

ARTICLE 3: OPTION TO EXTEND

3.1 **Option to Extend.** If Landlord grants to Tenant an option to extend the Lease Term, the parties shall separately initial the standard form Option to Extend and attach it as Exhibit G to this Lease, at which time the terms and conditions set forth therein shall be a part of this Lease for all purposes.

ARTICLE 4: BASE RENT

4.1. **Definition of "Base Rent" - No Setoff.** Tenant shall pay to Landlord base rent ("Base Rent") in equal monthly installments as set forth in Summary of Basic Lease Information section 6 in advance on or before the first day of every calendar month during the Lease Term, without any setoff or deduction. Payment shall be made at the management office of the Building or at any other place that Landlord may from time to time designate in writing. Payment must be in United States dollars, either in the form of a check (drawn on a bank located in the State of California) or via electronically transmitted funds.

4.2. **Initial Payment; Proration.** The Base Rent for the first (1st) calendar month of the Lease Term (whether full or partial) shall be paid by Tenant upon Substantial Completion of the Tenant Improvements. If any payment date (including the Lease Commencement Date) for "Rent," as defined in section 5.1, falls on a day other than the first day of that calendar month, or if any Rent payment is for a period shorter than one calendar month, the Rent for that fractional calendar month shall accrue on a daily basis for each day of that fractional month at a daily rate equal to 1/365 of the total annual Rent. The total annual Rent used to determine such proration shall be equal to the amount of annual Rent payable by Tenant during the applicable annual period, excluding any free rent or other rent concessions (i.e., calculated as if there were no rent concessions). All other payments or adjustments that are required to be made under the terms of this Lease and that require proration on a time basis shall be prorated on the same basis.

4.3. **Application of Payments; Certified Funds.** All payments received by Landlord from Tenant shall be applied to the oldest payment obligation owed by Tenant to Landlord. No designation by Tenant, either in a separate writing or on a check or money order, shall modify this clause or have any force or effect. If any noncash payment made by Tenant is not paid by the bank or other institution on which it is drawn, Landlord shall have the right, exercised by notice to Tenant, to require that Tenant make all future payments by certified funds or cashier's check.

ARTICLE 5: ADDITIONAL RENT

5.1. **Additional Rent; Rent.** In addition to paying the Base Rent specified in Article 4, Tenant shall pay as additional rent Tenant's Share of the annual Direct Expenses (as defined in subsection 5.2.1), the TI Over-Allowance Amount (as defined in subsection 5.2.7), if applicable, and all other costs for utilities and services provided directly to Tenant or directly attributable to Tenant's use and occupancy, including, without limitation, any and all separately metered utility costs. That additional rent, together with other amounts of any kind (other than Base Rent) payable by Tenant to Landlord under the terms of this Lease, shall be collectively referred to in this Lease as Additional Rent ("Additional Rent"). Base Rent and Additional Rent are collectively referred to in this Lease as Rent ("Rent"). All amounts due under this Article 5 as Additional Rent are payable for the same periods and in the same manner, time, and place as the Base Rent. Without limitation on other obligations of Tenant that survive the expiration of the Lease Term, Tenant's obligations to pay the Additional Rent provided for in this Article 5 survive the expiration of the Lease Term.

5.2. **Definitions.** The following definitions apply in this Article 5:

5.2.1. **Direct Expenses.** Direct Expenses ("Direct Expenses") means Operating Expenses plus Tax Expenses.

5.2.2. **Expense Year.** Expense Year ("Expense Year") means each calendar year in which any portion of the Lease Term falls, through and including the calendar year in which the Lease Term expires.

5.2.3. **Operating Expenses.** Operating Expenses ("Operating Expenses") means all expenses, costs, and amounts of every kind that Landlord pays or incurs during any Expense Year because of or in connection with the ownership, operation, management, maintenance, repair, replacement, or restoration of the Real Property.

5.2.3.1. **Examples of Operating Expenses.** The definition of "Operating Expenses" includes any amounts paid or incurred, with respect to the Real Property, including without limitation, the following: (a) The cost of any utilities, water, sewer, telephone, telecommunications, and other communications and electronic services, drainage, garbage removal, janitorial, security, pest control, window washing, interior plant watering, landscape maintenance, interior sign maintenance, monument sign maintenance and light bulb replacement; (b) All costs shown on the Mountain House Community Services District bills including, without limitation, utilities, special taxes, amendments, and the pledged facilities component; (c) The cost of operating, managing, maintaining, and repairing the following systems: utility, mechanical, sanitary, storm drainage and HVAC; (d) The cost of supplies and tools and of equipment, maintenance, and service contracts in connection with those systems; (e) The cost of licenses, certificates, permits, and inspections; (f) The cost of contesting the validity or applicability of any government enactments that may affect the Operating Expenses; (g) The costs incurred in connection with the implementation and operation of a transportation system management program or similar program; (h) The cost of insurance carried by Landlord, in amounts reasonably determined by Landlord; (i) Fees, charges, and other costs including property management fees (or amounts in lieu of such fees), consulting fees, legal fees, and accounting fees of all persons engaged by Landlord or otherwise reasonably incurred by Landlord in connection with the operation, management, maintenance, and repair of the Real Property; (j) The cost of pedestrian walkway and parking area maintenance, lighting, repair, and restoration, including resurfacing, repainting, re-stripping, sealing and cleaning; (k) Wages, salaries, and other compensation and benefits of all persons engaged in the operation, maintenance, or security of the Building plus employer's Social Security taxes, unemployment taxes, insurance, and any other taxes imposed on Landlord that may be levied on those wages, salaries, and other compensation and benefits (if any of Landlord's employees provide services for more than one building of Landlord, only the prorated portion of those employees' wages, salaries, other compensation and benefits, and taxes reflecting the percentage of their working time devoted to the Real Property shall be included in Operating Expenses); (l) Payments under any easement, license, operating agreement, declaration, restrictive covenant, or instrument relating to the sharing of costs by the Building; (m) Amortization (including interest on the unamortized cost at a rate equal to the floating commercial loan rate announced from time to time by Bank of America NT&SA as its prime rate plus two (2) percentage points per annum) of the cost of acquiring or renting personal property used in the maintenance, repair, and operation of the Building and Real Property; and (n) The cost of capital improvements or other costs incurred in connection with the Real Property that (1) are intended as a labor-saving device or to effect other economies in the maintenance or operation of, or stability of services to, all or part of the Real Property; or (2) are required under any government law or regulation but that were not required in connection with the Real Property when permits for the construction of the Building were obtained. All permitted capital expenditures shall be amortized (including interest on the unamortized cost at the rate stated in subparagraph (l)) over their useful life, as reasonably determined by Landlord.

5.2.3.2. **Adjustment of Operating Expenses.** Operating Expenses shall be adjusted as follows:

5.2.3.2.1. **Gross-Up Adjustment When Building is Less Than Fully Occupied.** If the occupancy of the Building during any part of any Expense Year is less than one hundred percent (100%), Landlord shall make an appropriate adjustment of the variable components of Operating Expenses for that Expense Year, as reasonably determined by Landlord using sound accounting and management principles, to determine the amount of Operating Expenses that would have been incurred had the Building been one hundred percent (100%) occupied. This amount shall be considered to have been the amount of Operating Expenses for that Expense Year. For purposes of this subsection 5.2.3.2.1, variable components include only those component expenses that are affected by variations in occupancy levels.

5.2.3.2. Adjustment When Landlord Does Not Furnish a Service to All Tenants. If, during any part of any Expense Year, Landlord is not furnishing a particular service or work (the cost of which, if furnished by Landlord, would be included in Operating Expenses) to a tenant (other than Tenant) that has undertaken to perform such service or work in lieu of receiving it from Landlord, Operating Expenses for that Expense Year shall be considered to be increased by an amount equal to the additional Operating Expenses that Landlord would reasonably have incurred during this period if Landlord had furnished such service or work to that tenant.

5.2.3.3. Exclusions From Operating Expenses. Notwithstanding any other provision of subsection 5.2.3, Operating Expenses shall not include: (a) Depreciation, interest, or amortization on mortgages or ground lease payments, except as otherwise stated in this section 5.2; (b) Legal fees incurred in negotiating and enforcing tenant leases; (c) Real estate brokers' leasing commissions; (d) Initial improvements to tenant spaces; (e) The cost of providing any service directly to and paid directly by any tenant, including, without limitation, separately metered utilities; (f) Any costs expressly excluded from Operating Expenses elsewhere in this Lease; (g) Costs of any items for which Landlord receives reimbursement from insurance proceeds or a third party (insurance proceeds shall be excluded from Operating Expenses in the year in which they are received, except that any deductible amount under any insurance policy shall be included within Operating Expenses); and (h) Costs of capital improvements, except as otherwise stated in this section 5.2.

5.2.4. Tax Expenses. Tax Expenses ("Tax Expenses") means all federal, state, county, or local government, including without limitation Mountain House Community Services District, or municipal taxes, fees, charges, or other impositions of every kind (whether general, special, ordinary, or extraordinary) that are paid or incurred by Landlord during any Expense Year (without regard to any different fiscal year used by any government or municipal authority) because of or in connection with the ownership, leasing, and operation of the Real Property. These expenses include taxes, fees, and charges such as real property taxes, general and special assessments, transit taxes, leasehold taxes, and taxes based on 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 on the fixtures, machinery, equipment, apparatus, systems, and equipment; appurtenances; furniture; and other personal property used in connection with the Building.

5.2.4.1. Adjustment of Taxes. For purposes of this Lease, Tax Expenses shall be calculated as if the tenant improvements in the Building were fully constructed and the Real Property, the Building, and all tenant improvements in the Building were fully assessed for real estate tax purposes. Landlord specifically agrees that the gross receipts component of Tax Expenses for each year of the Lease Term shall be calculated as if the Building were one-hundred-percent (100%) occupied with rent-paying tenants.

5.2.4.2. Included Tax Expenses. Tax Expenses shall include: (a) Any assessment, tax, fee, levy, or charge in addition to, or in partial or total substitution of, any assessment, tax, fee, levy, or charge previously included within the definition of "real property tax." Tenant and Landlord acknowledge that Proposition 13 was adopted by the voters of the State of California in June 1978 and that assessments, taxes, fees, levies, and charges may be imposed by government agencies for services such as fire protection; street, sidewalk, and road maintenance; conservation; refuse removal; and other government services formerly provided without charge to property owners or occupants. In further recognition of the decrease in the level and quality of government services and amenities as a result of Proposition 13 (or as a result of any other restriction on real property taxes whether by law or by choice of the applicable legislative or assessing body), Tax Expenses shall also include any government or private assessments (or the Building's contribution toward a government or private cost-sharing agreement) for the purpose of augmenting or improving the quality of services and amenities normally provided by government agencies. Tenant and Landlord intend that all new and increased assessments, taxes, fees, levies, and charges and all similar assessments, taxes, fees, levies, and charges be included within the definition of "Tax Expenses" for purposes of this Lease; (b) Any assessment, tax, fee, levy, or charge allocable to, or measured by, the area of the Premises and other premises at the Real Property or the rent payable under this Lease and other leases at the Real Property (including any gross income tax with respect to the receipt of that rent), or on or relating to the possession, leasing, operating, management, maintenance, alteration, repair, use, or occupancy by tenants of their respective premises or any portion of such premises; (c) Any assessment, tax, fee, levy, or charge on this transaction or any document to which any tenant is a party, creating or transferring an interest or an estate in the Real Property or any portion thereof; and (d) Any possessory taxes charged or levied in place of real property taxes.

5.2.4.3. Contest Costs; Refunds. Any reasonable expenses incurred by Landlord in attempting to protest, reduce, or minimize Tax Expenses shall be included in Tax Expenses in the Expense Year in which those expenses are paid. Tax refunds shall be deducted from Tax Expenses. Such tax refunds shall be deducted from Tax Expenses in the Expense Year in which Landlord receives them.

5.2.4.4. Excluded Taxes. Despite any other provision of subsection 5.2.4 (except as provided in subsection 5.2.4.1 or levied entirely or partially in lieu of Tax Expenses), the following shall be excluded from Tax Expenses: (a) 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 applied or measured by Landlord's general or net income (as opposed to rents, receipts, or income attributable to operations at the Building); (b) Any items included as Operating Expenses; and (c) Any items paid by Tenant under section 5.5.

5.2.5. Tenant's Share. Tenant's Share ("Tenant's Share") means the amount or percentage stated in Summary of Basic Lease Information section 7. If shown as a percentage, Tenant's Share is calculated by multiplying the number of Rentable Square Feet of the Premises by 100 and dividing the product by the total Rentable Square Feet in the Building. If shown as a fixed amount, Tenant's Share shall be determined by Landlord at the time the Lease is executed. If either the Premises or the Building is expanded or reduced, Tenant's Share shall be appropriately adjusted. Tenant's Share for the Expense Year in which that change occurs shall be determined on the basis of the number of days during the Expense Year in which each such Tenant's Share was in effect.

5.2.6. Allocation. Any Direct Expenses that are specifically attributable to the Premises, or any expense incurred by Landlord on behalf of Tenant, shall be allocated entirely to Tenant.

5.2.7. TI Over-Allowance Amount. The Tenant Improvement Over-Allowance Amount ("TI Over-Allowance Amount") is the difference between the Tenant Improvement Allowance (as defined in Exhibit C) and the actual cost expended by Landlord in the construction of the Tenant Improvements on the Premises in accordance with the terms and conditions of Exhibit C. Pursuant to section 3.2 of Exhibit C, Tenant shall pay the TI Over-Allowance Amount (together with accrued interest, which interest shall accrue at a rate of eight percent (8%) per annum) in installments over the length of the initial six (6) year Term. The TI Over-Allowance Amount payment shall be part of Additional Rent (as defined above), and Tenant shall pay the TI Over-Allowance Amount (plus accrued interest) in equal monthly installments amortized over the initial six (6) year Term of the Lease, and such installment payments shall be due and payable in the same manner, time, and place as the Base Rent. Any failure to timely make such TI Over-Allowance Amount shall be a material breach of the Lease. In the event of a termination of this Lease prior to the expiration of its initial six (6) year Term, for any reason whatsoever, Tenant shall pay to Landlord, within five (5) days after the effective date of such termination, the unpaid TI Over-Allowance Amount (plus accrued interest), in addition to all amounts then due and owing to Landlord.

5.3. Calculation and Payment of Additional Rent. Tenant's Share of Direct Expenses for each Expense Year shall be calculated and paid as follows:

5.3.1. Statement of Actual Direct Expenses and Payment by Tenant. Landlord shall endeavor to give to Tenant on or before the first day of April following the end of each Expense Year a statement ("Statement") stating the actual Direct Expenses incurred or accrued for that preceding Expense Year and Tenant's Share thereof. In the event the amount of actual Direct Expenses exceeds the amount stated by Landlord in the Estimate Statement (as defined in subsection 5.3.2.) and upon which Estimate Statement Tenant paid its Tenant's Share of Direct Expenses in the preceding Expense Year, ("Deficit"), then Tenant shall pay the difference in a lump sum with the monthly Additional Rent next coming due. Any overpayment ("Excess") by Tenant shall be credited towards the monthly Additional Rent next coming due. Even if the Lease Term has expired and Tenant has vacated the Premises, if a Deficit exists when the final determination is made of Tenant's Share of the Direct Expenses for the Expense Year in which this Lease terminates, Tenant shall immediately pay to Landlord the amount of the Deficit. The provisions of this subsection 5.3.1 shall survive the expiration or earlier termination of the Lease Term. Landlord's failure to furnish the Statement for any Expense Year in a timely manner shall not prejudice Landlord from enforcing its rights under this Article 5.

5.3.2. Statement of Estimated Direct Expenses. Landlord shall give Tenant a yearly expense estimate statement ("Estimate Statement") stating Landlord's reasonable estimate ("Estimate") of the total amount of Direct Expenses for the then-current Expense Year.

Landlord's failure to furnish the Estimate Statement for any Expense Year in a timely manner shall not preclude Landlord from enforcing its rights to collect Tenant's Share of the Direct Expenses under this Article 5. Tenant shall pay monthly, along with the monthly Base Rent installments, an amount equal to Tenant's Share of the Direct Expenses stated in the Estimate Statement. Until a new Estimate Statement is furnished each Expense Year, Tenant shall pay monthly, along with the monthly Base Rent installments, an amount equal to Tenant's Share of the Direct Expenses as stated in the previous Estimate Statement delivered by Landlord to Tenant.

5.4. Taxes and Other Charges for Which Tenant is Directly Responsible. Tenant shall reimburse Landlord, on demand, as Additional Rent, for any taxes required to be paid by Landlord that are not already included in Tax Expenses, excluding state, local, and federal personal or corporate income taxes measured by the net income of Landlord from all sources and estate and inheritance taxes, regardless of whether such taxes are now customary or within the contemplation of the parties to this Lease, when those taxes are: (a) Measured by or reasonably attributable to: (1) The cost or value of Tenant's equipment, furniture, fixtures, and other personal property located in the Premises; or (2) The cost or value of any tenant improvements made in or to the Premises by or for Tenant (to the extent that the cost or value of those tenant improvements exceeds the cost or value of a building-standard build-out, as determined by Landlord, regardless of whether title to those improvements is vested in Tenant or Landlord); (b) Assessed on or related to the possession, leasing, operation, management, maintenance, alteration, repair, use, or occupancy by Tenant of: (1) The Premises; and (2) Any portion of the Real Property; or (3) The parking facility used by Tenant in connection with this Lease; and (c) Assessed either on this transaction or on any document to which Tenant is a party that creates or transfers an interest or an estate in the Premises.

5.5. Tenant's Audit of Direct Expenses. On Tenant's written request given not more than ninety (90) days after Tenant's receipt of a Statement for a particular Expense Year, and provided that Tenant is not then in default under this Lease beyond the applicable cure period provided in this Lease and that Tenant has paid all amounts required to be paid under the applicable Statement or Estimate Statement, then Landlord shall provide Tenant with a statement ("Accountant's Statement") of the Direct Expenses for the Real Property for such Expense Year from Landlord's independent certified public accountants, and Landlord shall also furnish Tenant with such reasonable supporting documentation in connection with the such Direct Expenses as Tenant may reasonably request. Landlord shall provide this information and the Accountant's Statement to Tenant within sixty (60) days after Tenant's written request for it. The Accountant's Statement shall contain sufficient detail to enable Tenant to verify that, in computing the Direct Expenses payable by Tenant, Landlord has adhered to the terms of exclusions and inclusions for Direct Expenses, as set forth in this Lease. Within fifteen (15) days following Tenant's receipt of the Accountant's Statement, Tenant and Landlord shall concurrently be provided with any audit report prepared for Tenant in connection with Tenant's review of the Direct Expenses, and Tenant shall advise Landlord if Tenant disputes the Direct Expenses or Tenant's share of them as set forth in the Statement for the applicable Expense Year. Thereafter, if Landlord ascertains that an error has been made, Tenant's sole remedy shall be for the parties to make such appropriate payments or reimbursements, as the case may be (including interest on any such amount at the interest rate set forth in section 24.2 of this Lease) to each other as are determined to be owing, provided that any reimbursements payable by Landlord to Tenant may, at Landlord's option, instead be credited against the Base Rent next coming due under this Lease unless the Lease Term has expired, in

which event Landlord shall refund the appropriate amount to Tenant. Tenant shall keep any information gained from its review of Landlord's records confidential and shall not disclose it to any other party, except as required by law. If requested by Landlord, Tenant shall require its employees or agents reviewing Landlord's records to sign a confidentiality agreement as a condition of Landlord providing the Accountant's Statement to Tenant.

ARTICLE 6: SECURITY DEPOSIT

6.1. **Amount of Security Deposit; Application.** Concurrently with Tenant's execution of this Lease, Tenant shall deposit with Landlord a cash sum in the amount stated in Summary of Basic Lease Information section 9 ("Security Deposit"). Landlord shall hold the Security Deposit as security for the performance of Tenant's obligations under this Lease. If Tenant defaults on any provision of this Lease, Landlord may (but shall not be required to), without prejudice to any other remedy it has, apply all or part of the Security Deposit to: (a) Any Rent or other sum in default; (b) Any amount that Landlord may spend or become obligated to spend in exercising Landlord's rights under Article 23; or (c) Any expense, loss, or damage that Landlord may suffer because of Tenant's default. Tenant waives the provisions of California Civil Code section 1950.7, and all other provisions of law now in force or that become in force after the date of execution of this Lease, that provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of Rent, to repair damage caused by Tenant, or to clean the Premises. Landlord and Tenant agree that Landlord may, in addition, claim those sums reasonably necessary to compensate Landlord for any other foreseeable or unforeseeable loss or damage caused by the act or omission of Tenant or Tenant's officers, agents, employees, independent contractors, or invitees.

6.2. **Landlord's Transfer of Security Deposit on Transfer of Interest in Premises.** If Landlord disposes of its interest in the Premises, Landlord may deliver or credit the Security Deposit to Landlord's successor in interest in the Premises and thereupon be relieved of further responsibility with respect to the Security Deposit.

6.3. **Assignment or Encumbrance of Security Deposit.** Tenant may not assign or encumber the Security Deposit without the prior, written consent of Landlord. Any attempt to do so shall be void and shall not be binding on Landlord.

6.4. **Restoration of Security Deposit.** If Landlord applies any portion of the Security Deposit, Tenant shall, within thirty (30) days after demand by Landlord, deposit with Landlord an amount sufficient to restore the Security Deposit to its original amount.

6.5. **Interest on Security Deposit.** Tenant is not entitled to any interest on the Security Deposit.

6.6. **Return of Security Deposit.** If Tenant performs every provision of this Lease to be performed by Tenant, the unused portion of the Security Deposit shall be returned to Tenant or the last assignee of Tenant's interest under this Lease within thirty (30) days following the expiration or termination of the Lease Term.

6.7. **Right to Increase Security Deposit.** If Tenant has defaulted in its obligation to pay Rent more than two (2) times during the Lease Term, or more than one (1) time in any six (6) month period, Landlord shall have the right to increase the amount of the Security Deposit up to the amount that equals twelve (12) months of Base Rent.

ARTICLE 7: USE

7.1. **Permitted Use.** Tenant shall use the Premises solely for the Permitted Use ("Permitted Use"), as defined in Summary of Basic Lease Information section 10. Tenant shall not use or permit the Premises to be used for any other purpose without Landlord's prior written consent, which may be granted or withheld in Landlord's sole discretion. Landlord acknowledges that Tenant may enter into an agreement with the Stockton San Joaquin County Public Library, whereby the Stockton San Joaquin County Public Library will operate the Premises on behalf of Tenant in accordance with the Permitted Use under this Lease (the "Operation Arrangement"). Notwithstanding the Operation Arrangement, the Mountain House Community Service District shall be the Tenant for all purposes, and shall be bound by and subject to all of the terms, conditions and obligations to be performed by Tenant under this Lease.

7.1.1. **Suitability.** Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty about (1) the Premises and/or the Building; or (2) suitability of the Premises and/or the Building for Tenant's business; or (3) that Tenant's use of the Premises or its business, is lawful or permissible under the Certificate of Occupancy issued for the Building, or is otherwise permitted by law. Landlord has not agreed to undertake any modification, alteration or improvement to the Premises except as provided, in this Lease. Tenant's taking possession of the Premises shall be conclusive evidence, as against Tenants, that the Premises were satisfactory for Tenant's intended use and that all landlord's work, if any, has been completed in an acceptable manner.

7.1.2. **Covenant of Continuous Operation.** Tenant shall continuously and uninterruptedly use the Premises in good faith for the uses specified in this Lease during generally recognized business hours and as otherwise necessary to service the needs of Tenant's clients and customers. Further, the Tenant shall have an adequate number of personnel operating the Premises at all times to service and supply the requirements of Tenant's customers or clients and keep its Premises in a neat, clean and orderly condition. Tenant shall not lower or change the quality of its operations without Landlord's written consent. If the Premises are destroyed or partially condemned and this Lease remains in full force and effect, Tenant shall continue operation of its business at the Premises to the extent reasonably practical from the standpoint of good business judgment during any period of reconstruction.

7.1.3. **Licensing.** Tenant represents and warrants that it is, and will at all times during the Lease Term, be licensed, certified or registered by the appropriate governmental agency to conduct its activities on the Premises. Tenant further represents and

warrants that it shall maintain at all times its sole expense, all permits, licenses, certifications or registrations that are required in connection with Tenant's activities on the Premises.

7.2. **Rules and Regulations.** Tenant agrees to abide by and conform to the reasonable rules and regulations ("Rules and Regulations") that Landlord establishes from time to time with respect to the Building and the permitted use of the Premises and to cause its employees, suppliers, shippers, customers, and invitees to so abide and conform. Landlord, or such other person(s) as Landlord may appoint, shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to modify, amend and enforce said rules and regulations in a reasonable manner. Landlord shall not be responsible to Tenant for the failure of any other tenants or occupants of the Building to comply with the Rules and Regulations. The Initial Rules and Regulations for the Building and Common Areas are set forth in Exhibit F.

7.3. **Additional Restrictions on Use.** In addition to complying with other provisions of this Lease concerning the use of the Premises: (a) Tenant shall not use or allow any person to use the Premises for any purpose that is contrary to the Rules and Regulations, that violates any Laws and Orders (defined in Section 8.1), that will in any way obstruct or interfere with the rights of other tenants or occupants of the Building, or injure or annoy them or use or maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or permit the commission of any waste in or upon the Premises. During the Lease Term, Tenant shall keep the Premises and every part of the Premises in a clean and wholesome condition, free of any objectionable noises, odors, or nuisances; all health and police regulations shall in all respects and at all times be fully complied with by Tenant; (b) Tenant shall not install any exterior lighting or plumbing fixtures, interior and exterior shades, or awnings, or make any exterior decoration or painting or similar devices on the roof or exterior walls or windows of the Premises, without Landlord's prior written consent. Use of the roof of the Premises is reserved to Landlord. Tenant shall not do anything on the Premises that will cause damage to the Building; Tenant shall not place a load upon any floor of the Premises that exceeds the load per square foot that the floor was designed to carry as determined by Landlord or Landlord's structural engineer. The cost of any such determination made by Landlord's structural engineer in connection with Tenant's occupancy shall be paid by Tenant upon Landlord's demand. Tenant shall not install, use or operate in or on the Premises any business machines, mechanical equipment, machinery, apparatus, or other appliances which will in any manner cause noise, vibration, odor or other undesirable effect to emanate from the Premises or any machine or other installation therein, or permit the same to constitute a disturbance objectionable, to any other tenant, or injure, vibrate or shake the Premises, or the premises of an adjacent tenant or the Building; (c) Tenant shall comply with all recorded covenants, conditions, and restrictions that now or later affect the Real Property; and (d) Tenant shall not use the words "Mountain House" in its registered name or trade name (i.e., dba) unless Tenant obtains Landlord's express written consent, which Landlord may withhold in its sole and absolute discretion.

7.4 **Common Areas.** "Common Areas" means all areas, space, equipment, and special services for parking and ingress and egress, and/or for the common and joint use and/or benefit of the occupants of the Building as Landlord may in the future designate, and may change at any time during the term of this Lease including, without limitation, canopy, flag pole, parking areas, access roads, on-site and off-site sewer and utility lines servicing the Building, driveways, retaining walls, landscaped areas, truck service ways or tunnels, loading docks, trash enclosures, monument signage, pedestrian walkways, courts, stairs, ramps, and sidewalks, equipment and storage areas, building lobbies, common corridors and hallways, rest rooms, and other generally understood public or common areas.

All Common Areas shall be subject to the exclusive control and management of Landlord or such other persons or nominees as Landlord may have delegated or assigned to exercise such management or control, in whole or in part, in Landlord's place and stead. In no event shall Tenant have the right to solicit in any manner in any of the Common Areas.

Landlord shall have the right to determine the nature and extent of the Common Areas, and to make changes to the Common Areas from time to time which in Landlord's opinion are desirable and for the best interests of all persons using the Common Areas, including, without limitation, with respect to the location and relocation of driveways, entrances, exits, automobile parking spaces, the direction and flow of traffic, and the installation of prohibited areas and landscaped areas.

