# CITY OF SEATTLE

## ORDINANCE _____

COUNCIL BILL 117922

AN ORDINANCE authorizing the Director of Finance and Administrative Services to enter into a lease agreement with Block 24 Seattle, LTD, L.P. for office space in the Bank of America Fifth Avenue Plaza, for office use by various City Departments.

WHEREAS, in April 2007, Ordinance 122367 authorized the predecessor department to the Department of Finance and Administrative Services (FAS) to lease office space for the Seattle Department of Transportation at 800 Fifth Avenue; and

WHEREAS, Block 24 Seattle, LTD, L.P. is the current owner and landlord for that property; and

WHEREAS, various City Departments need additional office space that cannot be accommodated within City-owned buildings for the foreseeable future; and

WHEREAS, FAS evaluated proposals to provide office space in the vicinity of City Hall and the Seattle Municipal Tower, the best of which was from Block 24 Seattle, LTD, L.P. for leased office space in the Bank of America Fifth Avenue Plaza; and

WHEREAS, Seattle Municipal Code Section 3.127.020.C.1 requires City Council approval of lease agreements that involve more than 5,000 square feet of office space in any single building. NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. As requested by the Director of Finance and Administrative Services and recommended by the Mayor, said Director is hereby authorized to execute, for and on behalf of the City of Seattle, a lease agreement with Block 24 Seattle, LTD, L.P., generally in the form of Exhibit 1, attached hereto and identified as "Lease Agreement," providing for the City of Seattle's tenancy and occupancy of a portion of the real property located at 800 Fifth Avenue in Seattle.

Section 2. The Director is further authorized to make technical, conforming, or otherwise nonmaterial changes and to negotiate material changes which could benefit the City in the Lease Agreement and other ancillary documents authorized to be executed herein; and to execute,

deliver, administer, perform and enforce such amendments and ancillary agreements or documents, and take such other actions as the Director deems appropriate or necessary to carry out the terms and provisions of, and complete the transactions contemplated by, this ordinance; with the form of such documents and agreements requiring the approval of the City Attorney's Office.

Section 3. The maximum term of the Lease Agreement is for ten years, beginning on February 1, 2014, and expiring on January 31, 2024. Additionally, the Director or his or her successor is further authorized to extend the term of the lease for up to two additional five year extensions as determined by the Director to be in the best interest of the City.

Section 3. The rental payments contemplated by the terms of the Lease Agreement authorized in Section 1 hereof shall be charged to the appropriate expenditure allowance or allowances in the budget of the Department of Finance and Administrative Services and shall be reimbursed to that Department by the Departments that are utilizing the leased space.

Section 4. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2013, and signed by me in open session in authentication of its passage this

_____ day of _____, 2013.

_____

President _____of the City Council

Approved by me this ____ day of _____, 2013.

_____

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2013.

_____

Monica Martinez Simmons, City Clerk

(Seal)

Exhibit 1: Lease Agreement

**Bank of America Fifth Avenue Plaza**
**Basic Lease Information Sheet**

| | | |
|---|---|---|
| 1. | Date of Lease | _____ |
| 2. | Tenant: | **THE CITY OF SEATTLE** |
| 3. | Tenant's Address Prior to Occupancy: | _____ |
| 4. | Tenant's Address After Occupancy | 800 Fifth Avenue, Suite 3100<br>Seattle, WA 98104 |
| 5. | Landlord: | **BLOCK 24 SEATTLE, LTD., L.P.** |
| 6. | Landlord's Address: | c/o Hines GS Properties, Inc.<br>800 Fifth Avenue, Suite 3838<br>Seattle, WA 98104<br>Attn: Property Manager<br>For additional addresses, see Section 14.7 below |
| 7. | Premises: | Floors 30 and 31 (the "**Initial Premises**"), subject to certain expansion rights as provided in Section 1 of the Lease |
| 8. | Net Rentable Area of the Initial Premises: | Forty-three Thousand Eight Hundred Thirty-seven (43,837) square feet |
| 9. | Target Commencement Date: | **February 1, 2014** |
| 10. | Term: | Initial Term: Ten (10) years<br>Extension Term(s): Two (2) options for five (5) years each |
| 11. | Base Rent: | As provided in the Rent Rider attached hereto |
| 12. | Security Deposit: | Not applicable |
| 13. | Parking: | One (1) parking pass for each 2,500 square feet of Net Rentable Area in the Premises, subject to the limitation set forth in Section 14.23 |
| 14. | Cash Allowance: | As provided in Exhibit C attached hereto |

15. Brokers:

Landlord's Broker: Broderick Group
Tenant's Broker: Jones Lang LaSalle

_____/_____
Tenant's Initials/Date

_____/_____
Landlord's Initials/Date

## TABLE OF CONTENTS

Page

Basic Lease Information Sheet ..... A

ARTICLE 1 Premises ..... 9

1.1 Lease. ..... 9
1.2 Landlord's Reserved Rights. ..... 11
1.3 Common Areas. ..... 12
1.4 Calculation of Net Rentable Area. ..... 12

ARTICLE 2 Term, Use of Premises and Base Rent ..... 12

2.1 Term. ..... 12
2.2 Delay in Delivery. ..... 13
2.3 Confirmation. ..... 14
2.4 Use. ..... 14
2.5 Payments by Tenant. ..... 14
2.6 Payment of Base Rent. ..... 14
2.7 Partial Months. ..... 17

ARTICLE 3 Security Deposit ..... 17

ARTICLE 4 Payment of Operating Costs ..... 17

4.1 Net Lease. ..... 17
4.2 Estimated Payments. ..... 17
4.3 Tenant's Proportionate Share. ..... 18
4.4 Operating Costs. ..... 18
4.5 Adjustment for Occupancy. ..... 20
4.6 Computation of Operating Costs Adjustment. ..... 20
4.7 Adjustment for Variation Between Estimated and Actual. ..... 20
4.8 Cap On Controllable Operating Costs. ..... 21

ARTICLE 5 Landlord's Covenants ..... 21

5.1 Basic Services. ..... 21
5.2 Hours of Operation. ..... 22
5.3 Interruption. ..... 22
5.4 Extra Services. ..... 22
5.5 Window Coverings. ..... 23
5.6 Graphics and Signage. ..... 23
5.7 Building Standard Improvements. ..... 23
5.8 Peaceful Enjoyment. ..... 23

ARTICLE 6 Tenant's Covenants ..... 24

6.1 Compliance With Exhibit C. ..... 24
6.2 Construction of Tenant Improvements. ..... 24
6.3 Telecommunications. ..... 24