7.5 **Prohibited Uses.** Tenant shall not use, or permit the Premises or any part of the Premises, to be used for any purpose or purposes other than the purpose or purposes for which the Premises are hereby leased. Tenant shall not use, or permit said Premises or any part of the Premises, for any use in direct conflict or competition with then granted or existing exclusives. No use shall be made or permitted to be made of the Premises, no acts done in or about the Premises in violation of any declarations, covenant, condition or restriction now in force or which may hereafter be enacted or promulgated.

Further, Tenant shall not use or permit the Premises to be used for activities that will increase the existing rate of insurance upon the Building (once the rate is established), or cause the cancellation of any insurance policy covering the Premises and/or the Building. Tenant shall not permit to be kept, used, stored or sold in or about the Premises any article that may be prohibited by standard form of fire insurance policies. Tenant shall, at its sole cost, comply with any and all requirements pertaining to the use of the Premises, of any insurance organizations or company necessary for the maintenance of reasonable fire and public liability insurance, covering the Premises and appurtenances. If applicable and if requested by Landlord, and if required by any insurance organization or governmental agency, Tenant agrees to install and maintain in good order an adequate fire protection system as Landlord may deem necessary. Tenant shall promptly upon demand reimburse Landlord for any additional insurance premium charged for violation of this section 7.5.

Tenant shall not use or permit the use of the Premises or any part thereof for any auction, whether voluntary or involuntary, whether pursuant to any assignment for the benefit creditors any bankruptcy or other insolvency proceedings, or otherwise.

ARTICLE 8: COMPLIANCE WITH LAWS

8.1. **Definition of "Laws and Orders."** For purposes of this Lease, the term Laws and Orders ("Laws and Orders") includes all federal, state, county, city, or government agency laws, statutes, ordinances, standards, regulations, rules, requirements, or orders now in force or hereafter enacted, promulgated, or issued. The term also includes government measures regulating or enforcing public access, occupational, health, or safety standards for employers, employees, landlords, or tenants. The term "Laws and Orders" also includes Insurance Regulations and any requirements, restrictions and/or obligations under any covenants, conditions and restrictions ("CC&Rs") affecting the Real Property.

8.2. **Repairs, Replacements, Alterations, and Improvements.** Tenant shall continuously and without exception repair and maintain the Premises, including tenant improvements, Alterations, fixtures, and furnishings, in an order and condition in compliance with all Laws and Orders. Tenant, at Tenant's sole expense, shall promptly make all repairs, replacements, alterations, or improvements to the Real Property needed to comply with all Laws and Orders to the extent that the Laws and Orders relate to or are triggered by (a) Tenant's particular use of the Premises or actions on the Real Property, (b) the tenant improvements located in the Premises, or (c) any Alterations located in the Premises.

Landlord, at Landlord's sole expense, shall promptly make all repairs, replacements, alterations, or improvements needed to comply with all Laws and Orders to the extent that the Laws and Orders relate to the base building described in Summary section 4(b) ("Base Building"). If, however, such compliance work on the Base Building is triggered by (i) the tenant improvements or equipment located on the Premises; (ii) Tenant's particular use of the Premises or actions on the Real Property; or (iii) Alterations requested by Tenant under Article 12, Tenant shall bear all expense of such work on the Base Building.

8.3. **Collateral Estoppel.** The judgment of any court of competent jurisdiction or the admission of Tenant in any judicial or administrative action or proceeding that Tenant has violated any Laws and Orders shall be conclusive, between Landlord and Tenant, of that fact, whether or not Landlord is a party to that action or proceeding.

ARTICLE 9: HAZARDOUS MATERIAL

9.1. **Use of Hazardous Material.** Tenant shall not cause or permit any Hazardous Material, as defined in section 9.5, to be generated, brought onto, used, stored, or disposed of in or about the Premises or the Building by Tenant or its agents, employees, contractors, subtenants, or invitees, except for limited quantities of standard professional office, general office and janitorial supplies containing chemicals categorized as Hazardous Material. Tenant shall: (a) Use, store, and dispose of all such Hazardous Material in strict compliance with all applicable statutes, ordinances, and regulations in effect during the Lease Term that relate to public health and safety and protection of the environment ("Environmental Laws"), including those Environmental Laws identified in section 9.5; and (b) Comply at all times during the Lease Term with all Environmental Laws.

9.2. **Notice of Release or Investigation.** If, during the Lease Term (including any extensions), Tenant becomes aware of (a) any actual or threatened release of any Hazardous Material on, under, or about the Premises or the Building or (b) any inquiry, investigation, proceeding, or claim by any government agency or other person regarding the presence of Hazardous Material on, under, or about the Premises or the Building, Tenant shall give Landlord written notice of the release or investigation within five (5) days after learning of it and shall simultaneously furnish to Landlord copies of any claims, notices of violation, reports, or other writings received by Tenant that concern the release or investigation.

9.3. **Indemnification.** Tenant shall, at Tenant's sole expense and with counsel reasonably acceptable to Landlord, indemnify, defend, and hold harmless Landlord and Landlord's shareholders, directors, officers, employees, partners, affiliates, agents, successors, and assigns with respect to all losses arising out of or resulting from the release of any Hazardous Material in or about the Premises or the Building, or the violation of any Environmental Law, by Tenant or Tenant's agents, assignees, sublessees, contractors, or invitees. This indemnification applies whether or not the concentrations of any such Hazardous Material is material, the concentrations exceed state or federal maximum contaminant or action levels, or any governmental agency has issued a cleanup order. This indemnification includes: (a) Losses attributable to diminution in the value of the Premises or the Building; (b) Loss or restriction of use of rentable space in the Building; (c) Adverse effect on the marketing of any space in the Building; and (d) All other liabilities, obligations, penalties, fines, claims, actions (including remedial or enforcement actions of any kind and administrative or judicial proceedings, orders, or judgments), damages (including consequential and punitive damages), and costs (including attorney, consultant, and expert fees and expenses) resulting from the release or violation.

This indemnification provision shall survive the expiration or termination of this Lease.

9.4. **Remediation Obligations.** If the presence of any Hazardous Material brought onto the Premises or the Building by Tenant or Tenant's employees, agents, contractors, or invitees results in contamination of the Building, Tenant shall promptly take all necessary actions to remove or remediate such Hazardous Materials, whether or not they are present at concentrations exceeding state or federal maximum concentration or action levels, or any governmental agency has issued a cleanup order, at Tenant's sole expense, to return the Premises or the Building to the condition that existed before the introduction of such Hazardous Material. Tenant shall first obtain Landlord's approval of the proposed removal or remedial action. This provision does not limit the indemnification obligation set forth in section 9.3.

9.5. **Definition of Hazardous Material.** As used in this Article 9, the term Hazardous Material ("Hazardous Material") shall mean any hazardous or toxic substance, material, or waste at any concentration that is or becomes regulated by the United States, the State of California, or any local government authority having jurisdiction over the Building. Hazardous Material includes: (a) Any "hazardous substance," as that term is defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

(CERCLA) (42 United States Code sections 9601-9675); (b) "Hazardous waste," as that term is defined in the Resource Conservation and Recovery Act of 1976 (RCRA) (42 United States Code sections 6901-6992k); (c) any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance, within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders imposing liability or standards of conduct concerning any hazardous, dangerous, or toxic waste, substance, or material, now or hereafter in effect); (d) Petroleum products; (e) Radioactive material, including any source, special nuclear, or byproduct material as defined in 42 United States Code sections 2011-2297g-4; (f) Asbestos in any form or condition; and (g) Polychlorinated biphenyls (PCBs) and substances or compounds containing PCBs.

ARTICLE 10: UTILITIES AND SERVICES

10.1. **Standard Tenant Utilities and Services.** Subject to applicable government rules, regulations, and guidelines and the rules or actions of the public utility furnishing the service, Landlord shall (subject to inclusion in Operating Expenses as contemplated in Article 5) provide the following utilities and services on all days during the Lease Term, unless otherwise stated in the Lease:

10.1.1. **Heating and Air-Conditioning.** Landlord shall provide heating and air-conditioning when necessary for normal comfort for normal office use in the Premises, as reasonably determined by Landlord, on Mondays through Fridays from 7 a.m. through 6 p.m. ("Building Hours") or such shorter periods as may be prescribed by any applicable policies or regulations adopted by any utility or governmental agency, except for state and nationally recognized holidays. If the Premises is served by a dedicated HVAC unit that is separately metered, Tenant shall be charged directly for all utility costs related to its use. Notwithstanding the immediately preceding sentence, if the Premises is served by a dedicated HVAC unit that is separately metered, Tenant shall be directly responsible for all utility costs and maintenance costs related to its use and operation, Tenant shall determine its hours of operation, and Landlord shall have no obligation with respect to the provision of HVAC service to the Premises.

10.1.2. **Electricity.** Landlord shall provide electricity for lighting and power in the Premises if: (a) The connected electrical load for lighting does not exceed an average of one (1) watt per Useable Square Foot of the Premises during the Building Hours on a monthly basis; and (b) The connected electrical load for all other power purposes does not exceed an average of two (2) watts per Useable Square Foot of the Premises during the Building Hours on a monthly basis.

Electricity for Tenant's lighting and other power purposes shall be at a nominal one-hundred and twenty (120) volts. No electrical circuit for the supply of power shall require a current capacity exceeding twenty (20) amperes. Landlord shall replace lamps, starters, and ballasts for Building standard lighting fixtures within the Premises on Tenant's request and at Tenant's expense. Tenant shall replace lamps, starters, and ballasts for non-Building standard lighting fixtures within the Premises at Tenant's expense.

10.1.3. **Water.** Landlord shall provide water from the regular Building outlets for drinking, lavatory, and toilet purposes.

10.1.4. **Janitorial Services.** Landlord shall provide janitorial services in and about the Common Areas, as necessary. Landlord shall not be required to provide janitorial services to the Premises.

10.1.5. **Separately Metered Utilities or Services.** Notwithstanding anything to the contrary in this Lease, if any utilities or services are separately metered or separately provided to the Premises (including, without limitation, electricity, water, alarm service and telephone), Tenant shall establish service of those utilities/services in its own name and pay all such utility/service costs and charges directly to the applicable utility/service provider.

10.2. **Overstandard Tenant Use; Maximum Density.** Tenant shall not, without Landlord's prior written consent, use heat-generating machines, machines other than normal fractional horsepower office machines, or equipment or lighting other than building standard lights in the Premises that may affect the temperature otherwise maintained by the air-conditioning system or increase the water normally furnished to the Premises by Landlord under section 10.1.

If such consent is given, Landlord shall have the right to install supplementary air-conditioning units or other facilities in the Premises, including supplementary or additional metering devices. On billing by Landlord, Tenant shall pay the cost for such supplementary facilities, including the cost of (a) installation, operation, and maintenance; (b) increased wear and tear on existing equipment; and (c) other similar charges.

If Tenant uses water, electricity, heat, or air-conditioning in excess of that required to be supplied by Landlord under section 10.1 (as a result, for example, of extended hours of operation, heavier use of duplicating, computer, telecommunications, or other equipment in excess of the normal use for general office uses in the Building, or a density of workers in excess of the normal density for general office uses in the Building), Tenant shall pay to Landlord, on billing, the cost of (a) the excess service; (b) installation, operation, and maintenance of equipment installed to supply the excess service; and (c) increased wear and tear on existing equipment caused by Tenant's excess consumption. Landlord may install devices to separately meter any increased use or reasonably and equitably estimate the cost of such increased use. On demand, Tenant shall pay the increased cost directly to Landlord, including the cost of the additional metering devices.

Tenant's use of electricity shall never exceed the capacity of the feeders serving the Building and Premises or the risers or wiring installation. If Tenant wishes to use heat, ventilation, or air-conditioning during hours other than those for which Landlord is obligated to supply such utilities under section 10.1, Tenant shall give Landlord such prior notice as Landlord shall from time to time establish as appropriate, and Landlord shall supply such utilities to Tenant at an hourly cost to Tenant as Landlord shall from time to time establish. Amounts payable by Tenant to Landlord under this section 10.2 for use of additional utilities shall be considered Additional Rent under this Lease and shall be billed on a monthly basis.

Notwithstanding anything to the contrary, this Lease, Tenant shall not exceed a worker/employee density in the Premises greater than one employee/worker per two hundred and fifty (250) Usable Square Feet of the Premises.

10.3. **Interruption of Utilities.** Tenant agrees that Landlord 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 diminution in the quality or quantity of any service when the failure, delay, or diminution is entirely or partially caused by: (a) Breakage, repairs, replacements, or improvements; (b) Strike, lockout, or other labor trouble; (c) Inability to secure electricity, gas, water, or other fuel at the Building after reasonable effort to do so; (d) Accident or casualty; (e) Act or default of Tenant or other parties; or (f) Any other cause beyond Landlord's reasonable control.

Such failure, delay, or diminution shall not be considered to constitute an eviction or a 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.

Except for Landlord's gross negligence or willful misconduct, 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 loss of profits through, in connection with, or incidental to a failure to furnish any of the utilities or services under this Article 10. Landlord may comply with mandatory or voluntary controls or guidelines promulgated by any government 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 to Tenant under this Lease as long as compliance with voluntary controls or guidelines does not materially and unreasonably interfere with Tenant's use of the Premises.

10.4. **Utility Services Providers.** Landlord may, in Landlord's sole and absolute discretion, at any time and from time to time, contract, or require Tenant to contract, for utility services (including generation, transmission, or delivery of the utility service) with a utility service provider(s) of Landlord's choosing. Tenant shall fully cooperate with Landlord and any utility service provider selected by Landlord. Tenant shall permit Landlord and the utility service provider to have reasonable access to the Premises and the utility equipment serving the Premises, including lines, feeders, risers, wiring, pipes, and meters.

10.5. **Telecommunications Installations.** Neither Tenant nor its contractors, representatives, or service providers shall, without Landlord's prior written consent, install, maintain, operate, alter, repair, or replace any wire, line, cable, conduit, antenna, satellite dish, or other facilities or equipment for use in connection with any telephone, television, telecommunications, computer, internet, or other communications or electronic systems, services, or equipment (which systems, services, and equipment are referred to collectively as "Telecommunications Equipment") in, on, or about the Building or the roof or exterior walls of the Building, except for installations or alterations wholly within the Premises in accordance with sections 12.1-12.6.

10.5.1. **Conditions.** Without limiting the generality of the foregoing, Landlord may limit the number of carriers, vendors, or other operators installing, maintaining, or operating Telecommunications Equipment in or on the Building and may approve any telecommunication services provider in the Building, as deemed necessary or appropriate by Landlord for the orderly and efficient management and operation of the Building. Any determination made by Landlord under this section shall be made in accordance with Landlord's sole discretion/reasonable judgment, provided, however, that with regard to any request by Tenant to install Telecommunications Equipment on the roof of the Building, Tenant agrees that Landlord may, without limitation, condition its consent on (1) Tenant's payment of rent or fees for Tenant's use of such roof space, in an amount determined by Landlord in its sole discretion; (2) Landlord's approval or designation of the pathway for any line, cable, wire, or conduit; and (3) the installation by Tenant, at its sole cost and expense, of a structural platform and/or access walkway to protect the roof from damage from the placement of and access to the Telecommunications Equipment installed on the roof. Any installation, maintenance, operation, alteration, repair, or replacement of Telecommunications Equipment by or for Tenant shall be subject to all of the requirements and provisions of this Lease, including, without limitation, sections 12.1-12.6, 8.1-8.3, 14.3. Landlord may also require that any such work, including work on or involving the roof (and including, without limitation, any roof penetrations approved by Landlord), be performed, at Tenant's cost, by a contractor designated or approved by Landlord. In addition, if Landlord determines that the riser or telecommunications closet space in the Building is inadequate to accommodate any Telecommunications Equipment proposed by Tenant along with the existing and/or future needs of other occupants and users of the Building, Landlord may condition Landlord's approval of Tenant's Telecommunications Equipment on the construction of additional riser or telecommunications closet space as designated by Landlord at Tenant's expense. Landlord may require that Tenant, or the carrier or operator, as applicable, enter into a telecommunications access agreement on Landlord's standard form prior to any installation of Telecommunication Equipment.

10.5.2. **Government Approvals.** If Tenant installs any Telecommunications Equipment, Tenant shall do so at its sole cost and expense, and Tenant shall obtain, at its sole cost and expense, any and all permits, authorizations, and certificates, including, without limitation, zoning variances or changes, as may be required with respect to such Telecommunications Equipment from all governmental agencies. Landlord agrees to reasonably cooperate with Tenant to obtain same if required by applicable governmental agencies; provided, however, that Landlord shall not be obligated to incur any costs or accept the imposition of any zoning change or use restrictions affecting the Building.

10.5.3. **Noninterference.** Telecommunications Equipment installed or operated by or for Tenant shall not interfere with the operation (including, without limitation, transmissions or reception) of any other Telecommunications Equipment located in the Building.

10.5.4. **Cooperation with Landlord and Other Tenants.** Tenant acknowledges that the Building contains limited space and facilities to accommodate Telecommunications Equipment, and agrees to reasonably cooperate with Landlord and with other providers and users of Telecommunications Equipment to share the available space and facilities and to coordinate the efficient collocation of Telecommunications Equipment in the Building. Access to and use of space within conduit, utility closets, risers, raceways, switching rooms, the roof, and other facilities in the Building for the installation, maintenance, operation, alteration, repair, or replacement of

Telecommunications Equipment shall be subject to Landlord's approval and to such rules and regulations as may be promulgated by Landlord from time to time.

10.5.5. **Indemnity.** Tenant shall repair any damage caused by Tenant's installation, maintenance, operation, alteration, repair, or replacement of Telecommunications Equipment, and shall indemnify, protect, defend, and hold Landlord harmless from all Claims (as that term is defined in section 14.3.2), including, without limitation: (1) any Claims by other tenants of the Building or other third parties that Tenant's installation, maintenance, operation, alteration, repair, or replacement of Telecommunications Equipment has caused interference or interruption with the operation of other Telecommunications Equipment; and (2) any voiding of or other effect that Tenant's installation, maintenance, operation, alteration, repair, or replacement of Telecommunications Equipment may have on any warranty with respect to the roof or other portions of the Building. Landlord shall not be liable for any damage to or interference with Tenant's business or any loss of income from Tenant's business, or for loss of or damage to Tenant's Telecommunications Equipment caused by or resulting from any damage to or interference with, or operation of Tenant's Telecommunications Equipment, including, without limitation, damage or interference caused by or resulting from the installation, maintenance, operation, alteration, repair, or replacement of other Telecommunications Equipment in the Building, whether by or for Landlord, other tenants of the Building, or other third parties, and Tenant waives all Claims against Landlord for the same, except that Landlord shall indemnify, protect, defend, and hold Tenant harmless from all Claims (but in no event lost profits or other consequential damages) to the extent arising out of or in connection with the gross negligence or willful acts of Landlord or its agents, employees, or representatives. Landlord's approval of Tenant's installation of any Telecommunications Equipment shall not constitute a representation that any such Telecommunications Equipment will function effectively in or on the Building.

ARTICLE 11: REPAIRS AND MAINTENANCE

11.1. **Tenant's Repair and Maintenance Obligations.** Tenant shall, at Tenant's sole expense and in accordance with the terms of this Lease (including Article 12), keep the Premises (including all Tenant Improvements, Alterations, fixtures, and furnishings) in good order, repair, and condition at all times during the Lease Term. Under Landlord's supervision, subject to Landlord's prior approval, and within any reasonable period specified by Landlord, Tenant shall, at Tenant's sole expense and in accordance with the terms of this Lease (including Article 12) promptly and adequately repair all damage to the Premises and replace or repair all damaged or broken fixtures and other tenant improvements. At Landlord's option or if Tenant fails to make such repairs, Landlord may, but need not, make the repairs and replacements. On receipt of an invoice from Landlord, Tenant shall pay Landlord Landlord's out-of-pocket costs incurred in connection with such repairs and replacements plus a percentage of such costs, to be uniformly established for the Building, sufficient to reimburse Landlord for all overhead, general conditions, fees, and other costs and expenses arising from Landlord's involvement with such repairs and replacements. Tenant waives and releases its rights, including its right to make repairs at Landlord's expense, under California Civil Code sections 1941-1942 or any similar law, statute, or ordinance now or hereafter in effect.

ARTICLE 12: ALTERATIONS AND ADDITIONS

12.1. **Landlord's Consent to Alterations.** Tenant may not make any improvements, alterations, additions, or changes to the Premises ("Alterations") without first obtaining Landlord's prior written consent.

12.1.1. **Consent Procedure; Conditions.** Tenant shall request such consent by written notice to Landlord, which must be accompanied by detailed and complete plans and specifications for the proposed work. As a condition of its consent to Alterations, Landlord may impose any requirements that Landlord considers desirable, including, without limitation, a requirement that Tenant provide Landlord with a surety bond or a letter of credit (in either event, in an amount up to one hundred fifty percent (150%) of the cost of the Alterations), or other financial assurance as may be required by Landlord to insure that the cost of the Alterations will be paid when due.

12.1.2. **Reasonable Consent.** Landlord shall not unreasonably withhold or delay its consent to proposed Alterations. The Alterations for which Landlord may reasonably withhold consent include those that would or could: (a) Affect the structure of the Building or any portion of the Building other than the interior of the Premises; (b) Affect the Base Building Systems of the Premises or Building; (c) Result in Landlord being required under Laws and Orders to perform any work that Landlord could otherwise avoid or defer ("Additional Required Work"); (d) Result in an increase in the demand for utilities or services that Landlord is required to provide; or (e) Cause an increase in the premiums for hazard or liability insurance carried by Landlord.

Base Building Systems ("Base Building Systems") means all systems and equipment (including plumbing; heating, ventilation, and air-conditioning; electrical; fire/life-safety; elevator; and security systems) that serve all or part of the Building.

12.1.3. **Costs of Review.** Tenant shall reimburse Landlord for the reasonable fees and costs of any architects, engineers, or other consultants retained by Landlord to review the proposed Alterations (collectively, the "Review Costs"), plus an administrative fee in an amount equal to five percent (5%) of such Review Costs.

12.2. **Compliance of Alterations With Laws and Insurance Requirements.** Tenant shall cause all Alterations to comply with the following: (a) Applicable Laws and Orders; (b) Applicable requirements of a fire-rating bureau; and (c) Applicable requirements of Landlord's hazard insurance carrier to the extent that Tenant is informed of them.

Tenant shall also comply with those requirements in the course of constructing the Alterations. Before beginning construction of any Alteration, Tenant shall obtain a valid building permit and any other permits required by any government entity having jurisdiction over the Premises. Tenant shall provide copies of those permits to Landlord before the work begins.

Tenant shall, at Tenant's sole expense, perform any Additional Required Work in the Premises, which shall be subject to the same requirements as any Alteration. If any Additional Required Work must be performed outside the Premises, Landlord may elect to perform that work at Tenant's expense. No consent by Landlord to any proposed work shall constitute a waiver of Tenant's obligations under this section 12.2.

12.3. Manner of Construction. Tenant shall build Alterations entirely within the Premises and in conformance with Landlord's construction rules and regulations, using only contractors and subcontractors approved in writing by Landlord. All work relating to any Alterations shall be done in a good and workmanlike manner, using new materials equivalent in quality to those used in the construction of the initial improvements to the Premises. All work shall be diligently prosecuted to completion.

Tenant shall ensure that all work is performed in a manner that does not obstruct access to or through the Building or its Common Areas and that does not interfere either with other tenants' use of their premises or with any other work being undertaken in the Building. Tenant shall take all measures necessary to ensure that labor peace is maintained at all times.

Within twenty (20) days after completion of any Alterations, Tenant shall deliver to Landlord a reproducible copy of the drawings of Alterations as built.

12.4. Payment for Alterations. Tenant shall promptly pay all charges and costs incurred in connection with any Alteration, as and when required by the terms of any agreements with contractors, designers, or suppliers. At least seven (7) days before beginning construction of any Alteration, Tenant shall give Landlord written notice of the expected commencement date of that construction to permit Landlord to post and record a notice of nonresponsibility.

On completion of any Alteration, Tenant shall: (a) Cause a timely notice of completion to be recorded in the office of the recorder of the county in which the Building is located, in accordance with Civil Code section 3093 or any successor statute; (b) Deliver to Landlord evidence of full payment and unconditional final waivers of all liens for labor, services, or materials; and (c) Pay to Landlord five percent (5%) of the cost of constructing the Alteration to compensate Landlord for all overhead, costs, and expenses arising from Landlord's involvement with that work.

12.5. Construction Insurance. Before construction begins, Tenant shall deliver to Landlord reasonable evidence that damage to, or destruction of, the Alterations during construction will be covered either by the policies that Tenant is required to carry under Article 14 or by a policy of builder's all-risk insurance in an amount approved by Landlord.

If Landlord requires Tenant to provide builder's all-risk insurance for the proposed Alterations, Tenant shall provide a copy of the policy, any endorsements, and an original certificate of insurance that complies with subsection 14.9.2.

Tenant shall cause each contractor and subcontractor to maintain all workers' compensation insurance required by law and liability insurance (including property damage) in amounts reasonably required by Landlord. Tenant shall provide evidence of that insurance to Landlord before construction begins.

12.6. Ownership, Removal and Restoration. All Alterations, Tenant Improvements (as defined in Exhibit C), Telecommunications Equipment, Exterior Signs, fixtures, or equipment (collectively "Improvements") that may be installed or placed in or about the Premises, Building or the Real Property from time to time shall be and become the property of Landlord on installation. Tenant may remove any trade fixtures or freestanding kitchen or office equipment that Tenant can substantiate to Landlord has not been paid for with the Improvement Allowance provided to Tenant by Landlord. Tenant must repair any damage to the Premises, Building or the Real Property caused by that removal.

Except as otherwise set forth in this Lease and unless otherwise instructed by Landlord in writing, before expiration of the Lease Term or within a reasonable time after any earlier termination of this Lease, Tenant shall, at Tenant's sole expense, remove any Improvements, notwithstanding that their installation may have been consented to by Landlord. Tenant shall repair any damage occasioned by the installation, maintenance or removal of the Improvements and restore the Premises, Building and the Real Property to its configuration and condition before the Improvements were made. If Tenant fails to complete that restoration before expiration of the Lease Term or, in the case of earlier termination, within fifteen (15) days after written notice from Landlord requesting the restoration, Landlord shall have the right, but not the obligation, to do so and charge the cost of the restoration to Tenant.

12.7. Initial Improvements. The construction of the initial improvements to the Premises shall be governed by the terms of the Tenant Improvement Agreement, attached to this Lease as Exhibit C, and not the terms of this Article 12.

ARTICLE 13: COVENANT AGAINST LIENS

13.1. Covenant Against Liens. Tenant shall not be the cause or object of any liens or allow such liens to exist, attach to, be placed on, or encumber Landlord's or Tenant's interest in the Premises, Building, or Real Property by operation of law or otherwise. Tenant shall not suffer or permit any lien of mechanics, material suppliers, or others to be placed against the Premises, Building, or Real Property with respect to work or services performed or claimed to have been performed for Tenant or materials furnished or claimed to have been furnished to Tenant or the Premises. Landlord has the right at all times to post and keep posted on the Premises any notice that it considers necessary for protection from such liens. At least ten (10) days before beginning construction of any Alteration or Tenant Improvements, Tenant shall give Landlord written notice of the expected commencement date of that construction to permit Landlord to post and record a notice of nonresponsibility.

If any such lien attaches or Tenant receives notice of any such lien, Tenant shall cause the lien to be immediately released and removed of record. Despite any other provision of this Lease, if the lien is not released and removed within five (5) days after Landlord delivers notice of the lien to Tenant, Landlord may immediately take all action necessary to release and remove the lien, without any duty to investigate the validity of it. All expenses (including reasonable attorney fees) incurred by Landlord in connection with the lien shall be considered Additional Rent under this Lease and be immediately due and payable by Tenant.