6.4 Taxes on Personal Property and Tenant Extra Improvements. 24
6.5 Repairs by Tenant. 24
6.6 Waste 25
6.7 Alterations, Additions, Improvements. 25
6.8 Liens 26
6.9 Compliance With Laws and Insurance Standards 26
6.10 Entry for Repairs, Inspection, Posting Notices, Etc. 27
6.11 No Nuisance. 27
6.12 Rules and Regulations 27
6.13 Surrender of Premises on Termination. 27
6.14 Corporate Authority. 28
6.15 Utilities 28
6.16 Security for Premises. 28

ARTICLE 7 Hazardous Materials 28

7.1 Prohibition and Indemnity With Respect to Hazardous Materials 28
7.2 Definitions 29

ARTICLE 8 Assignment or Sublease 30

8.1 Consent Required. 30
8.2 Landlord's Options. 30
8.3 Minimum Rental; Division of Excess Rent. 31
8.4 Tenant Not Released. 31
8.5 Written Agreement 31
8.6 Conditions. 31
8.7 Expenses. 31
8.8 No Restriction on Landlord 32
8.9 No Leasehold Financing. 32
8.10 Additional Prohibition. 32

ARTICLE 9 Condition and Operation of the Building 32

9.1 No Warranty 32
9.2 Building Alterations. 32

ARTICLE 10 Lender Rights 32

10.1 Subordination. 32
10.2 Attornment. 33
10.3 Estoppel Certificate 33

ARTICLE 11 Insurance 33

11.1 Landlord's Property Insurance 34
11.2 Liability Insurance. 34
11.3 Tenant's Insurance. 34
11.4 Indemnity and Exoneration. 35
11.5 Indemnity for Liens 36
11.6 Waiver of Subrogation Rights 36

ARTICLE 12 Casualty and Eminent Domain ..... 36

12.1 Damage and Destruction. ..... 36
12.2 Condemnation. ..... 38

ARTICLE 13 Default ..... 38

13.1 Events of Default. ..... 38
13.2 Remedies Upon Default. ..... 39
13.3 Damages Upon Termination. ..... 40
13.4 Computation of Rent for Purposes of Default ..... 41
13.5 Late Charge. ..... 41
13.6 Remedies Cumulative. ..... 42
13.7 Tenant's Remedies. ..... 42

ARTICLE 14 Miscellaneous ..... 42

14.1 No Waiver. ..... 42
14.2 Holding Over. ..... 43
14.3 Attorneys' Fees. ..... 43
14.4 Amendments. ..... 43
14.5 Transfers by Landlord. ..... 43
14.6 Severability. ..... 43
14.7 Notices. ..... 43
14.8 Building Planning. ..... 44
14.9 No Option ..... 44
14.10 Integration and Interpretation ..... 44
14.11 Quitclaim ..... 44
14.12 No Easement for Light, Air and View. ..... 44
14.13 No Merger. ..... 45
14.14 Memorandum of Lease. ..... 45
14.15 Survival. ..... 45
14.16 Financial Statements. ..... 45
14.17 No Joint Venture. ..... 45
14.18 Successors and Assigns ..... 45
14.19 Applicable Law. ..... 45
14.20 Time of the Essence; Force Majeure ..... 45
14.21 Confidentiality. ..... 46
14.22 Interpretation. ..... 46
14.23 Parking. ..... 46
14.24 Brokers. ..... 47
14.25 USA Patriot Act Disclosures ..... 47

Attachments:

| | |
|---|---|
| Exhibit A | Floor Plan of the Premises |
| Exhibit B | Legal Description of the Real Property |
| Exhibit C | Work Letter |
| Exhibit D | Rules and Regulations |
| Exhibit E | Lease Commencement Certificate |
| Exhibit F | Form of Estoppel Certificate |
| Rent Rider | |

## SCHEDULE OF DEFINED TERMS


| | Section No. | Page No. |
|---|---|---|
| Adjustment Date | Section 2.6(b) | 6 |
| Alterations | Section 6.7 | 16 |
| Architect | Exhibit C, Paragraph 1(a) | 1 |
| Availability Notice | Section 1.1(c) | 2 |
| Base Building | Exhibit C, Paragraph 1(b) | 1 |
| Base Rent | Section 2.6 | 6 |
| Basic Services | Section 5.1 | 12 |
| Blocked Persons | Section 14.25 | 38 |
| Building Components | Section 1.2 | 3 |
| Building | Section 1.1 | 3 |
| Building Standard Improvements | Section 5.7 | 15 |
| Business Days | Section 5.2 | 13 |
| CAD | Exhibit C, Paragraph 1(c) | 1 |
| Cash Allowance | Exhibit C, Paragraph 1(d) | 1 |
| Claims | Section 7.1 | 20 |
| Common Areas | Section 1.3 | 4 |
| Construction Contract | Exhibit C, Paragraph 1(e) | 1 |
| Construction Drawings | Exhibit C, Paragraph 6 | 3 |
| Construction Manual | Section 6.1 | 15 |
| Contractor | Exhibit C, Paragraph 1(g) | 1 |
| Cost Statement | Section 4.6 | 12 |
| Early Termination Date | Section 2.1(c) | 5 |
| Early Termination Right | Section 2.1(c) | 5 |
| Estimated Operating Costs | Section 4.2 | 9 |
| Event of Default | Section 13.1 | 29 |
| Executive Order | Section 14.25 | 38 |
| Expiration Date | Section 2.1(a) | 4 |
| Extension Option | Section 2.1(b) | 4 |
| Extension Terms | Section 2.1(b) | 4 |
| Extra Services | Section 5.4 | 14 |
| Fair Market Rent | Section 2.6(c) | 6 |
| First Expansion Premises | Section 1.1 | 1 |
| Force Majeure | Section 14.20 | 36 |
| Garage | Section 14.23 | 37 |
| Guarantor | Section 13.1(d) | 30 |
| Hazardous Material | Section 7.2(a) | 20 |
| Hazardous Materials Claims | Section 7.2(b) | 20 |
| Hazardous Materials Laws | Section 7.2(c) | 21 |
| Initial Premises | Section 1.1 | 1 |
| Initial Term | Section 2.1(a) | 4 |
| Landlord | Introduction | 1 |
| Landlord Parties | Section 6.5 | 16 |
| Laws | Section 6.9(a) | 17 |
| Lease | Introduction | 1 |
| List | Section 14.25 | 38 |

Major Vertical Penetrations ..... Section 1.2 ..... 3
Market Area ..... Section 2.6(c) ..... 7
Master Tenant ..... Section 1.1 ..... 3
Net Rentable Area ..... Section 1.4 ..... 4
Normal Office Hours ..... Section 5.2 ..... 13
OFAC ..... Section 14.25 ..... 38
Offer Space ..... Section 1.1(c) ..... 2
Operating Costs Adjustment ..... Section 4.6 ..... 12
Operating Costs ..... Section 4.4 ..... 9
Parking Passes ..... Section 14.23 ..... 37
Permitted Hazardous Materials ..... Section 7.2(d) ..... 21
Permitted Use ..... Section 2.4 ..... 6
Premises ..... Section 1.1 ..... 3
Prior Tenants ..... Section 1.1(c) ..... 2
Real Property ..... Section 1.1 ..... 3
Real Property Taxes ..... Section 4.4(j) ..... 11
Reletting Expenses ..... Section 13.2(b) ..... 31
Rent ..... Section 2.5 ..... 6
ROFO ..... Section 1.1(c) ..... 2
Second Expansion Premises ..... Section 1.1 ..... 1
Senior Instruments ..... Section 10.1 ..... 24
Senior Parties ..... Section 10.1 ..... 24
Space Plan ..... Exhibit C, Paragraph 5 ..... 3
Sublease ..... Section 1.1 ..... 3
Successor ..... Section 10.2 ..... 24
Tenant Extra Improvements ..... Section 5.7 ..... 15
Tenant Improvements ..... Section 6.1 ..... 15
Tenant ..... Introduction ..... 1
Tenant Parties ..... Section 6.5 ..... 16
Tenant's Personal Property ..... Section 6.4 ..... 15
Tenant's Proportionate Share ..... Section 4.3 ..... 9
Term Commencement Date ..... Section 2.1(a) ..... 4
Term ..... Section 2.1(b) ..... 5
Termination Fee ..... Section 2.1(c) ..... 5
Termination Notice ..... Section 2.1(c) ..... 5
Transfer ..... Section 8.1 ..... 21
Transferee ..... Section 8.1 ..... 21

# Bank of America Fifth Avenue Plaza
# OFFICE BUILDING LEASE

This Office Building Lease (the "**Lease**") is made and entered into as of the date specified in Item 1 of the Basic Lease Information Sheet attached hereto and incorporated herein by this reference, by and between **BLOCK 24 SEATTLE, LTD., L.P.** ("**Landlord**") and **THE CITY OF SEATTLE** ("**Tenant**"). Tenant authorizes Landlord to insert the date of Landlord's execution hereof on the Basic Lease Information Sheet as the date of this Lease.

Now, therefore, in consideration of the mutual covenants and agreements contained in this Lease, the parties agree as follows:

## ARTICLE 1
## Premises

**1.1 Lease.**

**(a) Initial Premises.** Subject to the terms, covenants and conditions set forth herein, Landlord leases to Tenant and Tenant leases from Landlord those certain premises identified in the Basic Lease Information Sheet as Item 7, which are schematically depicted on the floor plans attached hereto as Exhibit A (the "**Initial Premises**"). The Initial Premises are deemed for all purposes to contain the square footage set forth in the Basic Lease Information Sheet.

**(b) Expansion Rights.** Provided no Event of Default (as defined in Section 13.1 below) has occurred prior to the date on which Tenant exercises such right, Tenant shall have the right to expand under the following provisions:

**(i)** By written notice delivered to Landlord no later than August 31, 2014, Tenant may elect to lease one, two or three additional full floors (the "**First Expansion Premises**" ). Tenant's notice shall specify whether the First Expansion Premises will include one or two floors. Upon receipt of Tenant's notice of exercise, Landlord shall select the floor(s) to be included in the First Expansion Premises provided that the First Expansion Premises must be on floors seven through fourteen (inclusive) but need not be contiguous to each other. Landlord will notify Tenant of the floors selected and will deliver possession of the First Expansion Premises to Tenant in their then-current "as is" condition and shall have no obligation to make or to contribute any funds toward the cost of alterations to the First Expansion Premises, except as set forth herein. Base Rent for the First Expansion Premises shall be as set forth in the Rent Rider attached hereto.

**(ii)** If Tenant elects to lease one floor or two floors of First Expansion Premises, then by written notice delivered to Landlord no later than January 1, 2015, Tenant may elect to lease one or two additional floors (the "**Second Expansion Premises**" ). Tenant's notice shall specify whether the Second Expansion Premises will include one or two floors. Upon receipt of Tenant's notice of exercise, Landlord shall select the floor(s) to be included in the Second Expansion Premises provided that the Second Expansion Premises must be on floors seven through fourteen (inclusive) but need not be contiguous to each other or to the First Expansion Premises. Landlord will notify Tenant of the floors selected and will deliver possession of the Second Expansion Premises to Tenant in their then-current "as is" condition and shall have no obligation to make or to contribute any funds toward the cost of alterations to the Second Expansion Premises, except as set forth herein. The First Expansion Premises and the Second Expansion Premises collectively may not include more than three (3) floors so that if the First Expansion Premises includes two floors, then the Second Expansion Premises can only include one floor.

Base Rent for the Second Expansion Premises shall be the Fair Market Rent as of the date the space is added to the Premises, as determined using the process set out in Section 2.6(c) below.

**(c) Right of First Offer.** As used herein, the term "**Offer Space**" shall mean any full floor of space on floors seven through fourteen (inclusive) that is contiguous to one of the floors leased by Tenant as part of the First Expansion Premises or the Second Expansion Premises. Commencing January 1, 2015, provided that (i) Tenant occupies the entire Premises, (ii) no Event of Default is outstanding under this Lease at the time Landlord is prepared to issue an Availability Notice to Tenant, and (iii) Tenant has not exercised its Early Termination Right under Section 2.1(c), Tenant shall have a right of first offer (the "**ROFO**") to lease the Offer Space each time the Offer Space becomes available to lease on a direct basis during the Term of this Lease. Tenant may not sublease the Offer Space from the direct tenant and Landlord shall not be required to consent to such a sublease. If Tenant exercises the ROFO and an Event of Default occurs and is not cured before Landlord delivers possession of the Offer Space to Tenant, Landlord, by written notice to Tenant, may elect to nullify Tenant's prior exercise of the ROFO, in which event Tenant shall have no rights with respect to the Offer Space. The ROFO is personal to the original Tenant named herein and may not be assigned to or exercised by any other party.