ARTICLE 14: EXCULPATION, INDEMNIFICATION, AND INSURANCE

14.1. **Definition of "Tenant Parties" and "Landlord Parties."** For purposes of this Article 14, the term Tenant Parties ("Tenant Parties") refers singularly and collectively to Tenant and Tenant's officers, members, partners, consultants, agents, employees, and independent contractors as well as to all persons and entities claiming through any of these persons or entities. The term Landlord Parties ("Landlord Parties") refers singularly and collectively to Landlord and the partners, venturers, trustees, and ancillary trustees of Landlord and the respective officers, directors, shareholders, members, parents, subsidiaries, and any other affiliated entities, personal representatives, executors, heirs, assigns, licensees, invitees, beneficiaries, agents, servants, employees, and independent contractors of these persons or entities.

14.2. Exculpation.

14.2.1. **Exculpation.** To the fullest extent permitted by law, Tenant, on its behalf and on behalf of all Tenant Parties, waives all claims (in law, equity, or otherwise) against Landlord Parties arising out of, knowingly and voluntarily assumes the risk of, and agrees that Landlord Parties shall not be liable to Tenant Parties for any of the following: (a) Injury to or death of any person; or (b) Loss of, injury or damage to, or destruction of any tangible or intangible property, including the resulting loss of use, economic losses, and consequential or resulting damage of any kind from any cause.

Landlord Parties shall not be liable under this clause regardless of whether the liability results from any active or passive act, error, omission, or negligence of any of the Landlord Parties; or is based on claims in which liability without fault or strict liability is imposed or sought to be imposed on any of the Landlord Parties.

Notwithstanding anything to the contrary in this Section 14.2.1, this exculpation clause shall not apply to claims against Landlord Parties to the extent that a final judgment of a court of competent jurisdiction establishes that the injury, loss, damage, or destruction was proximately caused by Landlord Parties' fraud, willful injury to person or property, active negligence or violation of law.

14.2.2. **Survival of Exculpation.** The clauses of this section 14.2 shall survive the expiration or earlier termination of this Lease until all claims within the scope of this section 14.2 are fully, finally, and absolutely barred by the applicable statutes of limitations.

14.2.3. **Tenant's Acknowledgment of Fairness.** Tenant acknowledges that this section 14.2 was negotiated with Landlord, that the consideration for it is fair and adequate, and that Tenant had a fair opportunity to negotiate, accept, reject, modify, or alter it.

14.2.4. **No Exculpation for Nondelegable Duties.** This exculpation clause may not be interpreted or construed as an attempt by Landlord to be relieved of liability arising out of a nondelegable duty on the part of Landlord.

14.2.5. **Waiver of Civil Code section 1542.** With respect to the exculpation provided in this Article 14, Tenant waives the benefits of Civil Code section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

14.3. Indemnification.

14.3.1. **Tenant's Indemnification of Landlord Parties; Landlord's Indemnification of Tenant.** Except to the extent caused by the active negligence or willful misconduct of Landlord or any Landlord Parties, Tenant shall (at Tenant's sole expense and with counsel reasonably acceptable to Landlord) indemnify, defend and hold Landlord and Landlord Parties harmless against and from all Claims (as defined below) which may be imposed upon, incurred by or asserted against Landlord or any of the Landlord Parties, or asserted by any third party, and that arise out of, or that are related to, any damage or injury occurring in the Premises, or any acts or omissions (including, without limitation, violations of Laws and Orders, Tenant's use or occupancy of the Premises, Alterations to the Premises, and things done, omitted or suffered on or about the Premises or the Real Property) of Tenant, the Tenant Parties (defined below) or any of Tenant's transferees, contractors or licensees. Except to the extent caused by the negligence or willful misconduct of Tenant or any Tenant Parties, Landlord shall indemnify, defend and hold Tenant harmless against and from all Claims which may be imposed upon, incurred by or asserted against Tenant by any third party to the extent arising out of or in connection with the active negligence of Landlord or the Landlord Related Parties.

14.3.2. **Definition of Claims.** For purposes of this Lease, Claims ("Claims") means any and all claims, losses, costs, damage, expenses, liabilities, liens, actions, causes of action (whether in tort or contract, law or equity, or otherwise), charges, assessments, fines, and penalties of any kind (including consultant and expert expenses, court costs, and attorney fees actually incurred).

14.3.3. Type of Injury or Loss. The indemnifications extend to and include Claims for: (a) Injury to any persons (including death at any time resulting from that injury); (b) Loss of, injury or damage to, or destruction of property, the Building, the Premises and/or any improvements related thereto (including all loss of use resulting from that loss, injury, damage, or destruction); (c) All damage of any kind; and (d) Injury to any persons (including death at any time resulting from that injury).

14.3.4. Indemnification Independent of Insurance Obligations. The indemnification provided in this Article 14 may not be construed or interpreted as in any way restricting, limiting, or modifying Tenant's insurance or other obligations under this Lease and is independent of Tenant's insurance and other obligations. Tenant's compliance with the insurance requirements and other obligations under this Lease shall not in any way restrict, limit, or modify Tenant's indemnification obligations under this Lease.

14.3.5. Attorney Fees. The prevailing party shall be entitled to recover its actual attorney fees and court costs incurred in enforcing the indemnification clauses set forth in this section 14.3.

14.3.6. Survival of Indemnification. The clauses of this section 14.3 shall survive the expiration or earlier termination of this Lease until all claims against Landlord Parties involving any of the indemnified matters are fully, finally, and absolutely barred by the applicable statutes of limitations.

14.4. Compliance with Insurer Requirements. Tenant shall, at Tenant's sole expense, comply with all requirements, guidelines, rules, orders, and similar mandates and directives pertaining to the use of the Premises and the Building, whether imposed by Tenant's insurers, landlord's insurers, or both, and shall, at Tenant's sole expense, comply with all rules, orders, regulations or requirements of the American Insurance Association (formerly the National Board of Fire Underwriters) and of any similar body (collectively, "Insurance Regulations"). If Tenant's business operations, conduct, or use of the Premises or the Building cause any increase in the premium for any insurance policies carried by Landlord, Tenant shall, within ten (10) business days after receipt of written notice from Landlord, reimburse Landlord for the increase.

14.5. Tenant's Liability Coverage. Tenant shall, at Tenant's sole expense, maintain the coverages set forth in this section 14.5.

14.5.1. Commercial General Liability Insurance. Tenant shall obtain commercial general liability insurance written on an "occurrence" policy form, covering bodily injury, property damage, personal injury, and advertising injury arising out of or relating (directly or indirectly) to Tenant's business operations, conduct, assumed liabilities, or use or occupancy of the Premises or the Building.

14.5.2. Broad Form Coverage. Tenant's liability coverage shall include all the coverages typically provided by the Broad Form Comprehensive General Liability Endorsement, including broad form property damage coverage (which shall include coverage for completed operations). Tenant's liability coverage shall further include premises-operations coverage, owners and contractors protective coverage (when reasonably required by Landlord), and the broadest available form of contractual liability coverage. It is the parties' intent that Tenant's contractual liability coverage provide coverage to the maximum extent possible of Tenant's indemnification obligations under this Lease.

14.5.3. Primary Insured. Tenant shall be the first or primary named insured.

14.5.4. Additional Insureds. Landlord Parties and any lender of Landlord shall be named by endorsement as additional insureds under Tenant's general liability coverage. The additional insured endorsement must be on ISO Form CG 20 11 11 85 or an equivalent acceptable to Landlord, with such modifications as Landlord may require.

14.5.5. Cross-Liability, Severability of Interests. Tenant's general liability policies shall be endorsed as needed to provide cross-liability coverage for Tenant, Landlord, and any lender of Landlord and to provide severability of interests.

14.5.6. Primary Insurance Endorsements for Additional Insureds. Tenant's general liability policies shall be endorsed as needed to provide that the insurance afforded by those policies to the additional insureds is primary and that all insurance carried by Landlord Parties is strictly excess and secondary and shall not contribute with Tenant's liability insurance.

14.5.7. Scope of Coverage for Additional Insureds. The coverage afforded to Landlord and any lender of Landlord must be at least as broad as that afforded to Tenant and may not contain any terms, conditions, exclusions, or limitations applicable to Landlord or any lender of Landlord that do not apply to Tenant.

14.5.8. Delivery of Certificate, Policy, and Endorsements. On or before the Lease Commencement Date, Tenant shall deliver to Landlord the endorsements referred to in this section 14.5 as well as a certified copy of Tenant's liability policy or policies and an original certificate of insurance, executed by an authorized agent of the insurer or insurers, evidencing compliance with the liability insurance requirements. The certificate shall provide for no less than thirty (30) days' advance written notice to Landlord from the insurer or insurers of any cancellation, nonrenewal, or material change in coverage or available limits of liability and shall confirm compliance with the liability insurance requirements in this Lease.

The "endeavor to" and "failure to mail such notice shall impose no obligation or liability of any kind upon the Company" language and any similar language shall be stricken from the certificate.

14.5.9. Concurrency of Primary, Excess, and Umbrella Policies. Tenant's liability insurance coverage may be provided by a combination of primary, excess, and umbrella policies, but those policies must be absolutely concurrent in all respects regarding the coverage afforded by the policies. The coverage of any excess or umbrella policy must be at least as broad as the coverage of the primary policy.

14.5.10. Liability Limits. The minimum acceptable limits of liability for Tenant's liability insurance are set forth in Summary of Basic Lease Information section 11.

14.5.11. "Per Location" Endorsement. Tenant shall, at Tenant's sole expense, procure a "per location" endorsement or equivalent reasonably acceptable to Landlord so that the general aggregate and other limits apply separately and specifically to the Premises.

14.5.12. Survival of Insurance Requirements. With respect to any insurance not written on "occurrence" policy forms, Tenant shall, at Tenant's sole expense, maintain in full force and effect the liability insurance coverages required under this Lease and shall maintain Landlord Parties and any lender specified by Landlord as additional insureds, as required by subsection 14.5.4 of this Lease, for a period of no less than two (2) years after expiration or earlier termination of this Lease.

14.6. Tenant's Workers' Compensation and Employer Liability Coverage. Tenant shall procure and maintain workers' compensation insurance as required by law and employer's liability insurance with limits of no less than one million dollars (\$1,000,000).

14.7. Tenant's First Party Insurance. Tenant shall, at Tenant's sole expense, procure and maintain the first party insurance coverages described in this section 14.7.

14.7.1. Tenant's Property Insurance. Tenant shall procure and maintain property insurance coverage for: (a) All office furniture, trade fixtures, office equipment, merchandise, and all other items of Tenant's property in, on, at, or about the Premises and the Building, including property installed by, for, or at the expense of Tenant; (b) Tenant Improvements, as described in the Tenant Improvement Agreement; and (c) All other improvements, betterments, alterations, and additions to the Premises.

Tenant's property insurance must fulfill the following requirements: (a) It must be written on the broadest available "all-risk" (special-causes-of-loss) policy form or an equivalent form acceptable to Landlord; (b) It must include earthquake as a covered cause of loss; (c) It must include an agreed-amount endorsement for no less than one-hundred (100) percent of the full replacement cost (new without deduction for depreciation) of the covered items and property; and (d) The amounts of coverage must meet any coinsurance requirements of the policy or policies.

It is the parties' intent that Tenant shall structure its property insurance program so that no coinsurance penalty shall be imposed and there shall be no valuation shortfalls or disputes with any insurer or with Landlord. The property insurance coverage shall include vandalism and malicious mischief coverage, sprinkler leakage coverage, and earthquake sprinkler leakage coverage.

14.7.2. Business Income and Extra Expense Coverage. Tenant shall further procure and maintain business income (business interruption) insurance and extra expense coverage with coverage amounts that shall reimburse Tenant for all direct or indirect loss of income and charges and costs incurred arising out of all perils insured against by Tenant's property insurance coverage, including prevention of, or denial of use of or access to, all or part of the Premises or the Building, as a result of those perils.

The business income and extra expense coverage shall provide coverage for no less than twelve (12) months of the loss of income, charges, and costs contemplated under the Lease and shall be carried in amounts necessary to avoid any coinsurance penalty that could apply. The insurer that issues Tenant's other first party coverage shall issue the business income and extra expense coverage.

14.8. Other Tenant Insurance Coverage. Tenant shall, at Tenant's sole expense, procure and maintain any other and further insurance coverages that Landlord or Landlord's lender may require.

14.9. Form of Policies and Additional Requirements.

14.9.1. Insurance Independent of Exculpation and Indemnification. The insurance requirements set forth in sections 14.4-14.10 are independent of Tenant's exculpation, indemnification, and other obligations under this Lease and shall not be construed or interpreted in any way to restrict, limit, or modify Tenant's exculpation, indemnification, and other obligations or to limit Tenant's liability under this Lease.

14.9.2. Form of Policies. In addition to the requirements set forth in subsection 14.5.8, the insurance required of Tenant under this Article 14 must: (a) Name Landlord and any other party Landlord specifies by endorsement as an additional insured; (b) Be issued by an insurance company with a rating of no less than A-VIII in the current Best's Insurance Guide, or that is otherwise acceptable to Landlord, and admitted to engage in the business of insurance in the State of California; (c) Be primary insurance for all claims under it and provide that any insurance carried by Landlord Parties and Landlord lenders is strictly excess, secondary, and noncontributing with any insurance carried by Tenant; and (d) Provide that insurance may not be canceled, nonrenewed, or the subject of material change in coverage or available limits of coverage, except on thirty (30) days' prior written notice to Landlord and Landlord's lenders.

14.9.3. Tenant's Delivery of Policy, Endorsements, and Certificates. Tenant shall deliver the policy or policies, along with any endorsements to them and certificates required by this Article 14, to Landlord: (a) On or before the Lease Commencement Date; (b) At least thirty (30) days before the expiration date of any policy; and (c) On renewal of any policy.

14.9.4. Deductibles and Self-Insured Retentions. All deductibles and self-insured retentions under Tenant's policies are subject to Landlord's prior written approval.

14.10. **Waiver of Subrogation.** Landlord and Tenant agree to cause the insurance companies issuing their respective property (first party) insurance to waive any subrogation rights that those companies may have against Tenant or Landlord, respectively, as long as the waiver does not invalidate the insurance. If the waivers of subrogation are contained in their respective insurance policies, Landlord and Tenant waive any right that either may have against the other on account of any loss or damage to their respective property to the extent that the loss or damage is insured under their respective insurance policies.

14.11 **Self Insurance.** Notwithstanding anything to the contrary set forth in this Article 14 with respect to the insurance to be obtained and maintained by Tenant during the Lease Term (as the same may be extended) ("Tenant's Insurance Requirements"), Tenant shall have the right to satisfy Tenant's Insurance Requirements by participating in the County of San Joaquin's Self Insurance Program. In such event, Tenant shall provide Landlord certificate's of insurance, reasonably acceptable to Landlord, confirming that Tenant has obtained all insurance required to be obtained and maintained by Tenant under this Lease, including all required endorsements (including, without limitation, Additional Insured endorsements), through the County of San Joaquin's Self Insurance Program. In the event any insurance coverage required as part of Tenant's Insurance Requirements is not available through the County of San Joaquin's Self Insurance Program, Tenant shall obtain such insurance through outside markets.

ARTICLE 15: DAMAGE AND DESTRUCTION

15.1. **Repair of Damage by Landlord.** Tenant agrees to notify Landlord in writing promptly of any damage to the Premises resulting from fire, earthquake, or any other identifiable event of a sudden, unexpected, or unusual nature ("Casualty"). If the Premises are damaged by a Casualty or any Common Areas of the Building providing access to the Premises are damaged to the extent that Tenant does not have reasonable access to the Premises and if neither Landlord nor Tenant has elected to terminate this Lease under section 15.3 or 15.4, Landlord shall promptly and diligently restore such Common Areas and the Base Building of the Premises to substantially the same condition as existed before the Casualty, except for modifications required by building codes and other laws and except for any other modifications to the Common Areas considered desirable by Landlord. In making these modifications, Landlord shall not materially impair Tenant's access to the Premises. Landlord's obligation to restore is subject to reasonable delays for insurance adjustment and other matters beyond Landlord's reasonable control and subject to the other clauses of this Article 15.

15.2. **Repair Period Notice.** Landlord shall, within the later of (a) sixty (60) days after the date on which Landlord determines the full extent of the damage caused by the Casualty or (b) thirty (30) days after Landlord has determined the extent of the insurance proceeds available to effectuate repairs, provide written notice to Tenant indicating the anticipated period for repairing the Casualty ("Repair Period Notice"). The Repair Period Notice shall also state, if applicable, Landlord's election either to repair or to terminate the Lease under section 15.3.

15.3. **Landlord's Option To Terminate or Repair.** Landlord may elect either to terminate this Lease or to effectuate repairs if: (a) The Repair Period Notice estimates that the period for repairing the Casualty exceeds one hundred and eight (180) days from the date of the commencement of the repair; (b) The estimated repair cost exceeds the insurance proceeds, if any, available for such repair (not including the deductible, if any, on Landlord's property insurance), plus any amount that Tenant is obligated or elects to pay for such repair; (c) The estimated repair cost of the Premises or the Building, even though covered by insurance, exceeds fifty percent (50%) of the full replacement cost; or (d) The Building cannot be restored except in a substantially different structural or architectural form than existed before the Casualty.

Landlord's election shall be stated in the Repair Period Notice.

15.4. **Tenant's Option To Terminate.** If the Repair Period Notice provided by Landlord indicates that the anticipated period for repairing the Casualty, excluding Force Majeure (as defined below) delays, exceeds one hundred eighty days (180) days, Tenant may elect to terminate this Lease by providing written notice ("Tenant's Termination Notice") to Landlord within ten (10) days after receiving the Repair Period Notice. If Tenant does not elect to terminate within this ten-day (10-day) period, Tenant shall be considered to have waived the option to terminate.

15.5. **Rent Abatement Due to Casualty.** Landlord and Tenant agree that, if the Casualty was not the result of the negligence or willful misconduct of Tenant or Tenant's employees, contractors, licensees, or invitees, Tenant shall be provided with a proportionate abatement of Rent based on the Rentable Square Footage of the Premises rendered unusable (due to physical damage to the Premises or Base Building Systems or the unavailability of access to the Premises) and not used by Tenant. That proportional abatement, if any, shall be provided during the period beginning on the later of (a) the date of the Casualty or (b) the date on which Tenant ceases to occupy the Premises and ending on the date of substantial completion (for purposes of this section 15.5, substantial completion shall be deemed to be the date upon which the Base Building of the Premises is sufficiently restored to allow Tenant to obtain permits to initiate the restoration of the Tenant Improvements) of Landlord's restoration obligations as provided in this Article 15. Subject to section 15.4, the Rent abatement provided in this section 15.5 is Tenant's sole remedy due to the occurrence of the Casualty. Landlord shall not be liable to Tenant or any other person or entity for any direct, indirect, or consequential damage (including but not limited to lost profits of Tenant or loss of or interference with Tenant's business), whether or not caused by the negligence of Landlord or Landlord's employees, contractors, licensees, or invitees, due to, arising out of, or as a result of the Casualty (including but not limited to the termination of the Lease in connection with the Casualty). Tenant agrees to maintain business interruption insurance in amounts and with coverage no less than that required by subsection 14.7.2 to provide coverage regarding such matters.

15.6. **Damage Near End of Term.** Despite any other provision of this Article 15, if the Premises or the Building is destroyed or damaged by a Casualty during the last eighteen (18) months of the Lease Term, Landlord shall have the option to terminate this Lease by giving written notice to Tenant of the exercise of that option within thirty (30) days after that damage or destruction.

15.7. **Effective Date of Termination; Rent Apportionment.** If Landlord or Tenant elects to terminate this Lease under this Article 15 in connection with a Casualty, this termination shall be effective thirty (30) days after delivery of notice of such election. Tenant shall pay Rent, properly apportioned up to the date of the Casualty. After the effective date of the termination, Landlord and Tenant shall be discharged of all future obligations under this Lease, except for those provisions that, by their terms, survive the expiration or earlier termination of the Lease.

15.8. **Waiver of Statutory Provisions.** The provisions of this Lease, including those in this Article 15, constitute an express agreement between Landlord and Tenant that applies in the event of any Casualty to the Premises, Building, or Real Property. Tenant, therefore, fully waives the provisions of any statute or regulation, including California Civil Code sections 1932(2) and 1933(4), for any rights or obligations concerning a Casualty.

15.9. **Glass Breakage.** Tenant assumes all risks from breakage of glass within the Premises and will promptly replace all such breakage at its own expense.

ARTICLE 16: CONDEMNATION

16.1. **Definition of "Condemnation."** As used in this Lease, the term Condemnation ("Condemnation") means a permanent taking through (a) the exercise of any government power (by legal proceedings or otherwise) by any public or quasi-public authority or by any other party having the right of eminent domain ("Condemnor") or (b) a voluntary sale or transfer by Landlord to any Condemnor, either under threat of exercise of eminent domain by a Condemnor or while legal proceedings for condemnation are pending.

16.2. **Effect on Rights and Obligations.** If, during the Lease Term or the period between the date of execution of this Lease and the date on which the Lease Term begins, there is any Condemnation of all or part of the Premises, Building, or Real Property on which the Premises and Building are constructed, the rights and obligations of the parties shall be determined under this Article 16, and Rent shall not be affected or abated except as expressly provided in this Article. Landlord shall notify Tenant in writing of any Condemnation within thirty (30) days after the later of (a) the filing of a complaint by Condemnor or (b) the final agreement and determination by Landlord and Condemnor of the extent of the taking ("Condemnation Notice").

16.3. Termination of Lease.

16.3.1. **Definition of "Termination Date."** The Termination Date ("Termination Date") shall be the earliest of: (a) The date on which Condemnor takes possession of the property that is subject to the Condemnation; (b) The date on which title to the property subject to the Condemnation is vested in Condemnor; (c) If Landlord has elected to terminate, the date on which Landlord requires possession of the property in connection with the Condemnation, as specified in written notice delivered to Tenant no less than thirty (30) days before that date; or (d) If Tenant has elected to terminate, thirty (30) days after Landlord's receipt of written notice of termination from Tenant.

If both Landlord and Tenant have elected to terminate under this Article 16, the Termination Date shall be the earliest of the dates described in subparagraphs (a)-(d).

16.3.2. **Automatic Termination.** If the Premises are totally taken by Condemnation, this Lease shall terminate as of the Termination Date, and the Condemnation Award shall be allocated between Landlord and Tenant in accordance with section 16.5.

16.3.3. **Landlord's Right To Terminate.** Landlord shall have the option to terminate this Lease if: (a) Ten percent (10%) or more of the Rentable Square Feet of the Building or the Premises is taken through Condemnation; (b) Any portion of the Building or Real Property necessary for Landlord to operate the Building efficiently is taken through Condemnation; or (c) Any other areas providing access to the Premises or Building are taken through Condemnation.

To elect to terminate the Lease under this subsection 16.3.3, Landlord must provide written notice of its election ("Landlord's Taking Termination Notice") to Tenant within thirty (30) days after the later of (a) the filing of a complaint by Condemnor or (b) the final agreement and determination by Landlord and Condemnor of the extent of the taking. In that event, this Lease shall be terminated on the Termination Date, and all Rent shall be prorated to that date. If Landlord does not elect to terminate under this subsection 16.3.3, Landlord shall, subject to subsection 16.3.4, be obligated to the extent of severance damages received by Landlord to reasonably restore (to the extent feasible) the Premises or access to the Premises, subject to Landlord's obtaining all necessary approvals, permits, and authorizations relating to such work.

16.3.4. Tenant's Right To Terminate.

16.3.4.1. **Grounds; Termination Notice.** Tenant shall have the option to terminate this Lease by providing thirty (30) days' written notice to Landlord if one or both of the following are taken through Condemnation: (a) Ten percent (10%) or more of the Useable Square Feet of the Premises; or (b) Any portion of the Building that provides Tenant with its access to the Premises and that, if taken, would eliminate or substantially and materially interfere with Tenant's ability to access the Premises.

Tenant's notice must be given within thirty (30) days after Tenant's receipt of the Condemnation Notice required by section 16.2.

16.3.4.2. **Landlord's Restoration Notice.** Despite Tenant's termination right, this Lease shall continue in full force and effect if Landlord gives Tenant written notice ("Restoration Notice") within thirty (30) days after the date on which the nature and extent of the Condemnation are finally determined, stating that: (a) Landlord shall, at Landlord's sole expense, reconfigure the

remaining Premises or provide alternative reasonable access to Tenant so that the area of the Premises shall be substantially the same after the Condemnation and Tenant shall have reasonable access to the Premises after the Condemnation; (b) Landlord shall begin the restoration as soon as reasonably practicable; and (c) Landlord has reasonably determined that such restoration can be completed within ninety (90) days after the date of the notice.

16.3.5. **Tenant's Waiver.** Tenant agrees that its rights to terminate this Lease due to partial Condemnation are governed by this Article 16. Tenant waives all rights it may have under California Code of Civil Procedure section 1265.130, or otherwise, to terminate this Lease based on a partial Condemnation.

16.3.6. **Proration of Rent.** If this Lease is terminated under this Article 16, the termination shall be effective on the Termination Date, and Landlord shall prorate Rent to that date. Tenant shall be obligated to pay Rent for the period up to, but not including, the Termination Date as prorated by Landlord. Landlord shall return to Tenant prepaid Rent allocable to any period on or after the Termination Date.

16.4. **Effect of Condemnation if Lease Is Not Terminated.** If any part of the Premises is taken by Condemnation and this Lease is not terminated, Rent shall be proportionately reduced based on the Rentable Square Footage of the Premises taken. Landlord and Tenant agree to enter into an amendment to this Lease within thirty (30) days after the partial taking, confirming the reduction in Rentable Square Footage of the Premises and the reduction in Rent. If Landlord gives Tenant a timely Restoration Notice under subsection 16.3.4.2, this Lease shall continue in full force and effect without any reduction of Rent (unless the Premises as restored are smaller than the existing Premises, in which case Rent shall be proportionately reduced based on the reduced Rentable Square Footage), except that Rent shall be abated for the portion of the Premises not useable by Tenant until Landlord completes the restoration as provided in the Restoration Notice.

16.5. **Allocation of Award.**

16.5.1. **Landlord's Right to Award.** Except as provided in subsection 16.5.2 in connection with a Condemnation: (a) Landlord shall be entitled to receive all compensation and anything of value awarded, paid, or received in settlement or otherwise ("Award"); and (b) Tenant irrevocably assigns and transfers to Landlord all rights to and interests in the Award and fully releases and relinquishes any claim to, right to make a claim on, or interest in the Award, including 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 Termination Date of the Rent payable for the remainder of the Term (commonly referred to as the "bonus value" of the Lease).

16.5.2. **Tenant's Right to Compensation.** Despite subsection 16.5.1, Tenant shall have the right to make a separate claim in the Condemnation proceeding, as long as the Award payable to Landlord is not reduced thereby, for: (a) The taking of the unamortized or undepreciated value of any tenant improvements owned by Tenant that Tenant has the right to remove at the end of the Lease Term and that Tenant elects not to remove; (b) Reasonable removal and relocation costs for any tenant improvements that Tenant has the right to remove and elects to remove (if Condemnor approves of the removal); and (c) Relocation costs under Government Code section 7262, the claim for which Tenant may pursue by separate action independent of this Lease.

16.6. **Temporary Taking.** If a temporary taking of part of the Premises occurs through (a) the exercise of any government power (by legal proceedings or otherwise) by Condemnor or (b) a voluntary sale or transfer by Landlord to any Condemnor, either under threat of exercise of eminent domain by a Condemnor or while legal proceedings for condemnation are pending, Rent shall abate during the time of such taking in proportion to the portion of the Premises taken. The entire Award relating to the temporary taking shall be and remain the property of Landlord. Tenant irrevocably assigns and transfers to Landlord all rights to and interest in the Award and fully releases and relinquishes any claim to, right to make a claim on, and any other interest in the Award.