**(i)** If the conditions described above are satisfied, when Landlord determines that a full floor of the Offer Space is or will be available to lease, Landlord shall give Tenant written notice ("**Availability Notice**") identifying the floor available. If the conditions described above are not satisfied at the time Landlord would otherwise provide an Availability Notice, Landlord shall not be required to provide an Availability Notice and the ROFO shall be of no further force or effect unless and until that floor of the Offer Space has been leased to a third party and again becomes available to lease on a direct basis. The Availability Notice shall specify the financial terms on which Landlord proposes to lease the Offer Space to Tenant including base rent and any concessions (such as rent credits and allowances) and shall reflect the then-current market conditions for a lease of comparable length. If Tenant wishes to exercise the ROFO, Tenant must deliver irrevocable written notice to Landlord clearly and unequivocally exercising its right to lease all of the Offer Space no later than ten (10) Business Days after the date the Availability Notice is delivered to Tenant. If Tenant exercises the ROFO, the Offer Space shall be added to and become part of the Premises on all of the terms and conditions set forth in this Section. If not properly exercised by Tenant, Landlord may lease the Offer Space to a third party on such terms as Landlord deems appropriate and shall not be required to deliver another Availability Notice unless and until that floor of the Offer Space has been leased to a third party and again becomes available to lease on a direct basis.

**(ii)** If Tenant exercises the ROFO, Tenant shall lease the Offer Space commencing as soon as possession of the Offer Space is delivered to Tenant, upon all of the terms and conditions of this Lease, including a term ending on the same date as the Term for the Initial Premises (subject to all extension rights in this Lease) except that (A) Base Rent shall be the Base Rent identified in the Availability Notice; (B) unless otherwise stated in the Availability Notice, Base Rent and Operating Costs shall commence on the date Landlord delivers possession of the Offer Space to Tenant; (C) the Offer Space shall be delivered to and leased by Tenant in its then-current "as-is" condition and Landlord shall not be required to contribute funds toward any improvements in the Offer Space except as stated in the Availability Notice, (D) Landlord shall not be required to pay any commission or fee to any broker representing Tenant in connection therewith, and (E) Landlord shall not be required to grant any rent credit or pay any allowance in connection with the Offer Space, except as stated in the Availability Notice.

**(iii)** Tenant's ROFO is subject and subordinate to the rights of Master Tenant and of any third party that leases the Offer Space from Landlord before the ROFO becomes effective and each of their successors and assigns (the "**Prior Tenants**"). Landlord shall not be required to deliver an Availability Notice to Tenant before extending, expanding, renewing, or redocumenting the lease of any Prior Tenant.

**(iv)** If Tenant does not exercise the ROFO within the time period required above, Landlord may lease the Offer Space to a third party on any terms and conditions Landlord deems acceptable. Tenant may not exercise the ROFO during the last five (5) years of the Initial Term unless Tenant exercises the first Extension Option pursuant to Section 2.1(b) below (if the Extension Option is then available to Tenant) concurrently with its exercise of the ROFO. The ROFO shall expire on the first day of the second Extension Term. If Tenant exercises the ROFO, the Early Termination Right under Section 2.1(c) shall terminate and be of no further force and effect.

**(d)** **General.** As used herein, the word "**Premises**" shall mean the Initial Premises and any additional space added to the Initial Premises from time to time, including the First Expansion Premises, the Second Expansion Premises and any Offer Space leased by Tenant. The Premises are a part of the building and other improvements, including common areas (collectively, the "**Building**"), located on the block bounded by 5th and 6th Avenues, Marion and Columbia Streets in the City of Seattle, County of King, State of Washington, legally described on Exhibit B (as such real property may be added to or reduced by Landlord from time to time, the "**Real Property**").

**(e)** **Contingency.** Tenant acknowledges that it currently subleases floor 30 of the Premises from Bank of America ("**Master Tenant**" ) under that certain Sublease dated March 29, 2007 (as amended from time to time, the "**Sublease**" ). Tenant acknowledges that it is familiar with the Building and the condition of Floor 30 and that Landlord will not have physical possession of Floor 30 prior to delivering possession of Floor 30 to Tenant and Landlord shall not be required to do any work on Floor 30. Master Tenant currently leases the entire Initial Premises and the First and Second Expansion Premises from Landlord. Landlord's obligations under this Lease are contingent on Landlord securing the right to exclusive possession of the Premises from Master Tenant and Landlord may terminate this Lease at any time if Landlord determines that it cannot satisfy this contingency prior to the Term Commencement Date. Landlord shall deliver possession of the Initial Premises to Tenant in its then current "as is" condition promptly following the date on which this contingency is satisfied by Landlord. Notwithstanding the foregoing, Landlord shall ensure that all personal property and debris are removed from the Floor 31 of the Initial Premises prior to delivering possession of Floor 31 to Tenant but Landlord shall not be required to remove any fixtures or tenant improvements.

**1.2** **Landlord's Reserved Rights.** In addition to all other rights reserved by Landlord under this Lease, Landlord reserves from the leasehold estate hereunder, and the Premises shall not include, (a) the exterior surfaces of the walls and windows bounding the Premises, and (b) all space located within the Premises for Major Vertical Penetrations (as defined below), conduits, electric and all other utilities, heating ventilation and air-conditioning and fire protection and life safety systems, sinks or other Building facilities that do not constitute Tenant Improvements (collectively, "**Building Components**"). Landlord shall have the use of the Building Components and access through the Premises for operation, maintenance, repair or replacement thereof. Landlord shall have the right from time to time, to install, remove or relocate any of the Building Components within the Premises to locations that do not permanently and materially reduce the square footage of the Premises. As used herein, the term "**Major Vertical Penetrations**" shall mean the area or areas within Building stairs (excluding the landing at each floor), elevator shafts, and vertical ducts that service more than one floor of the Building. The area of Major Vertical Penetrations shall be bounded and defined by the dominant interior surface of the perimeter walls thereof (or the extended plane of such walls over areas that are not enclosed). Major

Vertical Penetrations shall exclude areas for the specific use of Tenant or installed at the request of Tenant, such as special stairs or elevators.

**1.3 Common Areas.** Tenant shall have the nonexclusive right (in common with other tenants or occupants of the Building, Landlord and all others to whom Landlord has granted or may hereafter grant such rights) to use the Common Areas, subject to such reasonable rules and regulations as Landlord may from time to time impose. Landlord may at any time close temporarily any Common Areas to make repairs or changes therein or to effect construction, repairs, or changes within the Building, or to prevent the acquisition of public rights in such areas, or to discourage parking by parties other than tenants, and may do such other acts in and to the Common Areas as in its judgment may be desirable. Landlord may from time to time permit portions of the Common Areas to be used exclusively by specified tenants. Landlord may also, from time to time, place or permit customer service and information booths, kiosks, stalls, push carts and other merchandising facilities in the Common Areas. "**Common Areas**" shall mean any of the following or similar items (a) to the extent included in the Building the total square footage of areas of the Building devoted to nonexclusive uses such as ground floor lobbies, seating areas and elevator foyers; fire vestibules; mechanical areas; restrooms and corridors on all floors; elevator foyers and lobbies on multi-tenant floors; electrical and janitorial closets; telephone and equipment rooms; and other similar facilities maintained for the benefit of Building tenants and invitees, but shall not mean Major Vertical Penetrations; and (b) all parking garage vestibules; restrooms; loading docks; locker rooms, exercise and conference facilities available for use by Building tenants (if any); walkways, roadways and sidewalks; trash areas; mechanical areas; landscaped areas including courtyards, plazas and patios; and other similar facilities maintained for the benefit of Building tenants and invitees.

**1.4 Calculation of Net Rentable Area.** The term "**Net Rentable Area**" as used in this Lease shall mean the area or areas of space within the Building determined by Landlord from time to time in accordance with the Standard for Measuring Floor Area in Office Buildings - ANSI Z65.1 – 1996. Landlord and Tenant hereby confirm and stipulate that the number of square feet of Net Rentable Area for the Initial Premises is as set forth in the Basic Lease Information Sheet.

## ARTICLE 2
## Term, Use of Premises and Base Rent

**2.1 Term.**

**(a) Initial Term.** The "**Term Commencement Date**" shall mean the earlier of (a) the Target Commencement Date stated in the Basic Lease Information Sheet as Item 9, (b) the date that is one hundred twenty (120) days after Landlord delivers possession of Floor 31 of the Initial Premises to Tenant, or (c) the date on which Tenant commences business on Floor 31 of the Initial Premises. Tenant shall be solely responsible for making any alterations or improvements to the Premises. The "**Initial Term**" of this Lease shall mean the number of years and/or months set forth in the Basic Lease Information Sheet as Item 10, commencing on the first day of the calendar month following the Term Commencement Date (or on the Term Commencement Date if it is the first day of a calendar month) through and including the Expiration Date. "**Expiration Date**" shall mean the last day of the Term. The Target Commencement Date represents merely the parties' estimate of the Term Commencement Date. Although the Term will not begin until the Term Commencement Date, all of the terms and conditions of this Lease shall be binding on the parties immediately upon execution hereof.

**(b) Extension Term.** Provided that Tenant has paid all sums due under this Lease in a timely manner, Tenant shall have two (2) consecutive options to extend the Term of this Lease (each an "**Extension Option**") for the number of years set forth in the Basic Lease Information Sheet as "**Extension Terms**" in Item 10, commencing on the day after the expiration of the Initial Term or the first

Extension Term (as applicable), subject to all of the terms and conditions of this Lease, except that Base Rent shall be adjusted as provided in Section 2.6 below. If Tenant has not paid all sums due under this Lease in a timely manner any time prior to the first day of such Extension Term, then Landlord shall, in its sole discretion, have the right to cancel the Extension Options. Tenant shall provide Landlord with irrevocable written notice of Tenant's intent to exercise the Extension Option no later than twelve (12) months prior to the expiration of the Initial Term or the first Extension Term (as applicable). If Tenant does not deliver a notice of exercise by such date then the Extension Option shall immediately terminate and be of no further force or effect and this Lease shall terminate on the scheduled Expiration Date. If Tenant does not exercise the first Extension Option then the second Extension Option shall immediately terminate and be of no further force or effect. The Extension Options shall be personal to Tenant, and may not be exercised by or for the benefit of any Transferee without Landlord's prior written consent. Landlord shall not pay any broker's fees or commission on any renewal or extension of Tenant's tenancy. As used herein the "**Term**" shall mean the Initial Term and each Extension Term if validly exercised.

**(c) Early Termination Option.** Provided that Tenant has paid all sums due under this Lease in a timely manner, Tenant shall have the right to terminate this Lease in whole or in part effective as of the last day of the eighty-fourth (84th) month of the Initial Term (the "**Early Termination Date**"), on the terms and conditions set forth in this Section (the "**Early Termination Right**"). Tenant may exercise the Early Termination Right with respect to any combination of full contiguous floors then included in the Premises (the "**Excluded Floors**"). In order to exercise the Early Termination Right, by no later than the last day of the seventy-second (72nd) month of the Initial Term Tenant must (i) deliver to Landlord an irrevocable written notice clearly exercising the Early Termination Right (the "**Termination Notice**") specifying the Excluded Floors, and (ii) pay Landlord a fee (the "**Termination Fee**"). The Termination Fee shall be equal to the sum of (A) six (6) months Base Rent for the Excluded Floors at the rate payable for the Excluded Floors in months 85-96 of the Initial Term, plus (B) the unamortized amount of the following items: legal fees paid by Landlord in connection with this Lease, the portion of the Abated Rent applicable to the Excluded Floors, the percentage of the Cash Allowance applicable to the Excluded Floors (assuming the Cash Allowance is allocated equally to the floors covered by that part of the Cash Allowance), and brokerage commissions paid by Landlord in connection with the Excluded Floors, all of which shall be amortized with 9% annual interest over the Initial Term. If First or Second Expansion Space is added to the Premises, the Termination Fee shall be increased based on the same factors to allow Landlord to recover that portion of the costs incurred by Landlord in connection with the First or Second Expansion Space attributable to the period after the Early Termination Date plus nine (9) months Base Rent on the First or Second Expansion Space, as applicable. Upon request from Tenant any time after the sixty-fifth (65th) month of the Initial Term, Landlord will confirm the amount of the Termination Fee. Time is of the essence of this provision and nether late notice nor late payment shall be effective. If Tenant does not deliver a Termination Notice and the Termination Fee by the above deadline, Tenant's Early Termination Right shall immediately terminate and shall be of no further force or effect. Tenant acknowledges that this provision was specifically negotiated by the parties and is a material term of this Lease and Tenant hereby waives all equitable claims and defenses that might extend the period within which Tenant may exercise the Early Termination Right or pay the Termination Fee. If Tenant has not paid all sums due under this Lease in a timely manner any time prior to the Early Termination Date, then Landlord shall, in its sole discretion, have the right to reject the Termination Notice. Tenant's Early Termination Right is personal to the original Tenant named herein and may not be exercised by or for the benefit of any other party. If Tenant exercises its Early Termination Right, the Extension Options under Section 2.1(b) and the Right of First Offer under Section 1.1(b, shall immediately terminate and shall be of no further force and effect.

**2.2 Delay in Delivery.** If Landlord, for any reason whatsoever, cannot deliver possession of the Premises to Tenant on the Target Commencement Date, this Lease shall not be void or voidable, nor

shall Landlord be liable to Tenant for any loss or damage resulting therefrom. Tenant understands and agrees that delivery of possession and the Term Commencement Date could be delayed.

**2.3 Confirmation.** When the actual Term Commencement Date is determined, Tenant shall, within ten (10) days after receipt thereof, execute and return to Landlord a Lease Commencement Certificate in the form of Exhibit E attached hereto, or any similar form requested by Landlord, confirming the information thereon. Failure within such time to execute and return or to object in writing to the Lease Commencement Certificate shall be conclusively deemed to be an acknowledgement that Tenant agrees to the terms shown thereon and Tenant shall be deemed to have confirmed that the certificate is correct as presented.