ARTICLE 17: ASSIGNMENT AND SUBLEASING

17.1. **Restricted Transfers.**

17.1.1. **Consent Required; Definition of Transfer.** Tenant shall obtain Landlord's written consent prior to entering into or permitting any Transfer. A Transfer ("Transfer") consists of any of the following, whether voluntary or involuntary and whether effected by death, operation of law, or otherwise: (a) Any assignment, mortgage, pledge, encumbrance, or other transfer of any interest in this Lease; (b) Any sublease or occupancy of any portion of the Premises by any persons other than Tenant and its employees; and (c) Any of the changes included in the definition of Transfer in section 17.7.

Any person to whom any Transfer is made or sought to be made is a "Transferee."

17.1.2. **Landlord's Remedies.** If a Transfer fails to comply with this Article 17, Landlord may, at its option, do either or both of the following: (a) void the Transfer or (b) declare Tenant in material and incurable default under section 22.1 notwithstanding any cure period specified in section 22.1.

17.2. **Transfer Procedure.**

17.2.1. **Transfer Notice.** In the event Tenant desires Landlord's consent to a Transfer, Tenant shall provide to Landlord a written Transfer Notice ("Transfer Notice") at least thirty (30) days before the proposed effective date of the Transfer. The Transfer Notice shall include all of the following: (a) Information regarding the proposed Transferee, including the name, address, and ownership of Transferee; the nature of Transferee's business; Transferee's character and reputation; and Transferee's current financial statements (certified by an officer, a partner, or an owner of Transferee); (b) All the terms of the proposed Transfer, including

the consideration payable by Transferee; the portion of the Premises that is subject to the Transfer ("Subject Space"); a general description of any planned alterations or improvements to the Subject Space; the proposed use of the Subject Space; the effective date of the Transfer; a calculation of the "Transfer Premium," as defined in subsection 17.4.2, payable in connection with the Transfer; and a copy of all documentation concerning the proposed Transfer; (c) Any other information or documentation reasonably requested by Landlord; and (d) An executed estoppel certificate from Tenant in the form attached to this Lease as Exhibit D.

17.2.2. Transfer Fee. Within thirty (30) days after Landlord's written request, Tenant shall pay as Additional Rent the sum of Three Hundred and No/100 Dollars (\$300) plus any reasonable out-of-pocket review and processing costs and fees, as well as any reasonable legal fees that Landlord incurs in reviewing and processing the Transfer Notice ("Transfer Fee"). Tenant shall pay the Transfer Fee whether or not Landlord consents to the Transfer.

17.2.3. Limits of Consent. If Landlord consents to any Transfer and does not exercise its rights under section 17.5, the following limits apply: (a) Landlord does not agree to waive or modify the terms and conditions of this Lease; (b) Landlord does not consent to any further Transfer by either Tenant or Transferee; (c) Tenant remains liable under this Lease, and any guarantor of the Lease remains liable under the guaranty; (d) Tenant may enter into that Transfer in accordance with this Article 17 if: (1) The Transfer occurs within six (6) months after Landlord's consent; (2) The Transfer is on substantially the same terms as specified in the Transfer Notice; and (3) Tenant delivers to Landlord, promptly after execution, an original, executed copy of all documentation pertaining to the Transfer in a form reasonably acceptable to Landlord (including Transferee's agreement to be subject and subordinate to the Lease and to assume Tenant's obligations under the Lease to the extent applicable to the Subject Space); (e) If the Transfer occurs after six (6) months or the terms of the Transfer have materially changed from those in the Transfer Notice, Tenant shall submit a new Transfer Notice under subsection 17.2.1, requesting Landlord's consent, and the Subject Space shall again be subject to Landlord's rights, if any, under section 17.5.

17.3. Landlord's Consent

17.3.1. Reasonable Consent. Landlord may not unreasonably withhold its consent to any proposed Transfer that complies with this Article 17. Reasonable grounds for denying consent include any of the following:

- (a) Transferee's character, reputation, credit history, or business is not consistent with the character or quality of the Building;
- (b) Transferee would be a significantly less prestigious occupant of the Building than Tenant;
- (c) Transferee is either a government agency or an instrumentality of one;
- (d) Transferee's intended use of the Premises is inconsistent with the Permitted Use or will materially and adversely affect Landlord's interest;
- (e) Transferee's financial condition is or may be inadequate to support the Lease obligations of Transferee under the Transfer documents;
- (f) The Transfer would cause Landlord to violate another lease or agreement to which Landlord is a party or would give a Building tenant the right to cancel its lease;
- (g) Transferee occupies space in the Building and such space is not contiguous to the Premises, is negotiating with Landlord to lease space in the Building, or has negotiated with Landlord during the six (6) months immediately preceding the Transfer Notice;
- (h) Transferee does not intend to occupy the entire Premises and conduct business there for a substantial portion of the term of the Transfer; or
- (i) The rent charged by Tenant to Transferee during the term of that Transfer, using a present-value analysis, is less than ninety percent (90%) of the rent then being quoted by Landlord for comparable space in the Building for a comparable term ("Quoted Rent"), using a present-value analysis.

17.3.2. Landlord's Written Response. Within a reasonable time after receipt of a Transfer Notice that complies with subsection 17.2.1, Landlord shall approve or disapprove the proposed Transfer in writing.

17.3.3. Tenant's Remedies. If Landlord wrongfully denies or conditions its consent, Tenant may seek only declaratory and injunctive relief. Tenant specifically waives any damage claims against Landlord in connection with the withholding of consent.

17.3.4. Tenant's Indemnity. Tenant shall indemnify, defend, and hold harmless Landlord from and against all Claims by any third party (including the proposed Transferee) arising out of or relating (directly or indirectly) to a proposed Transfer.

If a judicial determination is made that any of the Claims were caused solely by Landlord's breach of this Article 17, however, Tenant's indemnity obligation shall not extend to those Claims.

17.4. Transfer Premium.

17.4.1. Transfer Premium Payment. As a reasonable condition to Landlord's consent to any Transfer, Tenant shall pay to Landlord seventy-five percent (75%) of any Transfer Premium, as defined in subsection 17.4.2.

17.4.2. Definition of Transfer Premium. Transfer Premium ("Transfer Premium") means all base rent, additional rent, and other consideration payable by Transferee to Tenant (including key money and bonus money and any payment in excess of fair market value for services rendered by Tenant to Transferee or assets, fixtures, inventory, equipment, or furniture transferred by Tenant to Transferee in connection with the Transfer ("Transferee Rent")), after deducting the Rent payable by Tenant under this Lease (excluding the Transfer Premium) for the Subject Space ("Tenant Rent").

If part of the Transfer Premium is payable by Transferee other than in cash, Landlord's share of that noncash consideration shall be in a form reasonably satisfactory to Landlord.

17.4.3. Monthly Payment of Transfer Premium; Calculation. Tenant shall pay the Transfer Premium on a monthly basis, together with its payment of Additional Rent under Article 5. In calculating the Transfer Premium, Tenant Rent, Transferee Rent, and Quoted Rent, the parties shall first adjust the rent to the actual effective rent to be paid, taking into consideration any and all leasehold concessions, including any rent credit and any Improvement Allowance. For purposes of calculating the effective rent, all those concessions shall be amortized on a straight-line basis over the relevant term.

17.4.4. Audit of Transfer Premium. On Landlord's request, Tenant shall furnish a complete statement, certified by an independent certified public accountant or Tenant's chief financial officer, describing in detail the computation of any Transfer Premium that Tenant has derived or will derive from the Transfer. If Landlord's independent certified public accountant finds that the Transfer Premium for any Transfer has been understated, Tenant shall, within thirty (30) days after demand, pay the deficiency and Landlord's costs of that audit. If Tenant has understated the Transfer Premium by more than ten percent (10%), Landlord may, at its option, declare Tenant in material and incurable default under section 22.1 notwithstanding any cure period specified in section 22.1.

17.5. Landlord's Option To Recapture Space.

17.5.1. Landlord's Recapture Right. Despite any other provision of this Article 17, Landlord has the option, by written notice to Tenant ("Recapture Notice") within thirty (30) days after receiving any Transfer Notice, to recapture the Subject Space by terminating this Lease for the Subject Space or taking an assignment or a sublease of the Subject Space from Tenant. A timely Recapture Notice terminates this Lease or creates an assignment or a sublease for the Subject Space for the same term as the proposed Transfer, effective as of the date specified in the Transfer Notice. If Landlord declines or fails timely to deliver a Recapture Notice, Landlord shall have no further right under this section 17.5 to the Subject Space unless it becomes available again after Transfer by Tenant.

17.5.2. Consequences of Recapture. To determine the new Base Rent under this Lease if Landlord recaptures the Subject Space, the original Base Rent under the Lease shall be multiplied by a fraction, the numerator of which is the Rentable Square Feet of the Premises retained by Tenant after Landlord's recapture and the denominator of which is the total Rentable Square Feet of the Premises before Landlord's recapture. The Additional Rent, to the extent that it is calculated on the basis of the Rentable Square Feet within the Premises, shall be reduced to reflect Tenant's proportionate share based on the Rentable Square Feet of the Premises retained by Tenant after Landlord's recapture. This Lease as so amended shall continue thereafter in full force and effect. Either party may require written confirmation of the amendments to this Lease necessitated by Landlord's recapture of the Subject Space. If Landlord recaptures the Subject Space, Landlord shall, at Landlord's sole expense, construct any partitions required to segregate the Subject Space from the remaining Premises retained by Tenant. Tenant shall, however, pay for painting, covering, or otherwise decorating the surfaces of the partitions facing the remaining Premises retained by Tenant.

17.6. Right To Collect Rent. If this Lease is assigned, Landlord may collect Rent directly from Transferee. If all or part of the Premises is subleased and Tenant defaults, Landlord may collect Rent directly from Transferee. Landlord may then apply the amount collected from Transferee to Tenant's monetary obligations under this Lease. Collecting Rent from a Transferee or applying that Rent to Tenant's monetary obligations does not waive any provisions of this Article 17.

17.7. Transfers of Ownership Interests and Other Organizational Changes.

17.7.1. Change of Ownership; Reorganization. For purposes of this Article 17, Transfer ("Transfer") also includes: (a) If Tenant is a partnership or limited liability company: (1) A change in ownership effected voluntarily, involuntarily, or by operation of law, within a twelve-month (12-month) period, of twenty-five percent (25%) or more of the partners or members or twenty-five percent (25%) or more of the partnership or membership interests; or (2) The dissolution of the partnership or limited liability company without its immediate reconstitution; (b) If Tenant is a closely held corporation (i.e., one whose stock is not publicly held and not traded through an exchange or over the counter): (1) The sale or other transfer, within a twelve-month (12-month) period, of more than an aggregate of twenty-five percent (25%) of the voting shares of Tenant (other than to immediate family members by reason of gift or death); (2) The sale, mortgage, hypothecation, or pledge, within a twelve-month (12-month) period, of more than an aggregate of twenty-five percent (25%) of the value of Tenant's unencumbered assets; or (3) The dissolution, merger, consolidation, or other reorganization of Tenant.

17.7.2. Transfer to Affiliate. Despite any other provision of this Lease, Landlord's consent is not required for any Transfer to an Affiliate, as defined in subsection 17.7.3, as long as the following conditions are met:

- (a) At least ten (10) business days before the Transfer, Landlord reserves written notice of the Transfer (as well as any documents or information reasonably requested by Landlord regarding the Transfer) to Transferee);
- (b) The Transfer is not a subterfuge by Tenant to avoid its obligations under the Lease;
- (c) If the Transfer is an assignment, Transferee assumes in writing all of Tenant's obligations under this Lease relating to the Subject Space; and
- (d) Transferee has a tangible net worth, as evidenced by financial statements delivered to Landlord and certified by an independent certified public accountant in accordance with generally accepted accounting principles that are consistently applied ("Net Worth"), at least equal to Tenant's Net Worth either immediately before the Transfer or as of the date of this Lease, whichever is greater.

17.7.3. Definition of Affiliate. An Affiliate ("Affiliate") means any entity that controls, is controlled by, or is under common control with Tenant. Control ("Control") means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of an entity or possession of the right to vote more than fifty percent (50%) of the voting interest in the ordinary direction of the entity's affairs.

17.8. Restrictions on Marketing the Space. Tenant may not enter into any listing agreement for marketing the Subject Space other than through the exclusive leasing agent designated by Landlord for the Building. Tenant may not promote or advertise the availability of the Subject Space unless Landlord has approved Tenant's advertising or promotional materials in writing. Tenant may not market the Subject Space at a rate less than the Quoted Rent.

ARTICLE 18: SURRENDER OF PREMISES

18.1. Surrender of Premises. No act of Landlord or its authorized representatives shall constitute Landlord's acceptance of a surrender or abandonment of the Premises by Tenant unless that intent is specifically acknowledged in a writing signed by both parties. At the option of Landlord, a surrender and termination of this Lease shall operate as an assignment to Landlord of all subleases or subtenancies. Landlord shall exercise this option by giving notice of that assignment to all subtenants within ten (10) days after the effective date of the surrender and termination.

18.2. Removal of Tenant Property by Tenant. On the expiration or earlier termination of the Lease Term, Tenant shall quit the Premises and surrender possession of the Premises to Landlord in accordance with this section 18.2. Tenant shall leave the Premises in good order and condition, except for reasonable wear and tear, acts of God, casualties, condemnation, and repairs that are specifically made the responsibility of Landlord under the Lease. On expiration or termination, Tenant shall, without expense to Landlord, remove or cause to be removed from the Premises: (a) All debris and rubbish; (b) Any items of furniture, equipment, freestanding cabinet work, and other articles of personal property owned by Tenant or installed or placed by Tenant at its expense in the Premises; (c) Any similar articles of any other persons claiming under Tenant that Landlord, in Landlord's sole discretion, requires to be removed; and (d) Any Alterations and improvements that Tenant is required to remove under Article 12.

Tenant shall, at Tenant's sole expense, repair all damage or injury that may occur to the Premises or the Building caused by Tenant's removal of those items and shall restore the Premises and Building to their original condition.

ARTICLE 19: HOLDING OVER

19.1. Holdover Rent. If Tenant remains in possession of the Premises after expiration or earlier termination of this Lease with Landlord's express written consent, Tenant's occupancy shall be a month-to-month tenancy at a rent agreed on by Landlord and Tenant but in no event less than the Base Rent and Additional Rent payable under this Lease during the last full month before the date of expiration or earlier termination of this Lease. The month-to-month tenancy shall be on the terms and conditions of this Lease except as provided in (a) the preceding sentence and (b) the lease clauses concerning lease term, expansion rights, purchase option, and extension rights. Landlord's acceptance of rent after such holding over with Landlord's written consent shall not result in any other tenancy or in a renewal of the original term of this Lease. If Tenant remains in possession of the Premises after expiration or earlier termination of this Lease without Landlord's written consent, Tenant's continued possession shall be on the basis of a tenancy at sufferance and Tenant shall pay as rent during the holdover period an amount equal to the greater of: (1) one-hundred and fifty percent (150%) of the fair market rental (as reasonably determined by Landlord) for the Premises; or (2) Two-hundred percent (200%) of the Base Rent and Additional Rent payable under this Lease for the last full month before the date of expiration or termination.

19.2. No Consent or Waiver Implied. Nothing in this Article 19 shall be construed as implied consent by Landlord to any holding over by Tenant. Landlord expressly reserves the right to require Tenant to surrender possession of the Premises to Landlord as provided in this Lease on expiration or other termination of this Lease. The provisions of this Article 19 shall not be considered to limit or constitute a waiver of any other rights or remedies of Landlord provided in this Lease or at law.

ARTICLE 20: ESTOPPEL CERTIFICATES

20.1. Tenant's Obligation To Provide Estoppel Certificates. Within ten (10) days after a written request by Landlord, Tenant shall execute and deliver to Landlord an estoppel certificate, substantially in the form of Exhibit D (or other form required by any existing or prospective lender, mortgagee, or purchaser of all or part of the Building), indicating in the certificate any exceptions to the statements in the certificate that may exist at that time. The certificate shall also contain any other information reasonably requested by Landlord or any existing or prospective lender, mortgagee, or purchaser.

20.2. **Additional Requested Documents or Instruments.** Within ten (10) days after a written request by Landlord, Tenant shall execute and deliver whatever other documents or instruments may be reasonably required for sale or financing purposes, including (if requested by Landlord) a current financial statement and financial statements for the two (2) years preceding the current financial statement year. Those statements shall be prepared in accordance with generally accepted accounting principles and shall be audited by an independent certified public accountant.

20.3. **Failure To Deliver.** Tenant's failure to execute or deliver an estoppel certificate in the required time period shall constitute an acknowledgment by Tenant that the statements included in the estoppel certificate are true and correct, without exception. Tenant's failure to execute or deliver an estoppel certificate or other document or instrument required under this Article 20 in a timely manner shall be a material breach of this Lease.

20.4. **Guarantor Estoppel Certificates and Financial Information.** If this Lease is guaranteed, then within ten (10) days after Landlord's written request, Tenant shall cause Guarantor to execute and deliver to Landlord an estoppel certificate of Guarantor stating such information as may be customary or as may be reasonably required by Landlord or any existing or prospective lender, mortgagee, or purchaser, including, without limitation, the following: that the guaranty is in full force and effect; that no uncured defaults exist by either party under the guaranty or any acts or omissions which, but for the passing of time or giving of notice, would be a default under the guaranty; that the guaranty will continue in full force and effect despite any assignment, sublease, or termination of the Lease; that there are no actions pending against Guarantor under the bankruptcy laws of the United States or any state thereof; and such matters with respect to the Lease, to Guarantor's best knowledge, as are included in the form of tenant certificate attached as Exhibit D. Tenant's failure to cause Guarantor to execute or deliver an estoppel certificate in the required time period shall constitute an acknowledgement by Guarantor that the statements included in the estoppel certificate are true and correct, without exception. In addition, within ten (10) days after a written request by Landlord, Tenant shall deliver a current financial statement of Guarantor and financial statements of Guarantor for the two (2) years preceding the current financial statement year, prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant. Tenant's failure to cause Guarantor to execute or deliver an estoppel certificate, or to deliver financial statements, as required under this section in a timely manner shall be a material breach of this Lease.

20.5. **Authority.** Tenant hereby acknowledges and agrees that the General Manager of the Mountain House Community Services District shall have the authority to execute any estoppel certificate and/or any other documents or instruments contemplated hereunder or otherwise required to be signed by Tenant pursuant to the terms of this Lease.

ARTICLE 21: SUBORDINATION, NONDISTURBANCE, AND ATTORNMEN

21.1. **Automatic Subordination.** This Lease is subject and subordinate to: (a) All present and future liens of any mortgages, deeds of trust, or other encumbrances ("Encumbrances") of the Building and Real Property; (b) All present and future ground or underlying leases ("Underlying Leases") of the Building and Real Property now or hereafter in force against the Building and Real Property; (c) All renewals, extensions, modifications, consolidations, and replacements of the items described in subparagraphs (a)-(b); (d) All advances made or hereafter to be made on the security of the Encumbrances; and (e) All CC&R's now or hereafter in force against the Building and/or Real Property, or any portion thereof.

Despite any other provision of this Article 21, any Encumbrance holder or lessor may elect that this Lease shall be senior to and have priority over that Encumbrance or Underlying Lease whether this Lease is dated before or after the date of the Encumbrance or Underlying Lease.

21.2. **Subordination Agreement; Agency.** This subordination is self-operative, and no further instrument of subordination shall be required to make it effective. To confirm this subordination, however, Tenant shall, within five (5) business days after Landlord's request, execute an agreement in the form attached as Exhibit E or other substantially similar form, and any further instruments or assurances in recordable form that Landlord reasonably considers necessary to evidence or confirm the subordination or superiority of this Lease to any such Encumbrances or Underlying Leases. Tenant irrevocably appoints Duane A. Grimsman, the agent of Landlord, as Tenant's agent to execute and deliver in the name of Tenant any such instrument(s) if Tenant fails to do so. This authorization shall in no way relieve Tenant of the obligation to execute such instrument(s) of subordination or superiority. Tenant's failure to execute and deliver such instrument(s) shall constitute a default under this Lease.

21.3. **Attornment.** Tenant covenants and agrees to attorn to the transferee of Landlord's interest in the Real Property by foreclosure, deed in lieu of foreclosure, exercise of any remedy provided in any Encumbrance or Underlying Lease, or operation of law (without any deductions or setoffs), if requested to do so by the transferee, and to recognize the transferee as the lessor under this Lease. The transferee shall not be liable for: (a) Any acts, omissions, or defaults of Landlord under the Lease; or (b) The return of any security deposit except for deposits actually paid to the transferee.

21.4. **Notice of Default; Right To Cure.** Tenant agrees to give written notice of any default by Landlord to the holder of any prior Encumbrance or Underlying Lease. Tenant agrees that, before it exercises any rights or remedies under the Lease, the lienholder or lessor shall have the right, but not the obligation, to cure the default within the same time, if any, given to Landlord to cure the default, plus an additional thirty (30) days. Tenant agrees that this cure period shall be extended by the time necessary for the lienholder to begin foreclosure proceedings and to obtain possession of the Building or Real Property, as applicable.

21.5. **Non-Disturbance.** Tenant's use, possession, and enjoyment of the Premises shall not be disturbed and this Lease shall continue in full force and effect as long as Tenant is not in default and this Lease shall automatically become a lease directly between any successor to Landlord's interest, as landlord, and Tenant, as if that successor were the landlord originally named in the Lease. No

such non-disturbance shall be effective unless and until Tenant executes an agreement in the form attached as Exhibit E, or other substantially similar form, and any further instruments or assurances in recordable form that Landlord reasonably considers necessary to evidence or confirm the subordination or superiority of this Lease to any such Encumbrances or Underlying Leases.

ARTICLE 22: DEFAULTS AND REMEDIES

22.1. Tenant's Default. The occurrence of any of the following shall constitute a default by Tenant under this Lease: (a) Tenant's failure to pay when due any Rent required to be paid under this Lease; (b) Tenant's failure to provide any instrument or assurance as required by section 21.2 or estoppel certificate as required by section 20.1; (c) Tenant's violation of any one or more of the Rules and Regulations; (d) Subject to subsections (a)-(c) above, Tenant's failure to perform any other obligation under this Lease if the failure continues for ten (10) days after written notice of the failure from Landlord to Tenant; (e) Tenant's abandonment of the Premises, including Tenant's absence from the Premises for ten (10) consecutive days (excluding Saturdays, Sundays, and state and nationally recognized holidays) while in default of any provision of this Lease; ~~(f) To the extent permitted by law: (1) A general assignment by Tenant or any guarantor of the Lease for the benefit of creditors; (2) The filing by or against Tenant, or any guarantor, of any proceeding under an insolvency or bankruptcy law, unless (in the case of an involuntary proceeding) the proceeding is dismissed within sixty (60) days; (3) The appointment of a trustee or receiver to take possession of all or substantially all the assets of Tenant or any guarantor, unless possession is unconditionally restored to Tenant or that guarantor within thirty (30) days and the trusteeship or receivership is dissolved; and (4) Any execution or other judicially authorized seizure of all or substantially all the assets of Tenant located on the Premises, or of Tenant's interest in this Lease, unless that seizure is discharged within thirty (30) days;~~ (g) The committing of waste on the Premises; or (h) Tenant's failure to occupy the Premises within thirty (30) days after Substantial Completion of the Tenant Improvements.

22.2 Rights and Obligations Under the Bankruptcy Code. Upon the filing of a petition by or against Tenant under the United States Bankruptcy Code, Tenant, as debtor in possession, and any trustee who may be appointed by the Bankruptcy Court agree as follows: (i) to perform each and every obligation of Tenant under this Lease until such time as this Lease is either rejected or assumed by order of the United States Bankruptcy Court; (ii) to pay monthly in advance on the first day of each month as reasonable compensation for use and occupancy of the Premises the sum set forth in this Lease as Rent, and all other charges otherwise due pursuant to this Lease; ~~(iii) to reject or assume this Lease within sixty (60) days of the filing of such petition under Chapter 7 of the Bankruptcy Code or under any other Chapter;~~ (iv) to give Landlord at least forty-five (45) days' prior written notice of any abandonment of the Premises; any such abandonment is to be deemed a rejection of this Lease; (v) to do all other things of benefit to Landlord otherwise required under the Bankruptcy Code; (vi) to be deemed to have rejected this Lease in the event of the failure to comply with any of the above; and (vii) to have consented to the entry of an order by an appropriate United States Bankruptcy Court providing all of the above, waiving notice and hearing of the entry of same.

Included within and in addition to any other conditions or obligations imposed upon Tenant or its successor in the event of assumption and/or assignment are the following: (i) the cure of any monetary defaults and the reimbursement of any loss within thirty (30) days of assumption and/or assignment; (ii) the deposit of an additional sum equal to three (3) months' Rent to be held as a Security Deposit; (iii) the use of the Premises as set forth in section 1 of this Lease; (iv) the reorganized debtor or assignee of such debtor in possession or Tenant's trustee demonstrating in writing that it has sufficient background including, but not limited to, substantial business experience and financial ability to operate a business in the Premises in the manner contemplated in this Lease and meet all other reasonable criteria of Landlord as did Tenant upon execution of this Lease; (v) the prior written consent of any mortgagee to which this Lease has been assigned as collateral security; and (vi) the Premises, at all times, remaining a single Premises and business and no physical changes of any kind may be made to the Premises unless in compliance with the applicable provisions of this Lease.

No default under this Lease by Tenant, either prior to or subsequent to the filing of such a petition, shall be deemed to have been waived unless expressly done so in writing by Landlord. The provisions of this section shall also apply to any guarantor of this Lease.

22.3. Replacement of Statutory Notice Requirements. When this Lease requires service of a notice, that notice shall replace rather than supplement any equivalent or similar statutory notice, including any notices required by Code of Civil Procedure section 1161 or any similar or successor statute. When a statute requires service of a notice in a particular manner, service of that notice (or a similar notice required by this Lease) in the manner required by section 30.11 shall replace and satisfy the statutory service-of-notice procedures, including those required by Code of Civil Procedure section 1162 or any similar or successor statute.

22.4. Landlord's Remedies on Tenant's Default. On the occurrence of a default by Tenant, Landlord shall have the right to pursue any one or more of the following remedies in addition to any other remedies now or later available to Landlord at law or in equity. These remedies are not exclusive but cumulative.

22.4.1. Termination of Lease. Landlord may terminate this Lease and recover possession of the Premises. Once Landlord has terminated this Lease, Tenant shall immediately surrender the Premises to Landlord. On termination of this Lease, Landlord may recover from Tenant all of the following: (a) The worth at the time of the award of any unpaid Rent that had been earned at the time of the termination, to be computed by allowing interest at the rate set forth in Article 24 but in no case greater than the maximum amount of interest permitted by law; (b) The worth at the time of the award of the amount by which the unpaid Rent that would have been earned between the time of the termination and the time of the award exceeds the amount of unpaid Rent that Tenant proves could reasonably have been avoided, to be computed by allowing interest at the rate set forth in Article 24 but in no case greater than the maximum amount of interest permitted by law; (c) The worth at the time of the award of the amount by which the unpaid Rent for the balance of the Lease Term after the time of the award exceeds the amount of unpaid Rent that Tenant proves could reasonably have been avoided, to be computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus one percent (1%); (d) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform obligations under this Lease, including brokerage commissions and

advertising expenses, expenses of removing the Premises for a new tenant (whether the same or a different use), and any special concessions made to obtain a new tenant; and (e) Any other amounts, in addition to or in lieu of those listed above, that applicable law may permit.

22.4.2. Continuation of Lease in Effect. Landlord shall have the remedy described in Civil Code section 1951.4, which provides that, when a tenant has the right to sublet or assign (subject only to reasonable limitations), the landlord may continue the lease in effect after the tenant's breach and abandonment and recover rent as it becomes due. Accordingly, if Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may enforce all of Landlord's rights and remedies under this Lease, including the right to recover all Rent as it becomes due.