**2.4 Use.** Subject to the restrictions set forth in Section 7.1, Tenant shall use the Premises solely for executive, professional, corporate, municipal or administrative offices for the City of Seattle in a manner suitable for a class A downtown office building (the "**Permitted Use**") and for no other use or purpose. Notwithstanding the foregoing, for the purpose of limiting the type of use permitted by Tenant, or any party claiming through Tenant, but without limiting Landlord's right to lease any portion of the Building to a tenant of Landlord's choice, the Permitted Use shall not include: (a) offices of any agency or bureau of the United States or any state or political subdivision thereof except as expressly identified above; (b) offices or agencies of any foreign government or political subdivision thereof; (c) offices of any health care professionals or service organization, except for administrative offices where no diagnostic, treatment or laboratory services are performed; (d) schools or other training facilities that are not ancillary to executive, professional or corporate administrative office use; (e) retail or restaurant uses; (f) broadcast studios or other broadcast production facilities, such as radio and/or television stations; (g) call centers or product display or demonstration facilities; (h) offices at which deposits or bills are regularly paid in person by customers; (i) personnel agencies, except offices of executive search firms; or (j) any use that is prohibited by or would conflict with any exclusive use rights or other provision of any other tenant's lease, provided that Tenant's Permitted Use shall not be restricted by any future lease unless Tenant changes its use or assigns this Lease or subleases the Premises. If Tenant assigns this Lease or subleases all or any portion of the Premises, the subtenant or assignee shall not be permitted to use the Premises in any manner that would conflict with any exclusive use rights that Landlord may hereafter grant to any other tenant in the Building.

**2.5 Payments by Tenant.** As used herein, the term "**Rent**" shall include Base Rent, Operating Costs (as defined in Article 4 below) and all other sums payable by Tenant to Landlord. Tenant shall pay Rent at the times and in the manner herein provided. All obligations of Tenant hereunder to make payments to Landlord shall constitute Rent and failure to pay the same when due shall give rise to the rights and remedies provided in Section 13.2.

**2.6 Payment of Base Rent.**

**(a) General.** Tenant's obligation to pay Base Rent and Operating Costs shall commence upon the Term Commencement Date and its other obligations under this Lease shall commence upon execution hereof or entry onto the Premises (as applicable). Tenant shall pay Base Rent in the amounts set forth in the Rent Rider attached hereto ("**Base Rent**") (as the same may be adjusted from time to time hereunder) in advance on or before the first day of each calendar month during the Term and any extensions or renewals thereof. All payments of Rent due under this Lease shall be payable in advance, without demand (except as specifically provided herein) and without reduction, abatement, counterclaim or setoff, at the address specified in the Basic Lease Information Sheet as Item 6, or at such other address as may be designated by Landlord.

**(b) Adjustment of Base Rent.** If (i) Tenant exercises an Extension Option under Section 2.1(b), or (ii) Tenant exercises the right to lease the Second Expansion Premises, the Base Rent

for the Extension Term or the Base Rent for the Second Expansion Premises, as applicable, shall be the Fair Market Rent (as defined in Section 2.6(c) below) based on a five (5) year term to begin on the first day of the Extension Term or the day on which Landlord will deliver possession of the Second Expansion Premises to Tenant (each an "**Adjustment Date**").

**(c) Definition of Fair Market Rent.** "**Fair Market Rent**" as of the Adjustment Date shall mean the rent rate then being charged by Landlord in the Building (i) for new leases (when setting rent for the Second Expansion Premises), and (ii) for five (5) year renewals of existing leases (when setting rent for the Extension Term), or if there are no recent comparable transactions in the Building, the rate other landlords are then charging for comparable non-equity transactions for comparable second generation space with comparable tenant improvements in comparable Class "A" high-rise office buildings in the Central Business District of Seattle (the "**Market Area**"). The determination of Fair Market Rent shall take into consideration: location in the Building or other building, existing tenant improvements, proposed term of lease, extent of service provided or to be provided, the ownership of the comparable space, the method of calculating Net Rentable Area in the Building verses other comparable Buildings, the time the particular rate under consideration became or is to become effective, tenant improvement and other allowances or concessions (if any) that are typical in the market as of the Adjustment Date for a tenant extending or expanding its occupancy in the same location, the means of reimbursing Landlord for operating costs, and any other relevant terms or conditions except as provided herein. The determination of Fair Market Rent shall not consider possible down time between tenants, moving costs, costs of securing a new tenant, costs incurred in connection with the negotiation and documentation of a lease transaction, or any costs incurred by a landlord which are not paid to or for the direct benefit of the tenant. Subleases and assignments shall not be considered. The determination of Fair Market Rent shall not consider expansion transactions and renewal or extension transactions in which the rent was established at a pre-determined rate or was discounted below the fair market rate. Fair Market Rent may include periodic or annual increases if such increases are consistent with then-existing market conditions.

**(i) Landlord's Determination.** Fair Market Rent as of the Adjustment Date shall be determined by Landlord with written notice given to Tenant approximately ninety (90) days prior to the Adjustment Date, subject to Tenant's right of arbitration pursuant to the provisions of Section 2.6(c)(ii). Failure on the part of Landlord to give such notice in a timely manner shall not vitiate the right to require adjustment of Base Rent or delay the effective date of the adjustment in Base Rent. Tenant may by written notice demand arbitration within thirty (30) days after receipt of notice from Landlord of Landlord's determination of Fair Market Rent, and if no such notice is delivered, Tenant shall be deemed to have accepted the Fair Market Rent as determined by Landlord. Should Tenant elect to arbitrate and should the arbitration not be concluded prior to the Adjustment Date, Tenant shall pay Rent to Landlord after the Adjustment Date, including Base Rent adjusted to reflect Fair Market Rent as Landlord has so determined. If the amount of Fair Market Rent as determined by arbitration is greater than or less than Landlord's determination, then any adjustment required to correct the amount previously paid shall be made by payment by the appropriate party within ten (10) days after such determination of Fair Market Rent.