22.4.3. Tenant's Subleases. Whether or not Landlord elects to terminate this Lease on account of any default by Tenant, Landlord may: (a) Terminate any sublease, license, concession, or other consensual arrangement for possession entered into by Tenant and affecting the Premises; and (b) Choose to succeed to Tenant's interest in such an arrangement. If Landlord elects to succeed to Tenant's interest in such an arrangement, Tenant shall, as of the date of notice by Landlord of that election, have no further right to, or interest in, the Rent and other consideration receivable under that arrangement.

22.4.4. Rent Concessions. Whether or not Landlord elects to terminate this Lease on account of any default by Tenant, if Tenant commits a default under this Lease, then: (a) Tenant shall immediately pay to Landlord upon demand a sum equal to the total amount of the Rent Concession described in Summary of Basic Lease Information section 8 that has been used by Tenant as of the date of the occurrence of the default; and (b) All of the Rent Concession that has not been used by Tenant as of the date of the occurrence of such default shall thereby automatically terminate and become null and void, and Tenant shall thereafter pay all Rent when due under this Lease, without regard to the rent concession provision of this Lease.

22.5. Form of Payment After Default. If Tenant fails to pay any amount due under this Lease within three (3) days after the due date or if Tenant draws a check on an account with insufficient funds, Landlord shall have the right to require that any subsequent amounts paid by Tenant to Landlord under this Lease (to cure a default or otherwise) be paid in the form of cash, money order, cashier's or certified check drawn on an institution acceptable to Landlord, or other form approved by Landlord despite any prior practice of accepting payments in a different form.

22.6. Efforts To Relet. For purposes of this Article 22, Tenant's right to possession shall not be considered to have been terminated by Landlord's efforts to relet the Premises, by Landlord's acts of maintenance or preservation with respect to the Premises, or by appointment of a receiver to protect Landlord's interests under this Lease. This list is merely illustrative of acts that may be performed by Landlord without terminating Tenant's right to possession.

22.7. Acceptance of Rent Without Waiving Rights. Under Article 25, Landlord may accept Tenant's payments without waiving any rights under this Lease, including rights under a previously served notice of default. If Landlord accepts payments after serving a notice of default, Landlord may nevertheless commence and pursue an action to enforce rights and remedies under the previously served notice of default.

22.8. Landlord Default; Tenant's Remedies on Landlord's Default.

22.8.1. Landlord Default. Landlord's failure to perform any of its obligations under this Lease shall constitute a default by Landlord under the Lease if the failure continues for thirty (30) days after written notice of the failure is delivered from Tenant to Landlord, provided that Tenant is not in default under this Lease at the time it delivers such notice to Landlord. If the required performance is such that it may require more than thirty (30) days to complete, Landlord's failure to perform such obligation within the above mentioned thirty (30) day period shall not constitute a default under the Lease provided that Landlord undertakes to cure the failure within thirty (30) days after written notice of the failure is delivered from Tenant to Landlord and diligently attempts to complete such cure as soon as reasonably possible.

22.8.2. Tenant's Remedies on Landlord's Default. Tenant waives any right to terminate this Lease and to vacate the Premises on Landlord's default under this Lease. Tenant's sole remedy on Landlord's default is an action for damages or injunctive or declaratory relief.

ARTICLE 23: LANDLORD'S RIGHT TO PERFORM TENANT'S OBLIGATIONS

23.1. Landlord's Right To Perform Tenant's Obligations. All obligations to be performed by Tenant under this Lease shall be performed by Tenant at Tenant's expense and without any reduction of Rent. If Tenant's failure to perform an obligation continues for five (5) days after notice to Tenant, Landlord may perform the obligation on Tenant's behalf, without waiving Landlord's rights for Tenant's failure to perform any obligations under this Lease and without releasing Tenant from such obligations.

23.2. Reimbursement by Tenant. Within fifteen (15) days after receiving a statement from Landlord, Tenant shall pay to Landlord the amount of expense reasonably incurred by Landlord, under section 23.1, in performing Tenant's obligation.

ARTICLE 24: LATE PAYMENTS

24.1. Late Charges. If any Rent payment is not received by Landlord or Landlord's designee within five (5) days after that Rent is due, Tenant shall pay to Landlord a late charge of five percent (5%) of monthly Base Rent ("Late Charge(s)") as liquidated damages, in lieu of actual damages (other than interest under section 24.2 and attorney fees and costs under section 26.1). Tenant shall pay this amount for each calendar month in which all or any part of any Rent payment remains delinquent for more than five (5) days after the

due date. The parties agree that this late charge represents a reasonable estimate of the expenses that Landlord will incur because of any late payment of Rent (other than interest and attorney fees and costs). Landlord's acceptance of any liquidated damages shall not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of the rights and remedies available to Landlord under this Lease. Tenant shall pay the late charge as Additional Rent with the next installment of Rent.

24.2. **Interest.** If any Rent payment is not received by Landlord or Landlord's designee within five (5) days after that Rent is due, Tenant shall pay to Landlord interest on the past-due amount, from the date due until paid, at the rate of eighteen percent (18%) per year, based on a 365 day year.

ARTICLE 25: NONWAIVER

25.1. **Nonwaiver.** No covenant or condition of this Lease for the benefit of Landlord can be waived except by the written consent of the Landlord, and forbearance or indulgence by Landlord in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Tenant. Until complete performance by Tenant of any covenant or condition, the Landlord shall be entitled to invoke any remedy available unto it under this Lease or by law, despite said forbearance or indulgence. 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 (excluding the collection of a late charge or interest), regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. Any waiver by Landlord of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Lease. THE PROPERTY MANAGER FOR LANDLORD DOES NOT HAVE THE AUTHORITY TO WAIVE A DEFAULT UNDER THE LEASE. NO PURPORTED WAIVER, WHETHER OR NOT IN WRITING, SHALL BE VALID OR EFFECTIVE UNLESS SIGNED ON BEHALF OF THE LANDLORD BY THOSE PERSON(S) WITH AUTHORITY TO BIND THE LANDLORD. Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent act by Tenant.

25.2. **Acceptance and Application of Payment; Not Accord and Satisfaction.** No receipt by Landlord of a lesser payment than the Rent required under this Lease shall be considered to be other than on account of the earliest amount due, and no endorsement or statement on any check or letter accompanying a payment or check shall be considered an accord and satisfaction. Landlord may accept checks or payments without prejudice to Landlord's right to recover all amounts due and pursue all other remedies provided for in this Lease. Landlord's receipt of monies from Tenant after giving notice to Tenant terminating this Lease shall in no way reinstate, continue, or extend the Lease Term or affect the Termination Notice given by Landlord before the receipt of those monies. After serving notice terminating this Lease, filing an action, or obtaining final judgment for possession of the Premises, Landlord may receive and collect any Rent due, and the payment of that Rent shall not waive or affect such prior notice, action, or judgment.

ARTICLE 26: ATTORNEY FEES AND COSTS

26.1. **Attorney Fees and Costs.** If either party undertakes litigation or arbitration against the other party arising out of or in connection with this Lease, the prevailing party shall be entitled to recover from the other party reasonable attorney fees arbitration costs, and court costs incurred. The prevailing party shall be determined under Civil Code section 1717(b)(1) or any successor statute.

ARTICLE 27: LANDLORD'S ACCESS TO PREMISES

27.1. **Landlord's Access to Premises.** Landlord and its agents shall have the right at all reasonable times to enter the Premises to: (a) Inspect the Premises; (b) Show the Premises to prospective purchasers, mortgagees, or tenants or to ground lessors or underlying lessors; (c) Serve, post, and keep posted notices required by law or that Landlord considers necessary for the protection of Landlord or the Building; or (d) Make repairs, replacements, alterations, or improvements to the Premises or Building that Landlord considers necessary or desirable.

Despite any other provision of this Article 27 to the contrary, Landlord may enter the Premises at any time to: (a) Perform services required of Landlord or respond to an emergency; (b) Take possession due to any breach of this Lease; or (c) Perform any covenants of Tenant that Tenant fails to perform.

27.2. **Tenant's Waiver.** Landlord may enter the Premises without the abatement of Rent and may take steps to accomplish the stated purposes. Tenant waives any claims for damages caused by Landlord's entry, including damage claims for: (a) Injuries; (b) Inconvenience to or interference with Tenant's business; (c) Lost profits; and (d) Loss of occupancy or quiet enjoyment of the Premises.

27.3. **Method of Entry.** For entry as permitted by this Article 27, Landlord shall at all times have a key or, if applicable, a card key with which to unlock all the doors in the Premises, excluding Tenant's vaults and safes. In an emergency situation, Landlord shall have the right to use any means that Landlord considers proper to open the doors in and to the Premises. Any such entry into the Premises by Landlord shall not be considered 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: SIGNS

28.1. **Building Name; Landlord's Signage Rights.** Subject to Tenant's signage rights under this Article 28, Landlord may at any time change the name of the Building and install, affix, and maintain signs on the exterior of the Building as Landlord may, in Landlord's sole discretion, desire. Tenant shall not have or acquire any property right or interest in the name of the Building. Tenant

may use the name of the Building or pictures or illustrations of the Building in advertising or other publicity during the Lease Term. Tenant shall comply with Landlord's Building and Common Area signage program and the Rules and Regulations promulgated from time to time by Landlord with respect thereto. Tenant's signage rights in this section 28 shall be subject to Landlord's signage program and Rules and Regulations with respect thereto.

28.2. **Tenant's Signage Rights.** Tenant shall not place any sign upon the exterior of the Premises or the Building, except that Tenant may, with Landlord's prior written consent, and at Tenant's sole expense, install (but not on the roof) a sign as is reasonably required to identify the name of Tenant's business so long as such sign is in a location designated by Landlord, is in keeping with the quality, design, and style of the Building, and complies with all applicable Laws and Orders and the signage criteria established for the Building by Landlord. The installation of any sign on the Premises or Building by or for Tenant shall be subject to the provisions of section 12 (Alterations and Additions). Unless otherwise expressly agreed herein, Landlord reserves all rights to the use of the roof of the Building, and the right to install advertising signs on the Building, including the roof, which do not unreasonably interfere with the conduct of Tenant's business; Landlord shall be entitled to all revenues from such advertising signs. Tenant may not display any signs on the exterior or roof of the Building or in the Common Areas of the Building or the Real Property. Tenant may not install or display any signs, window coverings, blinds, or other items (including those located behind the Landlord-approved window coverings for the Building) visible from the exterior of the Premises without Landlord's prior written approval, which Landlord may, in Landlord's sole discretion, grant or withhold. Landlord may remove without notice and at Tenant's expense any signs, notices, logos, pictures, names, or advertisements that are installed by or for Tenant without Landlord's approval.

ARTICLE 29: TENANT PARKING

29.1. **Number of Parking Spaces.** Tenant, Tenant's employees, licensees and invitees may use, free of charge and in common with other tenants and customers of tenants in the Building, a maximum of the number of parking spaces specified in Summary of Basic Lease Information section 13, in the parking facilities adjacent to or in the Building. Parking shall be in accordance with the Rules and Regulations and on a non-exclusive, first come, first served basis, provided, however, that Landlord reserves the right to designate parking spaces as reserved for any reason, including, without limitation, for handicapped users (or other governmentally mandated purposes as required by all applicable governmental regulations) and in order to provide reserved parking for other tenants in the Building. Tenant's continued right to use the parking spaces provided in this Article 29 is conditioned on Tenant's abiding by all Rules and Regulations prescribed from time to time for the orderly operation and use of the parking facility. Tenant shall use all reasonable efforts to ensure that Tenant's employees and visitors also comply with such Rules and Regulations. In addition to all of Landlord's rights and remedies available under the Lease, or at law or in equity, Tenant agrees that if automobiles or vehicles owned or operated by Tenant, its employees, agents, contractors, subtenants, licensees, or concessionaires shall at any time occupy more parking spaces than are allotted to Tenant under Summary of Basic Lease Information section 13, Landlord shall have the right to: (a) charge Tenant as Additional Rent due upon demand an amount established by Landlord, in its reasonable discretion, for each automobile or vehicle for each day, or any part thereof, so parked, provided, however, Landlord shall only take such action if Tenant's, or its employees, agents, contractors, subtenants, licensees, or concessionaires, occupancy of such additional parking spaces interferes with another tenant's enjoyment of its parking rights or allotted or assigned parking spaces; and/or (b) modify the type and location of Tenant's parking spaces and arrange for the towing of automobiles or vehicles, at Tenant's expense, if Tenant uses other parking spaces. Tenant shall notify all of its employees, agents, contractors, subtenants, licensees, and concessionaires that Landlord reserves the right to do so; and/or (c) require Tenant, at Tenant's cost, to provide for alternative parking arrangements offsite from the Building and Common Areas.

29.2. **Location of Parking.** Landlord specifically reserves the right to change the location, size, configuration, design, layout, and all other aspects of the parking facility, including the discontinuance of an escort or valet system. Landlord may close off or restrict access to the parking facility from time to time to facilitate construction, alteration, or improvements, without incurring any liability to Tenant and without any abatement of Rent under this Lease.

ARTICLE 30: MISCELLANEOUS

30.1. **Captions.** The captions of articles and sections and the table of contents of this Lease are for convenience only and have no effect on the interpretation of the provisions of this Lease.

30.2. **Word Usage.** Unless the context clearly requires otherwise: (a) The plural and singular numbers shall each be considered to include the other; (b) The masculine, feminine, and neuter genders shall each be considered to include the others; (c) "Shall," "will," "must," "agrees," and "covenants" are each mandatory; (d) "May" is permissive; (e) "Or" is not exclusive; and (f) "Includes" and "including" are not limiting.

30.3. **Counting Days.** Days shall be counted by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or legal holiday as described in Government Code sections 6700-6701, it shall be excluded. Any act required by this Lease to be performed by a certain day shall be timely performed if completed before 5 p.m. local time on that date. If the day for performance of any obligation under this Lease is a Saturday, Sunday, or legal holiday, the time for performance of that obligation shall be extended to 5 p.m. local time on the first following date that is not a Saturday, Sunday, or legal holiday.

30.4. **Entire Agreement; Amendments.** This Lease and all exhibits, addenda, schedules, and agreements referred to in this Lease constitute the final, complete, and exclusive statement of the terms of the agreement between Landlord and Tenant pertaining to Tenant's lease of Premises and supersedes all prior and contemporaneous understandings or agreements of the parties. Neither party has been induced to enter into this Lease by, and neither party is relying on, any representation or warranty outside those expressly set forth in this Lease. This Lease may be amended only by an agreement in writing signed by Landlord and Tenant/the party to be charged.

30.5. **Exhibits.** The Exhibits and Addendum, if applicable, attached to this Lease are a part of this Lease and incorporated into this Lease by reference.

30.6. **Reasonableness and Good Faith.** Except as limited elsewhere in this Lease, whenever this Lease requires Landlord or Tenant to give its consent or approval to any action on the part of the other, such consent or approval shall not be unreasonably withheld or delayed.

If either Landlord or Tenant disagrees with any determination covered by this provision and reasonably requests the reasons for that determination, the determining party shall furnish its reason in writing and in reasonable detail within five (5) business days following the request.

~~30.7. **Partial Invalidity.** If a court or arbitrator of competent jurisdiction holds any Lease clause to be invalid or unenforceable in whole or in part for any reason, the validity and enforceability of the remaining clauses, or portions of them, shall not be affected unless an essential purpose of this Lease would be defeated by loss of the invalid or unenforceable provision.~~

30.8. **Binding Effect.** Subject to Article 17 and sections 30.16-30.17, this Lease shall bind and benefit the parties to this Lease and their legal representatives and successors in interest.

30.9. **Independent Covenants.** This Lease shall be construed as though the covenants between Landlord and Tenant are independent and not dependent. Tenant expressly waives the benefit of any statute to the contrary and agrees that if Landlord fails to perform its obligations under this Lease, Tenant shall not be entitled: (a) To make any repairs or perform any acts at Landlord's expense; or (b) To any setoff of the Rent or other amounts owing under this Lease against Landlord. The foregoing, however, shall in no way impair Tenant's right to bring a separate action against Landlord for any violation by Landlord of the provisions of this Lease if notice is first given to Landlord and any lender of whose address Tenant has been notified, and an opportunity is granted to Landlord and that lender to correct those violations as provided in section 21.4 and subsection 22.7.1.

~~30.10. **Governing Law.** This Lease shall be construed and enforced in accordance with the laws of the State of California.~~

30.11. **Notices.** All notices (including requests, demands, approvals, or other communications) under this Lease shall be in writing.

30.11.1. **Method of Delivery.** Notice shall be sufficiently given for all purposes as follows: (a) When personally delivered to the recipient, notice is effective on delivery; (b) When mailed first class to the last address of the recipient known to the party giving notice, notice is effective on delivery; (c) When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt; (d) When delivered by overnight delivery Federal Express/Airborne/United Parcel Service/DHL WorldWide Express with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service; (e) When sent by telex or fax to the last telex or fax number of the recipient known to the party giving notice, notice is effective on receipt as long as the sending party receives confirmation of good delivery from the sending party's telex or fax machine. Any notice given by telex or fax shall be considered to have been received on the next business day if it is received after 5 p.m. (recipient's time) or on a nonbusiness day.

30.11.2. **Refused, Unclaimed, or Undeliverable Notices.** Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service.

30.11.3. **Addresses.** Addresses for purposes of giving notice are set forth in section 14 of the Summary of Basic Lease Information. Either party may change its address or telex or fax number by giving the other party notice of the change in any manner permitted by this section 30.11, provided, however, that Tenant must provide a street address suitable for personal service when changing its address.

30.11.4. **Lenders and Ground Lessor.** If Tenant is notified of the identity and address of Landlord's lender or ground or underlying lessor, Tenant shall give to that lender or ground or underlying lessor written notice of any default by Landlord under the terms of this Lease.

30.12. **Force Majeure.** If performance by a party of any portion of this Lease is made impossible by any prevention, delay, or stoppage caused by strikes; lockouts; labor disputes; acts of God; inability to obtain services, labor, or materials or reasonable substitutes for those items; government actions; civil commotions; fire or other casualty; or other causes beyond the reasonable control of the party obligated to perform, performance by that party for a period equal to the period of that prevention, delay, or stoppage is excused. Tenant's obligation to pay Rent, however, is not excused by this section 30.12.

30.13. **Time of the Essence.** Time is of the essence of this Lease and each of its provisions.

30.14. **Modifications Required by Landlord's Lender.** If any lender of Landlord or ground lessor of the Real Property requires a modification of this Lease that will not increase Tenant's cost or expense or materially or adversely change Tenant's rights and obligations, this Lease shall be so modified and Tenant shall execute whatever documents are required and deliver them to Landlord within ten (10) days after the request.

30.15. **Recording; Memorandum of Lease.** Except as provided in this section 30.15, neither this Lease nor any memorandum, affidavit, or other writing relating to this Lease may be recorded by Tenant or anyone acting through, under, or on behalf of Tenant.

Recordation in violation of this provision constitutes an act of default by Tenant. On request by Landlord or any lender or ground lessor, Tenant shall execute a short form Lease for recordation, containing (among other customary provisions) the names of the parties and a description of the Premises and the Lease Term. Tenant shall execute, acknowledge before a notary public, and deliver that form to Landlord within ten (10) days after the request.

30.16. Liability of Landlord. Except as otherwise provided in this Lease or applicable law, for any breach of this Lease the liability of Landlord (including all persons and entities that comprise Landlord, and any successor landlord) and any recourse by Tenant against Landlord shall be limited to the interest of Landlord and Landlord's successors in interest in and to the Building and Real Property. On behalf of itself and all persons claiming by, through, or under Tenant, Tenant expressly waives and releases Landlord from any personal liability for breach of this Lease.

30.16.1. No Personal Liability of Landlord's Shareholders, et al. The trustees, officers, agents and employees of Landlord have no power to bind its shareholders personally, and no obligation of Landlord shall be binding personally upon its shareholders, trustees, officers, agents, or employees. All persons dealing with Landlord, its trustees, officers, agents, employees or representatives shall look solely to Landlord's property for satisfaction of claims of any nature arising in connection with the affairs of Landlord.

30.17. Transfer of Landlord's Interest. Landlord has the right to transfer all or part of its interest in the Building and Real Property and in this Lease. On such a transfer, Landlord shall automatically be released from all liability accruing under this Lease, and Tenant shall look solely to that transferee for the performance of Landlord's obligations under this Lease after the date of transfer, subject to section 6.2. Landlord may assign its interest in this Lease to a mortgage lender as additional security. This assignment shall not release Landlord from its obligations under this Lease, and Tenant shall continue to look to Landlord for the performance of its obligations under this Lease.

30.18. Joint and Several Obligations of Tenant. If more than one individual or entity comprises Tenant, the obligations imposed on each individual or entity that comprises Tenant under this Lease shall be joint and several.

30.19. Submission of Lease. Submission of this document for examination or signature by the parties does not constitute an option or offer to lease the Premises on the terms in this document or a reservation of the Premises in favor of Tenant. This document is not effective as a lease or otherwise until executed and delivered by both Landlord and Tenant.

30.20. Legal Authority.

30.20.1. Corporate Authority. If Tenant is a corporation, each individual executing this Lease on behalf of that corporation represents and warrants that: (a) The individual is authorized to execute and deliver this Lease on behalf of that corporation in accordance with a duly adopted resolution of the corporation's board of directors and in accordance with that corporation's articles of incorporation or charter and bylaws; (b) This Lease is binding on that corporation in accordance with its terms; (c) The corporation is a duly organized and legally existing corporation in good standing in the State of California; and (d) The execution and delivery of this Lease by that corporation shall not result in any breach of or constitute a default under any mortgage, deed of trust, lease loan, credit agreement, partnership agreement, or other contract or instrument to which that corporation is a party or by which that corporation may be bound. If Tenant is a corporation, Tenant shall, within fifteen (15) days after the date of this Lease, deliver to Landlord a copy of a resolution of Tenant's board of directors authorizing or ratifying the execution and delivery of this Lease. The secretary or assistant secretary of the corporation must duly certify that resolution. If Tenant fails to comply with this subsection 30.20.1, each individual executing this Lease on behalf of the corporation shall be personally liable for all of Tenant's obligations under this Lease.

30.20.2. Partnership Authority. If Tenant is a partnership, each individual executing this Lease on behalf of the partnership represents and warrants that: (a) The individual is duly authorized to execute and deliver this Lease on behalf of the partnership in accordance with the partnership agreement, or an amendment to the partnership agreement, now in effect; (b) This Lease is binding on that partnership; (c) The partnership is a duly organized and legally existing partnership and has filed all certificates required by law; and (d) The execution and delivery of this Lease shall not result in any breach of or constitute a default under any mortgage, deed of trust, lease, loan, credit agreement, partnership agreement, or other contract or instrument to which the partnership is a party or by which the partnership may be bound.

30.20.3. Limited Liability Company Authority. If Tenant is a limited liability company, each individual executing this Lease on behalf of that company represents and warrants that: (a) The individual(s) executing this Lease on behalf of the company has/have full power and authority under the company's governing documents to execute and deliver this Lease in the name of and on behalf of the company and to cause the company to perform its obligations under this Lease; (b) The company is a limited liability company duly organized and validly existing under the laws of the State of California and is duly qualified and validly existing as a foreign limited liability company in California; and (c) The company has the power and authority under applicable law and its governing documents to execute and deliver this Lease and to perform its obligations under this Lease.

30.21. Right To Lease. Landlord reserves the absolute right to contract with any other person or entity to be a tenant in the Building as Landlord, in Landlord's sole business judgment, determines best to promote the interests of the Building. Tenant does not rely on the expectation, and Landlord does not represent, that any specific tenant or type or number of tenants will, during the Lease Term, occupy any space in the Building.

30.22. No Air Rights. No rights to any view from the Premises or to exterior light or air to the Premises are created under this Lease.

30.23. **Brokers.** Landlord and Tenant each represents to the other that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, except for the real estate brokers or agents specified in Summary of Basic Lease Information section 15 ("Brokers") and that they know of no other real estate broker or agent who is entitled to a commission or finder's fee in connection with this Lease. Tenant shall be solely liable and responsible for the payment of any real estate brokerage fees and/or commissions payable to Tenant's Broker (identified in Summary of Basic Lease Information section 15) and Landlord shall not have any obligation to pay any sums to Tenant's Broker (identified in Summary of Basic Lease Information section 15) and Landlord's obligation to pay any real estate brokerage fees and/or commissions to Landlord's Broker shall be as determined by separate agreement. Each party shall indemnify, protect, defend, and hold harmless the other party against all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including reasonable attorney fees) for any leasing commission, finder's fee, or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any real estate broker or agent other than the Brokers or as a result of the failure to comply with the terms of this section. The terms of this section 30.23 shall survive the expiration or earlier termination of the Lease Term.

~~30.24. **Transportation Management.** Tenant shall fully comply with all current or future compulsory programs imposed by any public authority, intended to manage parking, transportation, or traffic in and around the Building. In connection with this compliance, Tenant shall take responsible action for the transportation planning and management of all employees located at the Premises by working directly with Landlord, any government transportation management organization, or other transportation-related committees or entities. This provision includes programs such as the following: (a) Restrictions on the number of peak-hour vehicle trips generated by Tenant; (b) Encouragement of increased vehicle occupancy through employer-sponsored financial or in-kind incentives; (c) Implementation of an in-house or area-wide ridesharing program and appointment of an employee transportation coordinator; and (d) Flexible work shifts for employees.~~

30.25. **Guaranty Required.** If a Guarantor is referenced in the Summary of Basic Lease Information section 15, it shall be a condition precedent to the effectiveness of this Lease that the Guarantor execute and deliver to Landlord a guaranty of Lease in a form reasonably satisfactory to Landlord, guaranteeing the full and faithful performance of all obligations of Tenant under this Lease.

30.26. **Quitclaim.** Where requested by Landlord, at the expiration or earlier termination of this Lease, Tenant shall execute, acknowledge and deliver to Landlord, within five (5) days after written request from Landlord to Tenant, any quitclaim deed or other document required by any reputable title company to remove the cloud of this Lease from the real property subject to this Lease.

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

LANDLORD:

TRIMARK COMMUNITIES, LLC, a
California limited liability company

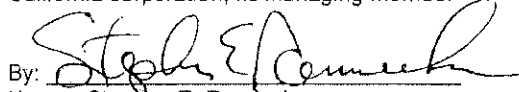
APPROVED AS TO FORMS

By:



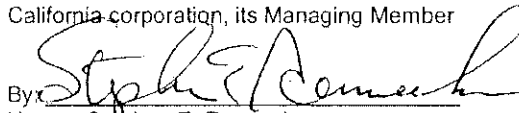
MICHAEL F. MCGRAW
Special Counsel

By: HKHL OF CALIFORNIA, INC., a
California corporation, its Managing Member



Name: Stephen E. Rennecker
Its: Vice President and Secretary

By: BHL OF CALIFORNIA, INC., a
California corporation, its Managing Member



Name: Stephen E. Rennecker
Its: Vice President and Secretary

TENANT:

MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT

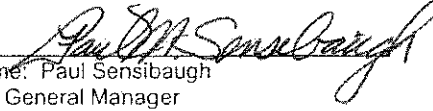
By: 
Name: Paul Sensibaugh
Its: General Manager

EXHIBIT A

BASE RENT

Lease Period	Monthly Rent Rate per Rentable Square Foot	Monthly Base Rent	Annual Base Rent	Base Rent per Rentable Square Foot per Year
Month 1 (partial month if Commencement Date falls on date other than first day of the calendar month)	\$2.15	\$10,156.60 (subject to proration in accordance with section 4.2 if Commencement Date falls on date other than first day of the calendar month)	\$121,879.20	\$25.80
Months 2-12	\$2.15	\$10,156.60	\$121,879.20	\$25.80
Months 13-24	\$2.15	\$10,156.60	\$121,879.20	\$25.80
Months 25-36	\$2.15	\$10,156.60	\$121,879.20	\$25.80
Months 37-48	\$2.15	\$10,156.60	\$121,879.20	\$25.80
Months 49-60	\$2.15	\$10,156.60	\$121,879.20	\$25.80
Months 61-72	\$2.15	\$10,156.60	\$121,879.20	\$25.80

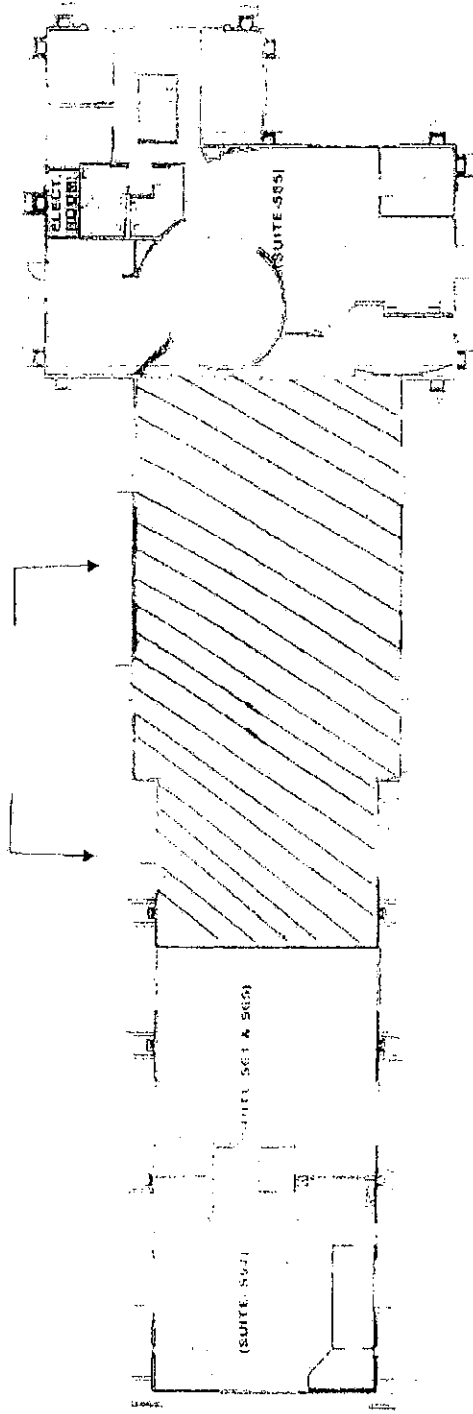
EXHIBIT B-1

OUTLINE AND LOCATION OF PREMISES

[The Premises will be crossed hatched on the attached sheet]

EXHIBIT B-1

Premises



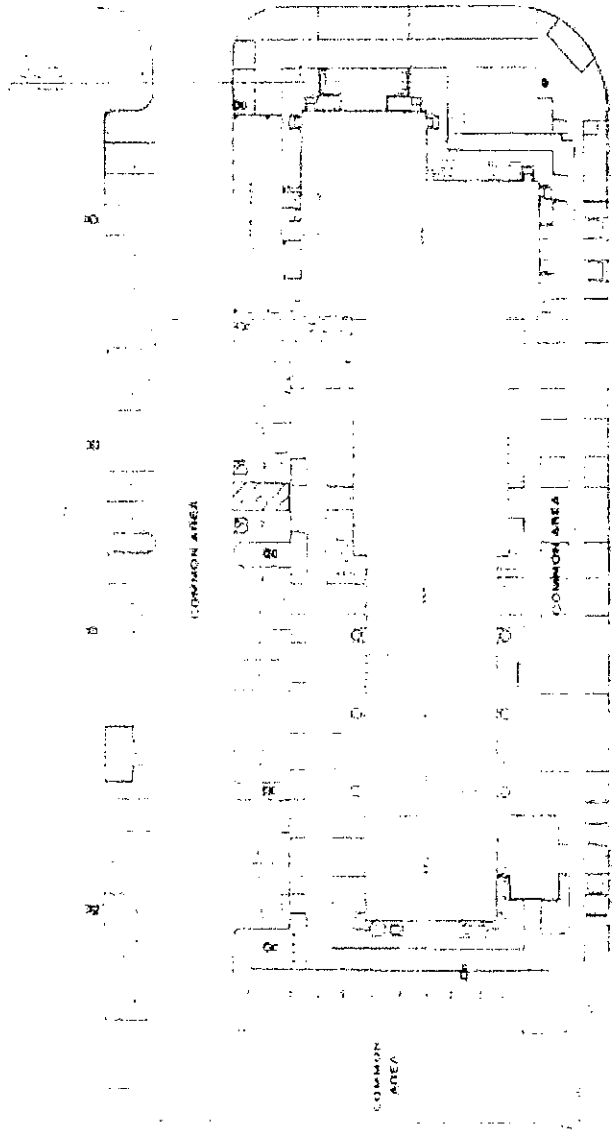
TRIMARK COMMUNITIES
MOUNTAIN HOUSE COMMERCIAL CENTER
THE PREMISES

10000 WILSON ROAD
MOUNTAIN VIEW, ARIZONA 85037

EXHIBIT B-2

SITE PLAN

EXHIBIT B-2



WICKLUND CROSSING

TRIMARK COMMUNITIES
MOUNTAIN HOUSE COMMERCIAL CENTER
SITE PLAN

CORNER OF WICKLUND CROSSING & DE ANZA BLVD.
 MOUNTAIN HOUSE, CALIFORNIA

DE ANZA BOULEVARD



EXHIBIT C

WORK LETTER AGREEMENT

THIS WORK LETTER AGREEMENT ("Agreement") is entered into as of _____, 2006, by and between Trimark Communities, LLC, a California limited liability company ("Landlord"), and Mountain House Community Services District ("Tenant"), in connection with that certain Lease, dated as of _____, 2006, by and between Landlord and Tenant (the "Lease"). All capitalized terms used herein and not otherwise defined herein shall have the meaning given to such terms under the Lease.

RECITALS

WHEREAS, pursuant to the terms of the Lease, Tenant shall lease from Landlord Four Thousand Seven Hundred Twenty-Four (4,724) rentable square feet of space known as ___ Wicklund Crossing, Mountain House, CA 95391 located in that certain building commonly known as the Mountain House Commercial Center (the "Premises");

WHEREAS, Tenant desires that Landlord construct certain Tenant improvements within the Premises ("Tenant Improvements"), and Landlord is willing to construct the Tenant Improvements subject to the terms and conditions set forth in this Agreement;

WHEREAS, it is intended that the Lease, and this Agreement, shall govern both Tenant's occupancy of the Building and the Premises, upon its completion, and other rights and duties of Landlord and Tenant which may arise immediately upon execution hereof as provided in this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained in the Lease and in this Agreement, Landlord and Tenant hereby agree as follows.

AGREEMENTS

1. **AS-IS PREMISES; TENANT IMPROVEMENT ALLOWANCE**

1.1 Base Building. Landlord has constructed, at its sole cost and expense, the Base Building, a portion of which serves the Premises, and Tenant shall accept the Base Building in its as-is condition. The Base Building includes those improvements described in Schedule 1 to this Work Letter. Tenant shall be responsible for all costs associated with the design and construction of the Tenant Improvements, subject to Landlord's obligation to provide the Tenant Improvement Allowance as set forth in section 1.2 below.

1.2 Tenant Improvement Allowance. Tenant shall be entitled to a one-time tenant improvement allowance in connection with the Tenant Improvements (the "Tenant Improvement Allowance") in an amount not to exceed a total of Thirty-Seven Thousand Seven Hundred Ninety-Two and No/100 Dollars (\$37,792.00) based on Four Thousand Seven Hundred Twenty-Four (4,724) Rentable Square Feet at a rate of Eight Dollars and No/100 Dollars (\$8.00) per Rentable Square Foot. The Tenant Improvement Allowance shall be considered Landlord's total monetary contribution with respect to the interior improvement of the Premises. The Tenant Improvement Allowance shall be used only for hard and soft costs associated with the design and construction of the Tenant Improvements, including, but not limited to, construction costs, building permits, architect fees, consultant fees and construction management and supervision fees; provided, however, and notwithstanding anything in this Agreement to the contrary, in no event shall the Tenant Improvement Allowance be used for any personal property, including, without limitation, any partition furniture or similar fixtures or improvements, all of which shall be the sole responsibility of Tenant (collectively, the "Tenant Improvement Allowance Items"). In the event the cost associated with the design and construction of the Tenant Improvements is greater than the amount of the Tenant Improvement Allowance, Tenant shall be solely responsible for such excess amount and shall pay such excess amount in accordance with section 3.2 of this Agreement.

If the Lease is terminated for any reason prior to the end of the Lease Term, Tenant shall pay Landlord, in addition to all other costs and damages for which Tenant is liable as a result of such termination, the unamortized value of the Tenant Improvement Allowance.

1.3 Disbursement of the Tenant Improvement Allowance. Except as otherwise set forth in this Agreement, the Tenant Improvement Allowance shall be disbursed by Landlord (each of which disbursements shall be made pursuant to Landlord's internal disbursement process) for costs related to the Tenant Improvement Allowance Items.

1.4 Unused Allowances. Any unused portion of the Tenant Improvement Allowance (the "Unused Allowance"), as of the Lease Commencement Date (as that term is defined in section 3.1 of the Lease), shall be forfeited and shall not be available to Tenant.

2. TENANT IMPROVEMENT CONSTRUCTION DRAWINGS

2.1 Architect/Space Plan/Construction Drawings. Landlord shall hire Ware Malcomb (or other architect, designer, engineer and/or builder acceptable to Landlord) as the architect/engineer/designer for the Tenant Improvements (the "Architect") and the Architect shall prepare a space plan and architectural/engineering drawings (collectively, the "Space Plan") for the Tenant Improvements. The Architect and Tenant shall work together to prepare the Space Plan, and the Space Plan shall be submitted to Landlord for approval within fifteen (15) business days from the date of this Lease. Within ten (10) business days after Landlord receives the Space Plan, Landlord shall either approve or disapprove the Space Plan. In the event Landlord disapproves the proposed Space Plan, such disapproval shall be for reasonable reasons including, but not limited to, (i) possible adverse effect on the structural integrity of the Building; (ii) possible damage to the systems or equipment serving the Building; (iii) non-compliance with applicable codes; (iv) effect on the exterior appearance of the Building; (v) potential adverse effect on Landlord's design options with respect to other space in the Building; and (vi) potential interference with the normal and customary business operations of other tenants in the Building.

In the event Landlord disapproves the Space Plan, the Architect shall work with Tenant to make all changes necessary in order to correct the problem(s) raised by Landlord and shall (within ten (10) business days after Tenant's receipt of Landlord's disapproval) return the revised Space Plan to Landlord, which Landlord shall approve or disapprove within seven (7) business days after Landlord receives the revised Space Plan. This procedure shall be repeated until the Space Plan is finally approved by Landlord and written approval has been delivered to and received by Tenant. The Space Plan may be submitted by Tenant in one or more stages and at one or more times, and the time periods for Landlord's approval shall apply with respect to each such portion submitted.

Landlord shall independently retain Huff Construction Company, Inc., as the general contractor (the "Contractor"). The Contractor will work with the Architect and the Space Plan, prepare the plans and drawings necessary to construct the Tenant Improvements (the "Construction Drawings") and construct the Tenant Improvements in accordance with the Approved Working Drawings (as defined below).

2.2 Final Working Drawings. When the Architect and/or Contractor completes the Construction Drawings for the Tenant Improvements in a form which is complete to allow subcontractors to bid on the work and to obtain all applicable permits (collectively, the "Final Working Drawings"), Landlord shall submit the same to Tenant for Tenant's approval, which shall not be unreasonably withheld, conditioned or delayed. The Final Working Drawings may be submitted in one or more stages at one or more times. Tenant shall, within ten (10) days after Landlord delivers the Final Working Drawings, either: (i) approve the Final Working Drawings, which approval shall not be unreasonably withheld, conditioned or delayed; or (ii) reasonably disapprove and return the Final Working Drawings to Landlord with requested revisions of the Final Working Drawings based on a "Design Flaw." If Tenant, in compliance with (ii) above, reasonably disapproves of the Final Working Drawings based on a Design Flaw, Landlord shall review Tenant's requested revisions, and after having made those requested revisions deemed reasonable by Landlord in order to correct the Design Flaw, resubmit the Final Working Drawings to Tenant. Failure of Tenant to deliver to Landlord written notice of disapproval and the required changes on or before the above mentioned deadline will constitute and be deemed approval of the Final Working Drawings. The foregoing process of submittal and review shall be repeated until both Landlord and Tenant have approved the Final Working Drawings. "Design Flaw" shall mean: (i) non-compliance with applicable codes; or (ii) a material deviation from the Space Plan approved by Landlord and Tenant.

2.3 Permits. The Final Working Drawings shall be reasonably approved and signed by Landlord and Tenant (the "Approved Working Drawings") prior to the commencement of the construction of the Tenant Improvements. Landlord shall submit the Approved Working Drawings to the appropriate municipal authorities/governmental agencies for all applicable building permits necessary to allow the Contractor to commence and fully complete the construction of the Tenant Improvements. Landlord shall be responsible for obtaining any building permit and/or certificate of occupancy for the Premises. Tenant shall cooperate with Landlord in executing permit applications and performing other ministerial acts to enable Landlord to obtain any such permit or certificate of occupancy.

2.4 Change Orders. If Tenant desires to change, modify or alter the Approved Working Drawings, Tenant shall deliver notice (the "Change Notice") to Landlord setting forth in detail the requested changes (the "Tenant Changes") Tenant desires to make to the Approved Working Drawings. Landlord shall, within five (5) business days of receipt of the Change Notice, either (i) approve the Tenant Change, or (ii) disapprove the Tenant Change and deliver a notice to Tenant specifying in detail the reasons for Landlord's disapproval. Landlord shall

have the unqualified right to disapprove any Tenant Change that is related to anything other than a Tenant Improvement Allowance item. If Landlord approves the Tenant Change, any additional costs which arise as a result of such Tenant Change shall be paid out of the Tenant Improvement Allowance, provided, however, if the amount reflected on the Cost Sheet (as defined below) prior to the Tenant Change already exceeded the Tenant Improvement Allowance, the additional cost will be paid in accordance with Tenant's election under section 3.2 of this Agreement. No changes, modifications or alterations in the Approved Working Drawings shall be made without the prior written consent of Landlord.

3. CONSTRUCTION OF THE TENANT IMPROVEMENTS

3.1 Cost Sheet. After the Approved Working Drawings are signed by Landlord and Tenant, Landlord and Contractor shall make reasonable, good faith efforts to secure efficient and cost effective bids from at least two (2) subcontractors in connection with the Tenant Improvements, and shall prepare a cost sheet ("Cost Sheet") outlining Contractor's cost to construct the Tenant Improvements based on the Approved Working Drawings. Landlord shall revise the Cost Sheet in connection with any Tenant Change or other modifications to the Final Working Drawings approved by Landlord (pursuant to the procedure outlined in section 2.4 above) that increase the overall cost of the Tenant Improvements. Landlord shall deliver the revised Cost Sheet to Tenant within a reasonable time after approval of the Tenant Change or other modification.

3.2 TI Over-Allowance Amount. In the event the amount reflected on the Cost Sheet is greater than the amount of the Tenant Improvement Allowance (the "TI Over-Allowance Amount"), the TI Over-Allowance Amount shall be amortized over the initial six (6) year Term of the Lease at an interest rate of eight percent (8%) per annum and Tenant shall pay the TI Over-Allowance Amount in accordance with section 5.2.7 of the Lease.

If the Cost Sheet is revised in accordance with section 3.1, and if the amount reflected on the Cost Sheet prior to the Tenant Change already exceeded the Tenant Improvement Allowance, the increase in overall cost of the Tenant Improvements shall be included in, and treated as part of, the TI Over-Allowance Amount.

3.3 Construction/Standards. The Tenant Improvements shall be constructed in a good and workmanlike manner in accordance with the Approved Working Drawings

4. PROVISIONS APPLICABLE TO THE CONSTRUCTION OF THE PREMISES

4.1 Substantial Completion. The term "Substantially Complete" or "Substantial Completion" as used in the Lease or this Agreement shall mean: (1) Tenant Improvements have been completed in accordance with the Approved Working Drawings (except minor punch list items which Landlord shall thereafter promptly complete) such that Tenant can conduct business operations from the Premises; and (2) Landlord has obtained a certificate of occupancy or a temporary certificate of occupancy for the Premises/Building.

Except as provided in this section 4, the Lease Commencement Date shall occur as set forth in the Lease. However, if there is a delay or there are delays in the Substantial Completion of the Tenant Improvements as a direct result of Tenant Delays (as defined below), then, notwithstanding anything to the contrary set forth in the Lease or this Agreement, and regardless of the actual date of the Substantial Completion of the Tenant Improvements, the Lease Commencement Date shall be deemed to be the date the Lease Commencement Date would have occurred if no Tenant Delays had occurred.

4.2 Tenant Delays. The following shall constitute Tenant Delays:

4.2.1 Failure in Tenant Performance. Tenant's failure to comply with the time deadlines set forth herein, Tenant's failure to timely and reasonably approve any matter requiring Tenant's approval pursuant to this Agreement, or failure by Tenant to pay, when due, any TI Over-Allowance Amount, if any, shall constitute a Tenant Delay.

4.2.2 Tenant Changes. Tenant Changes, requested by Tenant following the review and approval process in section 2.4 above shall constitute a Tenant Delay.

4.3 Warranties; Repair of Defects. The Tenant Improvements and all work performed by or on behalf of Landlord and/or its contractors shall be warranted for a period of one (1) year from the Lease Commencement Date.

5. MISCELLANEOUS

5.1 Tenant's Representatives. Tenant has designated _____ as its sole representative

with respect to the matters set forth in this Agreement, who, until further notice to Landlord, shall have full authority and responsibility to act on behalf of the Tenant as required in this Agreement.

5.2 Landlord's Representative. Landlord has designated Duane Grimsman as its sole representative with respect to the matters set forth in this Agreement, who, until further notice to Tenant, shall have full authority and responsibility to act on behalf of the Landlord as required in this Agreement.

5.3 Time of the Essence. Unless otherwise indicated, all references herein to a "number of days" shall mean and refer to calendar days, ~~except that if the day to perform any obligation is a Saturday, Sunday, or legal holiday, then the time for performance of that obligation shall be extended to the first following day that is not a Saturday, Sunday, or legal holiday.~~

5.4 Definitions. Terms used herein and not otherwise defined herein shall have the meaning given to such terms under the Lease.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Agreement has been executed by Landlord and Tenant as of the date first above written.

LANDLORD:

TRIMARK COMMUNITIES, LLC, a
California limited liability company

By: HKHL OF CALIFORNIA, INC., a
California corporation, its Managing Member

By: _____
Name: Stephen E. Rennecker
Its: Vice President and Secretary

By: BHL OF CALIFORNIA, INC., a
California corporation, its Managing Member

By: _____
Name: Stephen E. Rennecker
Its: Vice President and Secretary

TENANT:

MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT

By: _____
Name: Paul Sensibaugh
Its: General Manager

SCHEDULE 1

Mountain House Commercial Center Base Building Specifications

The Base Building will include the following improvements:

1. Framed exterior/bearing walls, studded.
2. Ceiling will be open to roof; finished ceilings are part of Tenant Improvements. Minimum ceiling height will be 9 feet, maximum 10 feet.
3. Floor shall be concrete slab ready for covering.
4. A 1.5 inch plastic water line will be available in the attic of the Premises for purposes of providing the Premises a point of water connection.
5. Sewer service is available within the Premises
6. Electrical, cable and telephone conduit stub-outs will be provided on the western demising wall of the Premises. Tenant shall be responsible for extending (from the electrical room) all conduit to the Premises for the HVAC unit, and all of the subpanels, electrical, cable and telephone services, and other equipment serving the Premises, all of which shall be done as part of the Tenant Improvements.
7. Premises signage is part of Tenant Improvements, and must conform to overall signage program.
8. Exterior doors are as specified in Base Building plans prepared by Landlord.
9. Exterior windows are as specified in Base Building plans prepared by Landlord.
10. Trash enclosure – existing.
11. Gang mailboxes to be provided as per United States Postal Service specifications.
12. All parking lot lighting.
13. Site landscaping.
14. 51 parking stalls striped.
15. Primary heating, Ventilating and air-conditioning condenser service (excluding, however, the HVAC unit, duct work, and excluding vents, thermostats and other secondary improvements, all of which will be part of the Tenant Improvements).

[Note: Restrooms are part of Tenant Improvements.]

EXHIBIT D
TENANT CERTIFICATE

Tenant Name:

Landlord Name:

Mortgaged Property:

Tenant's Premises in Mortgaged Property:

Address/Suite# _____

Total Square Footage: _____ Description of Operations: _____

Landlord requests Tenant to complete this Certificate for the benefit of _____ (together with its successors and assigns, "**Lender**") and Landlord in connection with a pending loan ("**Loan**") that Lender may make to Landlord. The Loan will be secured by a mortgage or deed of trust on the Mortgaged Property.

TENANT STATEMENTS ABOUT ITS LEASE

Unless otherwise stated by Tenant in Item 19 below, Tenant confirms to Lender and Landlord:

- D.1. An accurate and complete copy of Tenant's lease agreement ("**Lease**") is attached as Schedule A. The Lease is in full force and effect, and no other agreements (verbal or written) modify or supplement the Lease or Tenant's rights with respect to the Premises. Tenant has not assigned, sublet, encumbered, or otherwise transferred all or any part of the Premises or the Lease. To the best of Tenant's knowledge, no rental or leasing commission remain unpaid with respect to the Lease.
- D.2. Tenant currently (a) is the sole tenant and occupant of the Premises, (b) has unconditionally accepted full possession of the Premises, and (c) is open for business and operating from the Premises. All tenant improvements to be constructed as a condition to the Lease have been completed to Tenant's satisfaction, and no un-reimbursed construction or fit-up allowances are due to Tenant. No damage to the Premises exists which has not been repaired to Tenant's satisfaction. All common areas of the Mortgaged Property (including, without limitation, parking areas, sidewalks, access ways and landscaping) are in compliance with the Lease and are satisfactory for Tenant's purposes.
- D.3. The Lease is or is not guaranteed. A copy of each guaranty is attached as Schedule B.
- D.4. No default by Landlord or by Tenant currently exists under the Lease. No event or condition exists which would be an event of default under the Lease if notice had been given or applicable grace/cure periods had expired (or both). Tenant has no setoffs, credits, claims or defenses to Tenant's obligation to pay rent or other charges to be paid under the Lease (including, without limitation, common maintenance charges) or to enforcement of the Lease. Tenant has not given Landlord any notice of termination of the Lease.
- D.5. The current lease term began on _____, and the rent commencement date, if different, began on _____. The current lease term ends on _____. Tenant has no option to terminate the Lease prior to such date.
- D.6. Tenant has the option to extend the term of the Lease for _____ renewal periods. Each renewal offers a term of _____ months. Tenant has not exercised any renewal option as of the date hereof.
- D.7. Tenant has none of the following rights: Right to expand the Premises; right to relocate the Premises; right of first refusal (offer) with respect to any other space in the Mortgaged Property; or option or right of first refusal (offer) to purchase the Mortgage Property.
- D.8. Tenant's current share of direct expenses is _____%.
- D.9. Tenant's last payment of base rent in the amount of \$ _____ was paid on _____, and Tenant's last payment of its share of direct expenses in the amount of \$ _____ was paid on _____. Tenant has paid no other advance rent.
- D.10. Tenant has paid Landlord a security deposit in the amount of \$ _____. Landlord has applied no portion of the security deposit toward Tenant's obligations under the Lease.

- D.11. All rent-free periods or rent concessions provided under the Lease have expired, and no rent concession will become effective during the remainder of the Lease.
- D.12. No bankruptcy, reorganization, insolvency or similar proceedings under any state or federal law has commenced or is currently proceeding in which Tenant is the debtor.
- D.13. Tenant has all licenses and permits which Tenant must have to operate its business from the Premises, and all are current and have not been revoked.
- D.14. Since taking possession of the Premises, Tenant has not received any notice that the Premises or Tenant's use of the Premises violates any applicable law, regulation, ordinance or directive of any governmental authority or agency or insurance company.
- D.15. Since taking possession of the Premises, Tenant has not stored, generated, manufactured, refined, treated, transported, disposed or in any way used materials which are considered hazardous substances or wastes under applicable environmental laws and regulations (including, without limitation, petroleum or petroleum by-products) at the Premises or on any other part of the Mortgaged Property, except for de minimus quantities incidental to the cleaning or operation of Tenant's business.
- D.16. Tenant is not identified on the list of specially designated nationals and blocked persons subject to financial sanctions that is maintained by the U.S. Treasury Department, Office of Foreign Assets Control (<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>) and any other similar list maintained by the Office of Foreign Assets Control pursuant to any authorizing United States law, regulation or Executive Order of the President of the United States ("OFAC List") nor is Tenant subject to trade embargo or economic sanctions pursuant to any authorizing United States law, regulation or Executive Order of the President of the United States.
- D.17. Tenant understands that a condition of the Loan may require Lender's consent to any future amendment, waiver, expansion or renewal (except for expansion or renewal rights currently permitted to Tenant by the express terms of the Lease), and no modification, waiver, expansion or renewal made without Lender's written consent will be enforceable against Landlord.
- D.18. Tenant understands that a condition of the Loan will prohibit Landlord from accepting Tenant's rent more than 30 days prior to its due date, and no payment of rent by Tenant more than 30 days in advance will be binding on Lender.
- D.19. Listed below (or on Schedule C attached hereto by Tenant) are any exceptions asserted by Tenant to the foregoing statements 1-18. (Lender has no obligation to address Tenant's exceptions in connection with the Loan): _____

BY SIGNING BELOW:

- Tenant certifies that all information stated in this Certificate is accurate and correct in all material respects and does not omit any material fact that would make any statement false or misleading and that the undersigned representative is duly authorized to sign this Certificate on Tenant's behalf.
- Tenant agrees for a period of thirty (30) days from the date hereof to notify Landlord and Lender in writing of any changes to the statements made by Tenant in this Certification promptly upon Tenant's learning of each such change.

Tenant:

Date: _____

By: _____
 Name: _____
 Title: _____

ATTACH: *Complete copy of Lease as Schedule A.*
 Complete copy of each Guaranty as Schedule B.

EXHIBIT E

RECORDING REQUESTED BY AND
AFTER RECORDING, RETURN TO:

[Space above this line reserved for Recorder's use.]

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

This Subordination, Non-Disturbance and Attornment Agreement ("Agreement"), is made as of this ____ day of _____, 20__ among _____, a _____ ("Lender"), TRIMARK COMMUNITIES, LLC, a California limited liability company ("Landlord"), and _____, a _____ ("Tenant").

Background

A. Lender has agreed to make a loan to Landlord in an original principal amount not to exceed \$ _____ ("Loan"), which will be secured by a mortgage, deed of trust or similar security instrument (either, "Security Instrument") on Landlord's property described more particularly on Exhibit A attached to this Agreement ("Property").

B. Tenant is the present lessee under that certain lease agreement between Landlord and Tenant dated _____, 2006, as thereafter modified and supplemented ("Lease"); demising a portion of the Property described more particularly in the Lease ("Leased Premises").

C. A requirement of the Loan is that Tenant's Lease be subordinated to the Security Instrument. Landlord has requested Tenant to confirm the subordination of the Lease to the Security Instrument in exchange for Lender's agreement not to disturb Tenant's possession of the Leased Space upon the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises of this Agreement, and intending to be legally bound hereby, the parties hereto agree as follows:

E.1. Subordination. Tenant agrees and confirms that the Lease, and all estates, options and rights created under the Lease, is subordinated and made subject to the lien and effect of the Security Instrument, as if the Security Instrument had been executed and recorded prior to the Lease.