**(ii) Arbitration of Fair Market Rent.** If Tenant disputes the amount claimed by Landlord as Fair Market Rent, the parties shall attempt to agree on Fair Market Rent within thirty (30) days thereafter. If such dispute is not resolved by mutual agreement, Tenant may submit the dispute to arbitration as provided below. The award rendered in any such arbitration may be entered in any court having jurisdiction and shall be final and binding between the parties. The arbitration shall be conducted and determined in the City of Seattle, Washington, in accord with the then-prevailing

commercial arbitration rules of the American Arbitration Association or its successor for arbitration of commercial disputes except that the procedures mandated by said rules shall be modified as follows:

**(A)** Tenant shall make demand for arbitration in writing within thirty (30) days after receipt of Landlord's determination of Fair Market Rent. Tenant's arbitration demand shall specify (a) the name and address of the person to act as the arbitrator on its behalf, and (b) Tenant's determination of Fair Market Rent. The arbitrator shall be a real estate appraiser with at least five (5) years experience appraising first-class commercial office space in the Market Area who would qualify as an expert witness to give testimony addressed to the issue in a court of competent jurisdiction. Failure by Tenant to make a timely and proper demand for arbitration shall constitute a waiver of the right to arbitration. Within ten (10) business days after receipt of Tenant's demand for arbitration, Landlord shall have the right to give notice in writing to Tenant of Landlord's adjusted determination of Fair Market Rent. Within ten (10) business days following Tenant's receipt of such notice, if Tenant and Landlord have not agreed upon Fair Market Rent, Tenant shall notify Landlord in writing that Tenant desires to renew its demand for arbitration. Failure on the part of Tenant to give such notice shall constitute a waiver of the right to arbitration, and Tenant shall be deemed to have accepted Landlord's adjusted determination of Fair Market Rent. Within ten (10) business days after the receipt of a notice renewing the demand for arbitration, Landlord shall give notice to Tenant, specifying the name and address of the person designated by Landlord to act as arbitrator on its behalf who shall be similarly qualified. If Landlord fails to notify Tenant of the appointment of its arbitrator, within or by the time above specified, then the arbitrator appointed by Tenant shall be the arbitrator to determine the issue.

**(B)** If two (2) arbitrators are chosen pursuant to the preceding Section, the arbitrators so chosen shall meet within ten (10) business days after the second arbitrator is appointed and, if within ten (10) business days after such first meeting the two arbitrators have not agreed upon a determination of Fair Market Rent, they shall appoint a third arbitrator, who shall be a competent and impartial person with qualifications similar to those required of the first two arbitrators. If they are unable to agree upon such appointment within five (5) business days after expiration of said ten (10) business day period, the third arbitrator shall be selected by the parties themselves if they can agree thereon, within a further period of ten (10) business days. If the parties do not so agree, then either party, on behalf of both, may request appointment of such a qualified person by a court of the State of Washington sitting in King County pursuant to RCW 7.04A.110. Request for appointment shall be made in writing with a copy given to the other party. Each party agrees that said court shall have the power to make the appointment, provided, however, if the court does not make a determination within ten (10) days of request by either party for the appointment of a third arbitrator, appointment of such third arbitrator shall be made in accordance with the selection procedure of the commercial arbitration rules of the American Arbitration Association or its successor for arbitration of commercial disputes. The three (3) arbitrators shall decide the dispute, if it has not previously been resolved, by following the procedure set forth below.

**(C)** The arbitrator selected by each of the parties shall state in writing his or her determination of the Fair Market Rent, supported by the reasons therefor, and shall deliver a copy to each party. The arbitrators shall arrange for a simultaneous exchange of such proposed resolutions. The role of the third arbitrator shall be to select which of the two (2) proposed resolutions most closely approximates his or her determination of Fair Market Rent. The third arbitrator shall have no right to propose a middle ground or any modification of either of the proposed resolutions. The resolution he or she chooses as most closely approximating his or her determination of Fair Market Rent shall constitute the decision of the arbitrators and shall be final and binding upon the parties.

**(D)** If any arbitrator fails, refuses or is unable to act, his or her successor shall be appointed by him or her, but in the case of the third arbitrator, his or her successor shall be appointed in the same manner as provided for appointment of the third arbitrator. The arbitrators shall attempt to decide the issue within ten (10) business days after the appointment of the third arbitrator. Any decision in which the arbitrator appointed by Landlord and the arbitrator appointed by Tenant concur shall be binding and conclusive upon the parties. Each party shall pay the fees and costs of its own counsel and other consultants. The losing party shall pay the fees and costs of the arbitrators and of the expert witnesses (if any) of the prevailing party as well as those of its expert witnesses. For purposes hereof, the losing party shall be that party whose selected arbitrator's statement of Fair Market Rent was not selected by the third arbitrator.

**(E)** The arbitrators shall have the right to consult experts and competent authorities with factual information or evidence pertaining to a determination of Fair Market Rent, but any such consultation shall be made in the presence of both parties with full right on their part to cross-examine. The arbitrators shall render their decision and award in writing and shall deliver copies to each party. The arbitrators shall have no power to modify the provisions of this Lease.

**2.7 Partial Months.** If the Term Commencement Date occurs on other than the first day of a calendar month, then Base Rent and Operating Costs for such partial calendar month shall be prorated based on the actual number of days in the month included in the Term and a 365 day year and the prorated installment shall be paid on the Term Commencement Date together with any other amounts payable on that day. If the Expiration Date occurs on other than the last day of a calendar month, then Base Rent and Operating Costs for such partial calendar month shall be prorated based on the actual number of days in the month included in the Term and a 365 day year and the prorated installment shall be paid on the first day of the calendar month in which the Expiration Date occurs. If the rate at which Base Rent is payable under this Lease changes on a day other than the first day of a calendar month, then the Base Rent for such month shall be prorated on a daily basis to take such change into account, and any additional amount due as a result of such proration shall be paid on the first day of the month for which the proration occurs.

## ARTICLE 3
## Security Deposit

Intentionally omitted.

## ARTICLE 4
## Payment of Operating Costs

**4.1 Net Lease.** This is a net lease. Base Rent shall be paid to Landlord absolutely net of all costs and expenses. The provisions of this Article 4 for payment of Operating Costs by means of periodic payment of Tenant's Proportionate Share (as defined in Section 4.3) of Estimated Operating Costs (as defined in Section 4.2) and the Operating Costs Adjustment (as defined in Section 4.6) are intended to pass on to Tenant and reimburse Landlord for Tenant's Proportionate Share of all costs and expenses of the nature described in Section 4.4.

**4.2 Estimated Payments.** Commencing on the Term Commencement Date, Tenant shall pay Tenant's Proportionate Share of Estimated Operating Costs in advance on or before the first day of each calendar month throughout the Term and any extensions or renewals thereof. "**Estimated Operating Costs**" for any calendar month shall mean Landlord's estimate of Operating Costs for the calendar year within which such month falls, divided into twelve (12) equal monthly installments. Landlord shall provide Tenant with a statement setting forth the Estimated Operating Costs and Tenant's Proportionate Share thereof within a reasonable period of time after the Term Commencement Date and

the commencement of each calendar year thereafter. Landlord may adjust such estimate from time to time by written notice. Until a new statement of Estimated Operating Costs is received Tenant shall continue to make the monthly payment of Estimated Operating Costs applicable to the prior year.