E.2. Nondisturbance. Lender agrees that no foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure, or other sale of the Property in connection with enforcement of the Security Instrument or otherwise in satisfaction of the Loan shall operate to terminate the Lease or Tenant's rights under the Lease to possess and use the Leased Premises provided, however, that (a) the term of the Lease has commenced, (b) Tenant is in possession of the Leased Premises, and (c) the Lease is in full force and effect and no uncured default exists under the Lease.

E.3. Attornment. Tenant agrees to attorn to and recognize as its landlord under the Lease each party acquiring legal title to the Property by foreclosure (whether judicial or nonjudicial) of the Security Instrument, deed-in-lieu of foreclosure, or other sale in connection with enforcement of the Security Instrument or otherwise in satisfaction of the Loan ("Successor Owner"). Provided that the conditions set forth in Section 2 above are met at the time Successor Owner becomes owner of the Property, Successor Owner shall perform all obligations of the landlord under the Lease arising from and after the date title to the Property is transferred to Successor Owner. In no event, however, will any Successor Owner be: (a) liable for any default, act or omission of any prior landlord under the Lease; (b) subject to any offset or defense which Tenant may have against any prior landlord under the Lease; (c) bound by any payment of rent or additional rent made by Tenant to Landlord more than 30 days in advance; (d) bound by any modification or supplement to the Lease, or waiver of Lease terms, made without Lender's written consent thereto; (e) liable for the return of any security deposit or other prepaid charge paid by Tenant under the Lease, except to the extent such amounts were actually received by Lender; (f) liable or bound by any right of first refusal or option to purchase all or any portion of the Property; or (g) liable for construction or completion of any improvements to the Property or as required under the Lease for Tenant's use and occupancy (whenever arising). Although the foregoing provisions of this Agreement are self-operative, Tenant agrees to execute and deliver to Lender or any Successor Owner such further instruments as Lender or a Successor Owner may from time to time request in order to confirm this Agreement. If any liability of Successor Owner does arise pursuant to this Agreement, such liability shall be limited to Successor Owner's interest in the Property.

E.4. Rent Payments; Notice to Tenant Regarding Rent Payments. Tenant agrees not to pay rent more than one (1) month in advance unless otherwise specified in the Lease. After notice is given to Tenant by Lender that Landlord is in default under the Security Instrument and that the rentals under the Lease are to be paid to Lender directly pursuant to the assignment of leases and

rents granted by Landlord to Lender in connection therewith, Tenant shall thereafter pay to Lender all rent and all other amounts due or to become due to Landlord under the Lease. Landlord hereby expressly authorizes Tenant to make such payments to Lender upon reliance on Lender's written notice (without any inquiry into the factual basis for such notice or any prior notice to or consent from Landlord) and hereby releases Tenant from all liability to Landlord in connection with Tenant's compliance with Lender's written instructions.

E.5. Lender Opportunity to Cure Landlord Defaults. Tenant agrees that, until the Security Instrument is released by Lender, it will not exercise any remedies under the Lease following a Landlord default without having first given to Lender (a) written notice of the alleged Landlord default, and (b) the opportunity to cure such default within the longer of (i) 30 days after the cure period provided under the Lease to Landlord, (ii) 30 days from Landlord's receipt of Tenant's notice to Lender of a Landlord default; or (iii) if the cure of such default requires possession of the Property, 30 days after Lender has obtained possession of the Property; provided that, in each case, if such default cannot reasonably be cured within such 30-day period and Lender has diligently commenced to cure such default promptly within the time contemplated by this Agreement, such 30-day period shall be extended for so long as it shall require Lender, in the exercise of due diligence, to cure such default, but, unless the parties otherwise agree, in no event shall the entire cure period be more than 120 days. Tenant acknowledges that Lender is not obligated to cure any Landlord default, but if Lender elects to do so, Tenant agrees to accept cure by Lender as that of Landlord under the Lease and will not exercise any right or remedy under the Lease for a Landlord default. Performance rendered by Lender on Landlord's behalf is without prejudice to Lender's rights against Landlord under the Security Instrument or any other documents executed by Landlord in favor of Lender in connection with the Loan.

E.6. Miscellaneous.

E.6.1. Notices. All notices and other communications under this Agreement are to be in writing and addressed as set forth below such party's signature to this Agreement. Default or demand notices shall be deemed to have been duly given upon the earlier of: (i) actual receipt; (ii) one (1) business day after having been timely deposited for overnight delivery, fee prepaid, with a reputable overnight courier service, having a reliable tracking system; (iii) one (1) business day after having been sent by telecopier (with answer-back acknowledged) provided an additional notice is given pursuant to (ii); or (iv) 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 by certified mail, postage prepaid, return receipt requested, and in the case of clause (ii) and (iv) irrespective of whether delivery is accepted. A new address for notice may be established by written notice to the other parties; provided, however, that no address change will be effective until written notice thereof actually is received by the party to whom such address change is sent.

E.6.2. Entire Agreement; Modification. This Agreement is the entire agreement between the parties to this Agreement with respect to the subject matter of this Agreement, and supersedes and replaces all prior discussions, representations, communications and agreements (oral or written). This Agreement shall not be modified, supplemented, or terminated, nor any provision of this Agreement waived, except by a written instrument signed by the party against whom enforcement thereof is sought, and then only to the extent expressly set forth in such writing.

E.6.3. Binding Effect; Joint and Several Obligations. This Agreement is binding upon and inures to the benefit of the parties to this Agreement and their respective heirs, executors, legal representatives, successors, and assigns, whether by voluntary action of the parties or by operation of law. No Indemnitor may delegate or transfer its obligations under this Agreement.

E.6.4. Unenforceable Provisions. Any provision of this Agreement which is determined by a court of competent jurisdiction or government body to be invalid, unenforceable or illegal shall be ineffective only to the extent of such determination and shall not affect the validity, enforceability or legality of any other provision, nor shall such determination apply in any circumstance or to any party not controlled by such determination.

E.6.5. Duplicate Originals; Counterparts. This Agreement may be executed in any number of duplicate originals, and each duplicate original shall be deemed to be an original. This Agreement (and each duplicate original) also may be executed in any number of counterparts, each of which shall be deemed an original and all of which together constitute a fully executed Agreement even though all signatures do not appear on the same document.

E.6.6. Construction of Certain Terms. Defined terms used in this Agreement may be used interchangeably in singular or plural form, and pronouns shall be construed to cover all genders. Article and section headings are for convenience only and shall not be used in interpretation of this Agreement. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or other subdivision; and the word "section" refers to the entire section and not to any particular subsection, paragraph or other subdivision; and "Agreement" and each of the Loan Documents referred to herein mean the agreement as originally executed and as hereafter modified, supplemented, extended, consolidated, or restated from time to time.

E.6.7. Governing Law. This Agreement shall be interpreted and enforced according to the laws of the State where the Property is located (excluding any choice of law rules that may direct the application of the laws of another jurisdiction).

E.6.8. Consent to Jurisdiction. Each party to this Agreement irrevocably consents and submits to the exclusive jurisdiction and venue of any state or federal court sitting in the county and state where the Property is located with respect to any legal action arising with respect to this Agreement and waives all objections that it may have to such jurisdiction and venue.

E.6.9. WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY TO THIS AGREEMENT WAIVES AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS AGREEMENT.

[Remainder of page is blank; signatures appear on next page.]

IN WITNESS WHEREOF, this Agreement is executed this ___ day of _____, 20__.

LENDER:

TENANT:

a _____

a _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Lender Notice Address:

Tenant Notice Address:

Attn: _____

Attn: _____

LANDLORD:

TRIMARK COMMUNITIES, LLC, a
California limited liability company

By: HKHL OF CALIFORNIA, INC., a
California corporation, its Managing Member

By: _____
Name: Stephen E. Renneckar
Its: Vice President and Secretary

By: BHL OF CALIFORNIA, INC., a
California corporation, its Managing Member

By: _____
Name: Stephen E. Renneckar
Its: Vice President and Secretary

Landlord Notice Address:

Attn: _____

Notary Acknowledgement for Lender:

State of _____:

:ss

County of _____:

On this, the ___ day of _____, 20___, before me, the undersigned Notary Public, personally appeared _____ known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and who acknowledged to me that he/she is an officer of _____ in the capacity stated and that he/she executed the within instrument in such capacity for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

Notary Acknowledgement for Tenant:

State of _____:

:ss

County of _____:

On this, the ___ day of _____, 20___, before me, the undersigned Notary Public, personally appeared _____ known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and who acknowledged to me that he/she is an officer of the Tenant in the capacity stated and that he/she executed the within instrument in such capacity for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

Notary Acknowledgement for Landlord:

State of _____:

:ss

County of _____:

On this, the ___ day of _____, 20___, before me, the undersigned Notary Public, personally appeared _____ known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and who acknowledged to me that he/she is an officer of the Landlord in the capacity stated and that he/she executed the within instrument in such capacity for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

EXHIBIT F

MOUNTAIN HOUSE COMMERCIAL CENTER

RULES AND REGULATIONS

WHICH CONSTITUTE A PART OF THE LEASE

These Rules and Regulations shall apply to ___ Wicklund Crossing, Mountain House, CA 95391 (the "Premises"), which Premises constitutes a portion of the building located at San Joaquin County, California ("Mountain House Commercial Center"), owned by Trimark Communities, LLC, a California limited liability company ("Landlord"). The Premises are leased to the Mountain House Community Services District ("Tenant").

Mountain House Commercial Center is a privately-owned and operated commercial building and has not at any time been dedicated to public uses. Mountain House Commercial Center's sole purpose is that of a commercial building. The various tenants within Mountain House Commercial Center pay rent for the opportunity to conduct their businesses at Mountain House Commercial Center in a well-maintained, first-class, family-oriented, professional environment that is designed to maximize productivity, customer satisfaction, the professional image of any and all tenants maintaining a business in Mountain House Commercial Center and that is consistent with the residential neighborhood in which it is located (including, but not limited to, its proximity to an elementary school).

Each of these Rules and Regulations shall be interpreted to achieve the purpose for which Mountain House Commercial Center is operated, and to protect the valuable property rights of Landlord and the business environment of Mountain House Commercial Center. These Rules and Regulations shall apply 24 hours per day, 7 days per week.

1. Tenant shall comply with each of the following Rules and Regulations. Landlord shall not be responsible to Tenant for the nonperformance of any of these Rules and Regulations.
2. 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 by Tenant. Two keys shall 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.
3. Any activity that contravenes applicable federal, state or local law or ordinance is expressly prohibited in the Premises and in Mountain House Commercial Center.
4. Neither the enforcement of these Rules and Regulations nor any activity permitted by these Rules and Regulations shall constitute or be deemed to constitute a dedication of Mountain House Commercial Center to public uses, nor shall it be construed or interpreted as an acquiescence or a waiver of the private property rights of Landlord.
5. Except as approved in writing by Landlord, and then only in accordance with rules and regulations specifically relating to after hours activities, no activities shall be permitted to occur within Mountain House Commercial Center before or after the Building Hours.
6. The sidewalks, entrances, passages, courts, elevators, vestibules, stairways, corridors, parking areas, walkways or any other portion of the Common Areas shall not be obstructed by Tenant, or its employees, servants, agents, assignees, sub-Tenants, licensees, concessionaires, visitors, clients, customers, patrons, invitees, suppliers, delivery companies, contractors, subcontractors, or others acting for or on behalf of Tenant ("Tenant's Guests") or used for any purpose by Tenant, or Tenant's Guests, other than ingress and egress.
7. Tenant shall conduct its business and control and supervise its agents, employees, and invitees in such a manner so as not to create any nuisance or interfere with, annoy, or disturb any other tenant, any other tenant's employees, servants, agents, assignees, sub-tenants, licensees, concessionaires, visitors, clients, customers, patrons, invitees, suppliers, contractors, subcontractors, or others acting for or on behalf of any other tenant ("Other Tenant's Guests"), occupants, or invitees of Mountain House Commercial Center. Neither Tenant nor any of Tenant's Guests shall use physical force, obscene language or gestures, loud arguing, loud conversation, physically or verbally threaten any person, engage in fighting, arguing, or raucous activity, or create any disturbance which is disruptive to Mountain House Commercial Center's function or which tends to disturb any other tenant or Other Tenant's Guests. Tenant shall monitor the arrival and departure of Tenant's Guests to and from the Premises and Mountain House Commercial Center to insure that this rule is not violated.
8. Tenant shall not permit the consumption of alcoholic beverages in the Common Areas and shall monitor Tenant's Guests to insure this rule is not violated.
9. Neither Tenant nor any of Tenant's Guests shall use, operate or permit to be played any musical instrument, or any device, instrument or equipment for the reproduction or amplification of sound in any manner within Mountain House Commercial Center. Notwithstanding anything to the contrary in this paragraph 9, use of a radio, cd player or similar equipment is permitted in the

Premises so long as the sounds emanating from such equipment are not audible in the Common Areas, or able to be heard by other tenants, occupants or invitees of the Mountain House Commercial Center.

10. Tenant shall not install an automated teller machine within the Premises or in any part of the Common Areas.

11. Tenant shall not use the sidewalk in front of and adjacent to the Premises or any portion of the Common Areas for the sale or display of Tenant's merchandise or the display of signs or banners. There shall be no sales conducted outside the Premises or in the Common Areas.

12. Neither Tenant, nor any of Tenant's Guests, shall, at any time, use, keep or permit to be kept upon the Premises, or Mountain House Commercial Center, any flammable, combustible, or explosive fluid, chemical, or substance, or any foul or noxious gas or substance.

13. Neither Tenant, nor any of Tenant's Guests, shall at any time permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other tenants of Mountain House Commercial Center or neighboring buildings by reason of odors, and/or vibrations.

14. Neither Tenant nor any of Tenant's Guests shall impede, obstruct or interfere with any employees, servants, agents, assignees, sub-Tenants, licensees, concessionaires, visitors, clients, customers, patrons, invitees, suppliers, contractors, subcontractors, or others acting for or on behalf of Landlord or any other tenant of Mountain House Commercial Center, or with the free flow of pedestrian or vehicle traffic, including ingress and egress to and from Mountain House Commercial Center and other tenants.

15. All motor vehicles shall be parked in an orderly manner within the painted lines defining the individual parking places. During any period of business activity, limitations (and prohibitions) may be imposed by Landlord as to the length of time and/or location of parking areas to be used by Tenant, its employees and/or Tenant's Guests.

16. Tenant shall give to Landlord upon the execution of the Lease, and thereafter upon request by Landlord, a complete list of license plate numbers of all automobiles and vehicles owned or operated by Tenant and its employees.

17. Landlord may at any time and from time to time relocate Tenant's parking to another area in Mountain House Commercial Center, or in reasonable proximity thereto, which area may be elevated, surface, or underground.

18. Tenant and/or Tenant's Guests shall not park overnight at Mountain House Commercial Center. Tenant shall monitor Tenant's Guests to make sure they do not park in spaces reserved to other tenants, if any, or park overnight at Mountain House Commercial Center. Landlord may, without prior notice to Tenant and at Tenant's cost, cause any vehicle of Tenant, or Tenant's Guests, parked in any reserved space of any other tenant, or parked overnight at Mountain House Commercial Center, to be towed from Mountain House Commercial Center. Notwithstanding anything to the contrary in this paragraph 18, Tenant shall be allowed to park overnight at Mountain House Commercial Center one (1) non-commercial MHCSO (i.e. ½ ton or less) government vehicle, which vehicle shall be well-maintained, shall be in good operating condition, and be in operation during MHCSO's business hours. The government vehicle to be parked overnight shall be parked in a location designated by Landlord in writing.

19. No furniture, packages, supplies, equipment, or merchandise may be received in the Mountain House Commercial Center, except between those hours that Landlord may designate in writing.

20. Tenant shall assume all responsibility, including, but not limited to, keeping doors locked and other means of entry to the Premises closed, for protecting the Premises from theft, robbery, and pilferage.

21. All garbage and refuse shall be kept in the kind of container specified by Landlord, and shall be placed in the area specified by Landlord and prepared for collection in the manner and at the times specified by Landlord. If Landlord shall provide or designate a service for picking up refuse and garbage, Tenant shall use the same at Tenant's cost. Tenant will not install or cause to be installed any automatic garbage disposal equipment without the prior written consent of Landlord. In disposing of trash and garbage, Tenant shall comply fully with any law or ordinance governing that disposal.

22. Neither Tenant nor any of Tenant's Guests shall create litter or safety hazards of any kind or throw, discard, or deposit any paper, glass, or other matter of any kind in Mountain House Commercial Center except in designated trash receptacles.

23. Tenant shall be responsible for immediately cleaning up any debris or garbage caused by or in any way associated with Tenant's, or Tenant's Guests', activities within Mountain House Commercial Center. Tenant shall be responsible to ensure that Mountain House Commercial Center and the areas surrounding it are clean, neat and free and clear of trash and refuse related to any of its activities, or the activities of Tenant's Guests, within Mountain House Commercial Center.

24. Tenant will, at its expense, keep the inside and outside of all glass in the doors and windows of the Premises and all exterior surfaces of the Premises clean and free of graffiti.

25. Tenant shall not include anything in Tenant's window displays which in Landlord's reasonable opinion: (i) may injure the reputation of Mountain House Commercial Center; (ii) may be offensive to customers of the Mountain House Commercial Center;

or (iii) is contrary to the first-class, family-oriented standards of merchandising, marketing, or operation intended by Landlord for Mountain House Commercial Center.

26. Neither Tenant nor any of Tenant's Guests shall eat or drink within any interior Common Areas of Mountain House Commercial Center.

27. Neither Tenant nor any of Tenant's Guests shall smoke within the Premises or Common Areas with the exception of those portions of the Common Areas specifically designated by Landlord, in writing, as smoking areas, if any.

28. No cooking shall be done or permitted on the Premises, except that Underwriters' Laboratory (UL)-approved equipment and microwave ovens may be used in the Premises for heating food and brewing coffee, tea, hot chocolate, and similar items for Tenant and Tenant's Guests. Tenant shall not cause or permit any unusual or objectionable odors to be produced upon or ~~permeate from the Premises into Mountain House Commercial Center, including, but not limited to, the Common Areas,~~

29. Neither Tenant nor Tenant's Guests shall throw anything out of the doors, windows, or onto the walkways or down the stairways of Mountain House Commercial Center.

30. There shall not be used in any space or in the Common Areas of Mountain House Commercial Center, either by Tenant or Tenant's Guests, any hand trucks, except those equipped with rubber tires and side guards. Tenant shall insure that movers place hardboard over carpets in the Common Areas to prevent the carpet or its backing from being damaged. Tenant will have movers install pads in elevators prior to using the elevator to move furniture or equipment.

31. Tenant and Tenant's Guests shall be neat in appearance and at all times be fully clothed, including shoes and shirts.

32. Tenant or Tenant's Guests shall not mark, paint, drill into, or in any way deface or damage any part of the Premises or Mountain House Commercial Center. No boring, cutting, or stringing of wires or laying of carpeting, linoleum or other similar floor coverings shall be permitted, except with the prior written consent of Landlord (in Landlord's sole and absolute discretion) and as Landlord may direct (in its sole and absolute discretion).

33. Neither Tenant nor any of Tenant's Guests shall deface, damage, destroy or remove any real or personal property constituting part of, or located in or on, Mountain House Commercial Center and belonging to Landlord, or any employees, servants, agents, assignees, sub-Tenants, licensees, concessionaires, visitors, clients, customers, patrons, invitees, suppliers, contractors, subcontractors, or others acting for or on behalf of Landlord or any other tenant of Mountain House Commercial Center.

34. The restrooms, 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 shall be thrown into them. The expense of any breakage, stoppage, or damage resulting from violation of this rule by Tenant, or Tenant's Guests, shall be borne by Tenant.

35. While within the Common Areas of Mountain House Commercial Center, Tenant and Tenant's Guests shall keep all personal items on their person. All personal property left unattended within the Common Areas of Mountain House Commercial Center for more than ten (10) minutes shall be subject to removal and treated as abandoned property. Landlord shall not be responsible for injury, loss or damage to Tenant or Tenant's Guests or its or their personal property.

36. No awning or other projection shall be displayed or attached to the outside walls of Mountain House Commercial Center without the prior written consent of Landlord. 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, without the prior written consent of Landlord. Such awnings, projections, curtains, blinds, shades, screens or other fixtures must be of a quality, type, design, and color, and attached in the manner approved by Landlord.

37. The sashes, sash doors, windows, and doors that reflect or admit light and air into any Common Areas in Mountain House Commercial Center shall not be covered or obstructed by Tenant or Tenant's Guests. No bottles, parcels, or other articles shall be placed on the windowsills. Landlord shall have the right to require Tenant to keep the window coverings closed at all times or some of the time.

38. Tenant will not place or suffer to be placed or maintained on the exterior of the Premises, or in the interior of the Premises if it is visible from the exterior, or in any vestibule of the Premises, or in the window(s) of the Premises, any sign (including neon signs), lettering, poster, banner, advertising matter, or other item of any kind, and will not place or maintain any decoration (painted directly onto the window(s) or otherwise), lettering, poster, banner or advertising matter on the glass of any window or door of the Premises without the prior written consent of Landlord, which Landlord may withhold in its sole and absolute discretion. Landlord shall have the right, without notice to Tenant and without any liability for damage to the Premises reasonably caused thereby, to remove any items displayed or affixed in or to the Premises or Common Areas that Landlord determines to be in violation of these Rules and Regulations.

39. Tenant shall not install or use any flashing display or light or any strobe-type light fixtures on the exterior of the Premises, or in the interior if visible from the exterior, without Landlord's prior written consent. Upon notice from Landlord, Tenant shall

remove or take such other action as Landlord may direct to mitigate any such lighting which has been installed without the Landlord's prior written approval.

40. The Premises shall not be used for any immoral or illegal purposes.

41. Tenant shall not engage or pay any employees on the Premises except those actually working for such Tenant on the Premises.

42. Tenant shall not place any radio or television antenna, satellite, or any other device, on the roof or on any part of the interior or exterior of Mountain House Commercial Center other than inside the Premises. Tenant shall not operate any electrical device from which may emanate electrical waves which may interfere with or impair radio or television broadcasting or reception from or in Mountain House Commercial Center. Any aerial device so installed shall be subject to removal without notice at any time.

43. The weight, size, and position of all safes and other unusually heavy objects used or placed in the Premises shall be prescribed by Landlord. The repair of any damage done to the Premises or Mountain House Commercial Center or property therein by putting or taking out or maintaining such safes or other unusually heavy object shall be made and paid for by Tenant. All removals, or the carrying in or out of Mountain House Commercial Center or moving within Mountain House Commercial Center of any safes, furniture, or other fixtures or bulky matter of any description must take place during the hours which Landlord may determine from time-to-time. The moving of safes, furniture, or other fixtures or bulky matter of any kind must be made upon previous notice to, and under the supervision of, the property manager of Mountain House Commercial Center. The persons employed by Tenant for such work must be acceptable to Landlord. Landlord reserves the right to inspect all safes, furniture, fixtures, freight, or other bulky articles to be brought into Mountain House Commercial Center and to exclude from Mountain House Commercial Center all safes, freight, or other bulky articles which violate any of these Rules and Regulations. Landlord reserves the right to prescribe the weight and position of all safes, which must be placed upon supports approved by Landlord to distribute the weight.

44. All 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, or annoyance.

45. No air conditioning unit, heating unit or other similar apparatus shall be installed or used by Tenant without the prior written consent of Landlord.

46. Tenant shall comply with requests by Landlord that Tenant inform Tenant's employees of items of importance to Landlord.

47. No leaflets or other materials are to be distributed within Mountain House Commercial Center by Tenant, nor any of Tenant's Guests. The cost of any clean-up and/or repairs required as a result of any such distribution shall be borne by Tenant whether Tenant, or Tenant's Guests, shall have caused the same.

48. No bicycles, vehicles, or animals (except guide dogs or animals or vehicles required by any disabled employee or invitee of Tenant) of any kind shall be brought into or kept in or about the Premises and/or the interior portions of Mountain House Commercial Center. Bicycles shall be parked in bicycle racks or other areas designated for such use by Landlord.

49. No posters, placards, and/or signs shall be allowed within Mountain House Commercial Center without the prior written consent of Landlord.

50. No display, visual aid, or device having moving parts will be permitted within the Common Areas of Mountain House Commercial Center.

51. Canvassing, soliciting, and peddling in Mountain House Commercial Center are prohibited and Tenant shall cooperate to prevent the same.

52. Tenant and Tenant's Guests may not solicit nor receive money or other contributions or donations from anyone within the Common Areas of Mountain House Commercial Center.

53. Tenant and Tenant's Guests may not distribute commercial advertising or commercial promotional materials of any kind, or offer samples of any items within the Common Areas of Mountain House Commercial Center, other than in connection with the sale of merchandise.

54. Tenant and Tenant's Guests shall not solicit orders for, sell or promote any items (including books, pamphlets, periodicals, tickets or other materials) or services for which money is received or credit is extended within the Common Areas of Mountain House Commercial Center.

55. Tenant and Tenant's Guests shall make no express or implied representations that Landlord or any Tenant within Mountain House Commercial Center sponsors or supports a view, belief, or request contained in any petition, statement or literature being disseminated or exhibited by such individual.

56. Landlord shall have the right to prohibit any advertising by any Tenant which, in Landlord's sole and absolute opinion, tends to impair the reputation of Mountain House Commercial Center or its desirability as commercial building and, upon written notice from Landlord, any Tenant shall refrain from or discontinue such advertising.

57. Tenant shall remove, or cause to be removed, from Mountain House Commercial Center, any of Tenant's Guests who, in the judgment of Tenant or Landlord, is intoxicated or under the influence of drugs or alcohol, or who shall in any manner do any act in violation of these Rules and Regulations. Landlord reserves the right to exclude or expel from Mountain House Commercial Center 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 these Rules and Regulations.

58. Landlord reserves the right to take any appropriate action, including without limitation, necessary legal action, to ensure compliance with these Rules and Regulations.

59. A violation or refusal to comply with these Rules and Regulations may result in the arrest of the violator and/or the removal of the violator from Mountain House Commercial Center. A violation of these Rules and Regulations by Tenant, or Tenant's Guests, or Tenant's refusal to comply with these Rules and Regulations, shall be a material breach of the Lease by Tenant.

60. Landlord may waive any one or more of these Rules and Regulations for the benefit of particular tenants. Inadvertent or intentional failure to enforce one or more of these Rules and Regulations does not constitute acquiescence to any prohibited activity nor is it a waiver of Landlord's right to enforce the Rules and Regulations. Tenant shall be considered to have read these Rules and Regulations and to have agreed to abide by them as a condition of Tenant's occupancy of the Premises.

61. These Rules and Regulations shall not be deemed or construed as creating any special or fiduciary relationship or joint venture between Landlord and Tenant or Tenant's Guests.

62. To retain the ability to adapt to new or changing circumstances, Landlord reserves the continuing right, without the necessity of advance notice or hearing, to alter, amend, modify, change or terminate these Rules and Regulations, or any of them, and/or to make new or different Rules and Regulations. Upon doing so, Landlord shall have the right to waive any one or more of such Rules and Regulations for the benefit of particular tenants. Inadvertent or intentional failure to enforce one or more of such Rules and Regulations does not constitute acquiescence to any prohibited activity nor is it a waiver of Landlord's right to enforce such Rules and Regulations.

63. In the event of any conflict between these Rules and Regulations and the provisions of the Lease, the provisions of the Lease shall control.

64. Any expense incurred by Landlord, including, but not limited to, the expense of repairing any damage to the Premises, Common Areas, or Mountain House Commercial Center, resulting from the activities of Tenant or Tenant's Guests, or the violation of any Rule or Regulation herein, shall be borne by Tenant whether Tenant, or Tenant's Guests, shall have caused the same, and shall be paid by Tenant upon demand by Landlord.

SCHEDULE 1 – TENANT'S EMPLOYEE PARKING AREA

[See Attached]

EXHIBIT G

MOUNTAIN HOUSE COMMERCIAL CENTER

OPTION TO EXTEND

Option to Extend Term. Landlord grants to Tenant three (3) options to extend the Lease Term (the "First Extension Option," the "Second Extension Option" and the "Third Extension Option," collectively the "Extension Options," and each an "Extension Option"), for a period of one (1) year each (the "First Option Term," the "Second Option Term" and the "Third Option Term," collectively, the "Option Terms," and each an "Option Term") as described in the Summary section 5(d) of the Lease, subject to the conditions described in this Exhibit G. Tenant shall have no other right to extend the term of the Lease other than as set forth herein.

1. Conditions of Option. Each Extension Option is subject to the following conditions:

(a) Each Extension Option may be exercised only by written notice delivered by Tenant to Landlord as provided in this Exhibit G and only if, as of the date of delivery of the notice, Tenant is not in default under this Lease.

(b) The right to extend the Lease Term contained in this Exhibit G: (i) shall be personal to and solely for the benefit of the originally named Tenant; (ii) may be exercised only by the originally named Tenant (and not any assignee, sublessee, or other transferee of Tenant's interest in this Lease); and (iii) may be exercised only if the originally named Tenant occupies the entire Premises as of the date it exercises the applicable Extension Option in accordance with the terms of this Exhibit G.

(c) If Tenant properly exercises an Extension Option, and provided Tenant is not in default under this Lease at the end of the initial Lease Term (or applicable Option Term, in the event the initial Lease Term, First Option Term or Second Option Term were previously extended), the Lease Term (or applicable Option Term, in the event the initial Lease Term, First Option Term or Second Option Term were previously extended), as it applies to the entire Premises then leased by Tenant, shall be extended for the applicable Option Term.

Notwithstanding the foregoing, if during the Lease Term (as the same may have been extended) more than three (3) times, or if during the Lease Term (as the same may have been extended) more than one (1) time in any six (6) month period, Tenant has failed to pay Rent as and when due (even if cured), the Extension Options shall terminate and may not be exercised.

2. Option Rent. The Base Rent payable by Tenant during the First Option Term ("Option Rent") shall be equal to the greater of: (a) an amount equal to one hundred percent (100%) of the Fair Market Rental Value of the Premises (as defined in subsection 2.1.) as of the commencement date of the First Option Term; or (b) one hundred five percent (105%) of the Base Rent payable by Tenant immediately prior to the First Option Term. For each subsequent Option Term, the Option Rent shall increase by three (3%) annually. Tenant shall continue to be responsible for the payment of Additional Rent during the Option Terms.

2.1. Fair Market Rental Value. For purposes of this Exhibit G, Fair Market Rental Value of the Premises ("Fair Market Rental Value of the Premises") shall be the rental rate, determined in accordance with subsection 2, at which tenants lease comparable space as of the commencement of the First Option Term. For this purpose, comparable space ("Comparable Space") shall be space that is:

- (a) Not subleased;
- (b) Not subject to another tenant's expansion rights;
- (c) Comparable in size, location, and quality to the Premises;
- (d) Leased for a term comparable to the First Option Term; and
- (e) Located in comparable buildings.

2.2. Rental Rate of Comparable Space. In determining the rental rate of Comparable Space, the parties shall include all escalations and take into consideration the following concessions:

(a) Rental abatement concessions, if any, being granted to tenants in connection with the Comparable Space; and

(b) Tenant improvements or allowances provided or to be provided for the Comparable Space, taking into account the value of the existing improvements in the Premises, based on the age, quality, and layout of the improvements.

2.3. Adjustment for Improvement Allowance. If in determining the Fair Market Rental Value of the Premises the parties determine that the economic terms of leases of Comparable Space include an improvement allowance, Landlord may, at Landlord's sole option, elect to do the following:

(a) Grant me or all of the value of the improvement allowance as an allowance for the refurbishment of the Premises; and/or

(b) Reduce the base rent component of the Fair Market Rental Value of the Premises to be an effective rental rate that takes into consideration the total dollar value of that portion of the improvement allowance that Landlord has elected not to grant to Tenant (in which case that portion of the improvement allowance evidenced in the effective rental rate shall not be granted to Tenant).

3. Exercise of Option. Each Extension Option must be exercised by Tenant, if at all, only at the time and in the manner provided in this section 3.

3.1. Interest Notice. If Tenant wishes to exercise the First Extension Option, Tenant shall deliver written notice ("Interest Notice") to Landlord no less than nine (9) months before the expiration of the initial Lease Term. If Tenant wishes to exercise the Second Extension Option, Tenant shall deliver an Interest Notice to Landlord no less than six (6) months before the expiration of the First Option Term. If Tenant wishes to exercise the Third Extension Option, Tenant shall deliver an Interest Notice to Landlord no less than six (6) months before the expiration of the Second Option Term.

3.2. Option Rent Notice. After receipt of Tenant's Interest Notice with respect to the First Extension Option, Landlord shall deliver notice ("Option Rent Notice") to Tenant no less than seven (7) months before the expiration of the initial Lease Term stating the Option Rent, based on Landlord's determination of the Fair Market Rental Value of the Premises as of the commencement date of the First Option Term. After receipt of Tenant's Interest Notice with respect to either the Second or Third Extension Option, Landlord shall deliver the Option Rent Notice to Tenant no less than four (4) months before the expiration of the First Option Term, or the Second Option Term, as applicable, stating the Option Rent, which shall be calculated by increasing the immediately preceding year's Option Rent by three percent (3%).

3.3. Exercise Notice. If Tenant wishes to exercise an Extension Option, Tenant must, on or before the earlier of (a) the date occurring six (6) months before the expiration of the initial Lease Term (or, as applicable, the date occurring three (3) months before the expiration of the First or Second Option Term), or (b) the date occurring thirty (30) days after Tenant's receipt of the Option Rent Notice, exercise the applicable Extension Option by delivering written notice ("Exercise Notice") to Landlord.

3.4. Objection to Option Rent for the First Option Term. If Tenant wishes to contest the Option Rent for the First Option Term ("First Option Term Rent") stated in the initial Option Rent Notice, Tenant must provide, with the Exercise Notice, written notice to Landlord that Tenant objects to the stated First Option Term Rent. If Tenant provides such written objection, the parties shall follow the procedure described in section 5, and the First Option Term Rent shall be determined as set forth in that section.

3.5. Failure to Deliver Timely Notice. If Tenant fails to deliver a timely Interest Notice or Exercise Notice, Tenant shall be considered to have elected not to exercise the Extension Option and the Extension Options shall terminate.

4. Amendment to Lease. If Tenant timely exercises an Extension Option, Landlord and Tenant shall, within fifteen (15) days after the Option Rent is determined under this Exhibit G, execute an amendment to this Lease extending the Lease Term on the terms and conditions set forth in this Exhibit G, provided that no changes to the terms and conditions of the Lease other than as expressly provided in this Exhibit G shall be made as a result of Tenant's exercising an Extension Option.

5. Resolving Disagreement over the First Option Term Rent. If Tenant timely and effectively objects to the First Option Term Rent stated in the initial Option Rent Notice, the disagreement shall be resolved under this section 5 and section 6.

5.1. Negotiated Agreement. Landlord and Tenant shall diligently attempt in good faith to agree on the First Option Term Rent on or before the tenth (10th) day after Tenant's objection to the First Option Term Rent stated in the applicable Option Rent Notice ("Outside Agreement Date").

5.2. Parties' Separate Determinations. If Landlord and Tenant fail to reach agreement on or before the Outside Agreement Date, Landlord and Tenant shall each make a separate determination of proposed First Option Term Rent and notify the other party of this determination within ten (10) days after the Outside Agreement Date.

5.3. Two Determinations. If each party makes a timely determination of proposed First Option Term Rent, those determinations shall be submitted to arbitration in accordance with section 6.

5.4. One Determination. If Landlord or Tenant fails to make a determination of proposed First Option Term Rent within the ten (10) day period, that failure shall be conclusively considered to be that party's approval of proposed First Option Term Rent submitted within the ten (10) day period by the other party.

6. Arbitration. If both parties make timely individual determinations of proposed First Option Term Rent under section 5.2, the First Option Term Rent shall be determined by arbitration under this section 6.

6.1. Scope of Arbitration. The determination of the arbitrator shall be limited to the sole issue of whether Landlord's or Tenant's submitted proposed First Option Term Rent is the most reasonable, as determined by the arbitrator.

6.2. Qualifications of Arbitrator. The arbitrator must be a licensed real estate broker or a licensed real estate appraiser who has been active in the leasing or appraisal of office buildings comparable to the building in the San Joaquin and/or Alameda county areas over at least the last five-year (5-year) period ending on the date of appointment as arbitrator.

6.3. Parties' Appointment of Arbitrators. Within fifteen (15) days after the Outside Agreement Date, Landlord and Tenant shall each appoint one arbitrator and notify the other party of the arbitrator's name and business address.

6.4. Appointment of Third Arbitrator. If each party timely appoints an arbitrator, the two (2) arbitrators shall, within ten (10) days after the appointment of the second arbitrator, agree on and appoint a third arbitrator (who shall be qualified under the same criteria set forth above for qualification of the initial two (2) arbitrators) and provide notice to Landlord and Tenant of the arbitrator's name and business address.

~~6.5. Arbitrator's Decision. Within thirty (30) days after the appointment of the third arbitrator, the third arbitrator shall decide whether the parties will use Landlord's or Tenant's submitted proposed First Option Term Rent and shall notify Landlord and Tenant of his/her decision.~~

6.6. If Only One Arbitrator Is Appointed. If either Landlord or Tenant fails to appoint an arbitrator within fifteen (15) days after the Outside Agreement Date, the arbitrator timely appointed by one of them shall reach a decision and notify Landlord and Tenant of that decision within thirty (30) days after the arbitrator's appointment. The arbitrator's decision shall be binding on Landlord and Tenant.

6.7. If a Third Arbitrator Is Not Appointed. If each party appoints an arbitrator in a timely manner, but the two (2) arbitrators fail to agree on and appoint a third arbitrator within the required period, the arbitrators shall be dismissed without delay and the issue of First Option Term Rent shall be submitted to binding arbitration under the commercial/real estate arbitration rules of The American Arbitration Association, provided, however, that in the event of any inconsistency between such arbitration rules and the terms and conditions of this Section, the terms and conditions of this Exhibit G shall govern.

6.8. If No Arbitrator Is Appointed. If Landlord and Tenant each fail to appoint an arbitrator in a timely manner, the matter to be decided shall be submitted without delay to binding arbitration under the commercial/real estate arbitration rules of The American Arbitration Association, subject to the provisions of this Exhibit G.

6.9. Cost of Arbitration. The cost of the arbitration shall be paid by the losing party.

SCHEDULE 1

**Mountain House Commercial Center
Base Building Specifications**

The Base Building will include the following improvements:

1. Framed exterior/bearing walls, studded.
2. ~~Ceiling will be open to roof, finished ceilings are part of Tenant Improvements. Minimum ceiling height will be 9 feet, maximum 10 feet.~~
3. Floor shall be concrete slab ready for covering.
4. A 1.5 inch plastic water line will be available in the attic of the Premises for purposes of providing the Premises a point of water connection.
5. Sewer service is available within the Premises
6. Electrical, cable and telephone conduit stub-outs will be provided on the western demising wall of the Premises. Tenant shall be responsible for extending (from the electrical room) all conduit to the Premises for the HVAC unit, and all of the subpanels, electrical, cable and telephone services, and other equipment serving the Premises, all of which shall be done as part of the Tenant Improvements.
7. Premises signage is part of Tenant Improvements, and must conform to overall signage program.
8. Exterior doors are as specified in Base Building plans prepared by Landlord.
9. Exterior windows are as specified in Base Building plans prepared by Landlord.
10. Trash enclosure – existing.
11. Gang mailboxes to be provided as per United States Postal Service specifications.
12. All parking lot lighting.
13. Site landscaping.
14. 51 parking stalls striped.
15. Primary heating, Ventilating and air-conditioning condenser service (excluding, however, the HVAC unit, duct work, and excluding vents, thermostats and other secondary improvements, all of which will be part of the Tenant Improvements).

[Note: Restrooms are part of Tenant Improvements.]

**EXHIBIT H
COMMENCEMENT LETTER**

(EXAMPLE)

Date _____
Tenant _____
Address _____

Re: Commencement Letter with respect to that certain Lease dated as of the ____ day of _____ 20____, by and between Trimark Communities, LLC, a California limited liability company, as Landlord, and Mountain House Community Service District, as Tenant, for Four Thousand Seven Hundred Twenty-Four (4,724) rentable square feet of space in _____ Wicklund Crossing, Mountain House, CA 95391, located in that certain building commonly known as the Mountain House Commercial Center.

Dear _____:

In accordance with the terms and conditions of the above referenced Lease, Tenant accepts possession of the Premises and agrees:

1. The Commencement Date of the Lease is _____
2. The Expiration Date of the Lease is _____

Please acknowledge your acceptance of possession and agreement to the terms set forth above by signing this Commencement Letter in the space provided and returning a fully executed counterpart to my attention. Tenant's failure to execute and return this letter, or to provide a good faith written objection to the statements contained in this letter, within ten (10) days after the date of this letter shall be deemed an approval by Tenant of the statements contained herein.

Sincerely,

TRIMARK COMMUNITIES, LLC, a
California limited liability company

By: HKHL OF CALIFORNIA, INC., a
California corporation, its Managing Member

By: _____
Name: Stephen E. Rennekar
Its: Vice President and Secretary

By: BHL OF CALIFORNIA, INC., a
California corporation, its Managing Member

By: _____
Name: Stephen E. Rennekar
Its: Vice President and Secretary

Agreed to and Accepted

on _____, 2006

MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT

By: _____
Name: Paul Sensibaugh
Its: General Manager

Commercial Lease
Exhibit H - Commencement Letter
Page 1 of 1

A-06-448

WORK LETTER AGREEMENT

THIS WORK LETTER AGREEMENT ("Agreement") is entered into as of JUN 27 2008, 2006, by and between Trimark Communities, LLC, a California limited liability company ("Landlord"), and Mountain House Community Services District ("Tenant"), in connection with that certain Lease, dated as of _____, 2006, by and between Landlord and Tenant (the "Lease"). All capitalized terms used herein and not otherwise defined herein shall have the meaning given to such terms under the Lease.

RECITALS

WHEREAS, pursuant to the terms of the Lease, Tenant shall lease from Landlord Four Thousand Seven Hundred Twenty-Four (4,724) rentable square feet of space known as ___ Wicklund Crossing, Mountain House, CA 95391 located in that certain building commonly known as the Mountain House Commercial Center (the "Premises");

WHEREAS, Tenant desires that Landlord construct certain Tenant improvements within the Premises ("Tenant Improvements"), and Landlord is willing to construct the Tenant Improvements subject to the terms and conditions set forth in this Agreement;

WHEREAS, it is intended that the Lease, and this Agreement, shall govern both Tenant's occupancy of the Building and the Premises, upon its completion, and other rights and duties of Landlord and Tenant which may arise immediately upon execution hereof as provided in this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained in the Lease and in this Agreement, Landlord and Tenant hereby agree as follows:

AGREEMENTS

1. **AS-IS PREMISES; TENANT IMPROVEMENT ALLOWANCE**

1.1 **Base Building.** Landlord has constructed, at its sole cost and expense, the Base Building, a portion of which serves the Premises, and Tenant shall accept the Base Building in its as-is condition. The Base Building includes those improvements described in Schedule 1 to this Work Letter. Tenant shall be responsible for all costs associated with the design and construction of the Tenant Improvements, subject to Landlord's obligation to provide the Tenant Improvement Allowance as set forth in section 1.2 below.

1.2 **Tenant Improvement Allowance.** Tenant shall be entitled to a one-time tenant improvement allowance in connection with the Tenant Improvements (the "Tenant Improvement Allowance") in an amount not to exceed a total of Thirty-Seven Thousand Seven Hundred Ninety-Two and No/100 Dollars (\$37,792.00) based on Four Thousand Seven Hundred Twenty-Four (4,724) Rentable Square Feet at a rate of Eight Dollars and No/100 Dollars (\$8.00) per Rentable Square Foot. The Tenant Improvement Allowance shall be considered Landlord's total monetary contribution with respect to the interior improvement of the Premises. The Tenant Improvement Allowance shall be used only for hard and soft costs associated with the design and construction of the Tenant Improvements, including, but not limited to, construction costs, building permits, architect fees, consultant fees and construction management and supervision fees; provided, however, and notwithstanding anything in this Agreement to the contrary, in no event shall the Tenant Improvement Allowance be used for any personal property, including, without limitation, any partition furniture or similar fixtures or improvements, all of which shall be the sole responsibility of Tenant (collectively, the "Tenant Improvement Allowance Items"). In the event the cost associated with the design and construction of the Tenant Improvements is greater than the amount of the Tenant Improvement Allowance, Tenant shall be solely responsible for such excess amount and shall pay such excess amount in accordance with section 3.2 of this Agreement.

If the Lease is terminated for any reason prior to the end of the Lease Term, Tenant shall pay Landlord, in addition to all other costs and damages for which Tenant is liable as a result of such termination, the unamortized value of the Tenant Improvement Allowance.

1.3 **Disbursement of the Tenant Improvement Allowance.** Except as otherwise set forth in this Agreement, the Tenant Improvement Allowance shall be disbursed by Landlord (each of which disbursements shall be made pursuant to Landlord's internal disbursement process) for costs related to the Tenant Improvement Allowance Items.

1.4 **Unused Allowances.** Any unused portion of the Tenant Improvement Allowance (the "Unused Allowance"), as of the Lease Commencement Date (as that term is defined in section 3.1 of the Lease), shall be

forfeited and shall not be available to Tenant.

2. TENANT IMPROVEMENT CONSTRUCTION DRAWINGS

2.1 Architect/Space Plan/Construction Drawings. Landlord shall hire Ware Malcomb (or other architect, designer, engineer and/or builder acceptable to Landlord) as the architect/engineer/designer for the Tenant Improvements (the "Architect") and the Architect shall prepare a space plan and architectural/engineering drawings (collectively, the "Space Plan") for the Tenant Improvements. The Architect and Tenant shall work together to prepare the Space Plan, and the Space Plan shall be submitted to Landlord for approval within fifteen (15) business days from the date of this Lease. Within ten (10) business days after Landlord receives the Space Plan, Landlord shall either approve or disapprove the Space Plan. In the event Landlord disapproves the proposed Space Plan, such disapproval shall be for reasonable reasons including, but not limited to, (i) possible adverse effect on the structural integrity of the Building; (ii) possible damage to the systems or equipment serving the Building; (iii) non-compliance with applicable codes; (iv) effect on the exterior appearance of the Building, (v) potential adverse effect on Landlord's design options with respect to other space in the Building; and (vi) potential interference with the normal and customary business operations of other tenants in the Building.

In the event Landlord disapproves the Space Plan, the Architect shall work with Tenant to make all changes necessary in order to correct the problem(s) raised by Landlord and shall (within ten (10) business days after Tenant's receipt of Landlord's disapproval) return the revised Space Plan to Landlord, which Landlord shall approve or disapprove within seven (7) business days after Landlord receives the revised Space Plan. This procedure shall be repeated until the Space Plan is finally approved by Landlord and written approval has been delivered to and received by Tenant. The Space Plan may be submitted by Tenant in one or more stages and at one or more times, and the time periods for Landlord's approval shall apply with respect to each such portion submitted.

Landlord shall independently retain Huff Construction Company, Inc., as the general contractor (the "Contractor"). The Contractor will work with the Architect and the Space Plan, prepare the plans and drawings necessary to construct the Tenant Improvements (the "Construction Drawings") and construct the Tenant Improvements in accordance with the Approved Working Drawings (as defined below).

2.2 Final Working Drawings. When the Architect and/or Contractor completes the Construction Drawings for the Tenant Improvements in a form which is complete to allow subcontractors to bid on the work and to obtain all applicable permits (collectively, the "Final Working Drawings"), Landlord shall submit the same to Tenant for Tenant's approval, which shall not be unreasonably withheld, conditioned or delayed. The Final Working Drawings may be submitted in one or more stages at one or more times. Tenant shall, within ten (10) days after Landlord delivers the Final Working Drawings, either: (i) approve the Final Working Drawings, which approval shall not be unreasonably withheld, conditioned or delayed; or (ii) reasonably disapprove and return the Final Working Drawings to Landlord with requested revisions of the Final Working Drawings based on a "Design Flaw." If Tenant, in compliance with (ii) above, reasonably disapproves of the Final Working Drawings based on a Design Flaw, Landlord shall review Tenant's requested revisions, and after having made those requested revisions deemed reasonable by Landlord in order to correct the Design Flaw, resubmit the Final Working Drawings to Tenant. Failure of Tenant to deliver to Landlord written notice of disapproval and the required changes on or before the above mentioned deadline will constitute and be deemed approval of the Final Working Drawings. The foregoing process of submittal and review shall be repeated until both Landlord and Tenant have approved the Final Working Drawings. "Design Flaw" shall mean: (i) non-compliance with applicable codes; or (ii) a material deviation from the Space Plan approved by Landlord and Tenant.

2.3 Permits. The Final Working Drawings shall be reasonably approved and signed by Landlord and Tenant (the "Approved Working Drawings") prior to the commencement of the construction of the Tenant Improvements. Landlord shall submit the Approved Working Drawings to the appropriate municipal authorities/governmental agencies for all applicable building permits necessary to allow the Contractor to commence and fully complete the construction of the Tenant Improvements. Landlord shall be responsible for obtaining any building permit and/or certificate of occupancy for the Premises. Tenant shall cooperate with Landlord in executing permit applications and performing other ministerial acts to enable Landlord to obtain any such permit or certificate of occupancy.

2.4 Change Orders. If Tenant desires to change, modify or alter the Approved Working Drawings, Tenant shall deliver notice (the "Change Notice") to Landlord setting forth in detail the requested changes (the "Tenant Changes") Tenant desires to make to the Approved Working Drawings. Landlord shall, within five (5) business days of receipt of the Change Notice, either (i) approve the Tenant Change, or (ii) disapprove the Tenant Change and deliver a notice to Tenant specifying in detail the reasons for Landlord's disapproval. Landlord shall have the unqualified right to disapprove any Tenant Change that is related to anything other than a Tenant

Improvement Allowance Item. If Landlord approves the Tenant Change, any additional costs which arise as a result of such Tenant Change shall be paid out of the Tenant Improvement Allowance, provided, however, if the amount reflected on the Cost Sheet (as defined below) prior to the Tenant Change already exceeded the Tenant Improvement Allowance, the additional cost will be paid in accordance with Tenant's election under section 3.2 of this Agreement. No changes, modifications or alterations in the Approved Working Drawings shall be made without the prior written consent of Landlord.

3. CONSTRUCTION OF THE TENANT IMPROVEMENTS

3.1 Cost Sheet. After the Approved Working Drawings are signed by Landlord and Tenant, Landlord and Contractor shall make reasonable, good faith efforts to secure efficient and cost effective bids from at least two (2) subcontractors in connection with the Tenant Improvements, and shall prepare a cost sheet ("Cost Sheet") outlining Contractor's cost to construct the Tenant Improvements based on the Approved Working Drawings. Landlord shall revise the Cost Sheet in connection with any Tenant Change or other modifications to the Final Working Drawings approved by Landlord (pursuant to the procedure outlined in section 2.4 above) that increase the overall cost of the Tenant Improvements. Landlord shall deliver the revised Cost Sheet to Tenant within a reasonable time after approval of the Tenant Change or other modification.

3.2 TI Over-Allowance Amount. In the event the amount reflected on the Cost Sheet is greater than the amount of the Tenant Improvement Allowance (the "TI Over-Allowance Amount"), the TI Over-Allowance Amount shall be amortized over the initial six (6) year Term of the Lease at an interest rate of eight percent (8%) per annum and Tenant shall pay the TI Over-Allowance Amount in accordance with section 5.2.7 of the Lease.

~~If the Cost Sheet is revised in accordance with section 3.1, and if the amount reflected on the Cost Sheet prior to the Tenant Change already exceeded the Tenant Improvement Allowance, the increase in overall cost of the Tenant Improvements shall be included in, and treated as part of, the TI Over-Allowance Amount.~~

3.3 Construction/Standards. The Tenant Improvements shall be constructed in a good and workmanlike manner in accordance with the Approved Working Drawings

4. PROVISIONS APPLICABLE TO THE CONSTRUCTION OF THE PREMISES

4.1 Substantial Completion. The term "Substantially Complete" or "Substantial Completion" as used in the Lease or this Agreement shall mean: (1) Tenant Improvements have been completed in accordance with the Approved Working Drawings (except minor punch list items which Landlord shall thereafter promptly complete) such that Tenant can conduct business operations from the Premises; and (2) Landlord has obtained a certificate of occupancy or a temporary certificate of occupancy for the Premises/Building.

Except as provided in this section 4, the Lease Commencement Date shall occur as set forth in the Lease. However, if there is a delay or there are delays in the Substantial Completion of the Tenant Improvements as a direct result of Tenant Delays (as defined below), then, notwithstanding anything to the contrary set forth in the Lease or this Agreement, and regardless of the actual date of the Substantial Completion of the Tenant Improvements, the Lease Commencement Date shall be deemed to be the date the Lease Commencement Date would have occurred if no Tenant Delays had occurred.

4.2 Tenant Delays. The following shall constitute Tenant Delays:

4.2.1 Failure in Tenant Performance. Tenant's failure to comply with the time deadlines set forth herein, Tenant's failure to timely and reasonably approve any matter requiring Tenant's approval pursuant to this Agreement, or failure by Tenant to pay, when due, any TI Over-Allowance Amount, if any, shall constitute a Tenant Delay.

4.2.2 Tenant Changes. Tenant Changes, requested by Tenant following the review and approval process in section 2.4 above shall constitute a Tenant Delay.

4.3 Warranties; Repair of Defects. The Tenant improvements and all work performed by or on behalf of Landlord and/or its contractors shall be warranted for a period of one (1) year from the Lease Commencement Date.

5. MISCELLANEOUS

5.1 Tenant's Representatives. Tenant has designated its General Manager as its sole representative

with respect to the matters set forth in this Agreement, who, until further notice to Landlord, shall have full authority and responsibility to act on behalf of the Tenant as required in this Agreement.

5.2 Landlord's Representative. Landlord has designated Duane Grimsman as its sole representative with respect to the matters set forth in this Agreement, who, until further notice to Tenant, shall have full authority and responsibility to act on behalf of the Landlord as required in this Agreement.

5.3 Time of the Essence. Unless otherwise indicated, all references herein to a "number of days" shall mean and refer to calendar days, ~~except that if the day to perform any obligation is a Saturday, Sunday, or legal holiday, then the time for performance of that obligation shall be extended to the first following day that is not a Saturday, Sunday, or legal holiday.~~

5.4 Definitions. Terms used herein and not otherwise defined herein shall have the meaning given to such terms under the Lease.

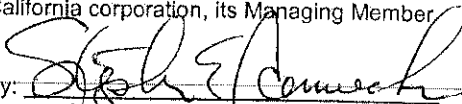
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Agreement has been executed by Landlord and Tenant as of the date first above written.

LANDLORD:


TRIMARK COMMUNITIES, LLC, a
California limited liability company

By: HKHL OF CALIFORNIA, INC., a
California corporation, its Managing Member

By: 

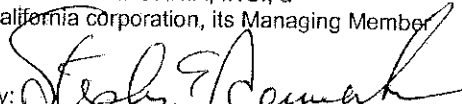
Name: Stephen E. Rennecker
Its: Vice President and Secretary

APPROVED AS TO FORM:

By: 

MICHAEL F. MCGREW
Special Counsel

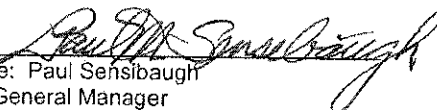
By: BHL OF CALIFORNIA, INC., a
California corporation, its Managing Member

By: 

Name: Stephen E. Rennecker
Its: Vice President and Secretary

TENANT:

MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT

By: 

Name: Paul Sensibaugh
Its: General Manager