**4.3 Tenant's Proportionate Share.** "**Tenant's Proportionate Share**" shall be calculated by Landlord from time to time and shall mean a percentage equal to the Net Rentable Area of the Premises divided by the greater of (a) ninety-five percent (95%) of the total Net Rentable Area in the Building leased or held for lease, or (b) the Net Rentable Area of the Building actually leased to tenants. Notwithstanding anything herein to the contrary, in any instance in which Landlord, in Landlord's reasonable discretion, deems Tenant to be responsible for any amounts greater than Tenant's Proportionate Share of any expense, Landlord shall have the right to allocate such costs in any manner Landlord deems reasonably appropriate.

**4.4 Operating Costs.** "**Operating Costs**" shall mean all expenses and costs (but not specific costs that are separately billed to and paid by specific tenants) of every kind and nature that Landlord shall pay or incur or become obligated to pay or incur (including, without limitation, costs incurred by managers and agents that are reimbursed by Landlord) because of or in connection with the management, repair, maintenance, replacement, preservation, ownership and operation of the Building and any supporting facilities directly serving the Building (as allocated to the Building in accordance with standard accounting practices, consistently applied). Operating Costs shall include, but not be limited to the following types of expenses:

**(a)** Wages, salaries, reimbursable expenses and benefits of all on-site and off-site personnel, including employees, independent contractors and agents, engaged in the operation, repair, maintenance and security of the Building and the direct costs of training such employees.

**(b)** Costs (including allocated rental) for the property management office and office operation; costs of operating exercise facilities in the Building, if any, available for use by tenants, including the cost of acquiring or leasing equipment therein; and costs of operating any conference facilities in the Building, if any, available for use by tenants, including the cost of acquiring or leasing equipment therein (less revenues received in connection with the use thereof).

**(c)** All supplies, materials, furniture and equipment used in the operation and maintenance of the Building, including, without limitation, the cost of erecting, maintaining and dismantling art work and similar decorative displays commensurate with operation of a Class A office project, and costs of operating shower or exercise facilities in the Building, if any, available for use by tenants, including the cost of acquiring or leasing equipment therein; and costs of operating any conference facilities in the Building, if any, available for use by tenants, including the cost of acquiring or leasing equipment therein (less revenues received in connection with the use thereof).

**(d)** Utilities, including, without limitation, water, power, sewer, waste disposal, communication and cable television facilities, heating, cooling, lighting and ventilation of the Building.

**(e)** All maintenance, extended warranties (amortized over the period of such warranty), janitorial and service agreements for the Building and the equipment therein, including, but not limited to, alarm service, window cleaning, elevator maintenance, and maintenance and repair of the Building and all Building Components.

**(f)** Legal and accounting services for the Building, including, but not limited to, the costs of audits by certified public accountants of Operating Costs records; provided, however, that Operating Costs shall not include legal fees related to (i) negotiating lease terms for prospective tenants, (ii) negotiating termination or extension of leases with existing tenants, or (iii) proceedings against tenants relating solely to the collection of Rent or other sums due to Landlord from such tenants.

**(g)** All insurance premiums and costs, including but not limited to, the premiums and cost of fire, casualty, liability, rental abatement or interruption and earthquake insurance applicable to the Building and Landlord's personal property used in connection therewith (and all amounts paid as a result of loss sustained that would be covered by such policies but for "deductible" or self-insurance provisions).

**(h)** Repairs, replacements and general maintenance of the Building (except for repairs and replacements (x) paid for from the proceeds of insurance, or (y) paid for directly by Tenant, other tenants or any third party).

**(i)** All real and personal property taxes, assessments, local improvement or special benefit district charges and other governmental charges, special and general, known and unknown, foreseen and unforeseen, of every kind and nature whatsoever (i) attributable to the Real Property or the Building or levied, assessed or imposed on, the Real Property or the Building, or any portion thereof, or interest therein; (ii) attributable to or levied upon Landlord's personal property located in, or used in connection with the Building; (iii) surcharges and all local improvement or special benefit and other assessments levied with respect to the Building, the Real Property, and all other property of Landlord used in connection with the operation of the Building; (iv) any taxes levied or assessed in lieu of, in whole or in part, or in addition to such real or personal property taxes; (including, but not limited to, leasehold taxes, business and occupation taxes and taxes or license fees upon or measured by the leasing of the Building or the rents or other income collected therefrom (vi) any and all costs, expenses and attorneys' fees paid or incurred by Landlord in connection with any proceeding or action to contest in whole or in part, formally or informally, the imposition, collection or validity of any of the foregoing taxes, assessments, charges or fee (collectively, "**Real Property Taxes**"). If by law any Real Property Taxes may be paid in installments at the option of the taxpayer, then Landlord shall include within Real Property Taxes for any year only those installments (including interest, if any) which would become due by exercise of such option. Real Property Taxes shall not include (x) inheritance or estate taxes imposed upon or assessed against the Building, or any part thereof or interest therein, or (y) federal or state income taxes computed upon the basis of the Landlord's net income.

**(j)** Amortization (together with reasonable financing charges) of capital improvements made to the Building (i) to comply with the requirements of law, ordinance rule or regulation, (ii) to replace items which Landlord would be obligated to maintain under this Lease; or (iii) to improve the operating efficiency or reduce Operating Costs of the Building. As used in this Section, "amortization" shall mean allocation of the cost equally to each year of useful life of the items being amortized together with interest thereon at a rate reflecting Landlord's actual cost of funds or ten percent (10%) per annum, whichever is more. Notwithstanding the foregoing, however, Landlord may treat as expenses (chargeable in the year incurred), and not as capital costs, items that are less than two percent (2%) of Estimated Operating Costs for the year in question.

**(k)** All charges of any kind and nature imposed, levied, assessed, charged or collected by any governmental authority or other entity either directly or indirectly (i) for or in connection with public improvements, user, maintenance or development fees, transit, parking, housing, employment, police, fire, open space, streets, sidewalks, utilities, job training, child care or other governmental services or benefits, (ii) for environmental matters or as a result of the imposition of mitigation measures, including compliance with any transportation management plan, or fees, charges or assessments as a result of the treatment of the Building, or any portion thereof or interest therein, as a source of pollution or storm water runoff.

**(l)** A management fee equal to three percent (3%) of all revenue (excluding such management fee) derived from the Building, including without limitation, all Rent hereunder, all rent and

other payments derived from other tenants in the Building, parking revenues and other revenues derived from licenses of any other part of or right in the Building.

Notwithstanding the foregoing, Operating Costs shall not include (i) any sums collected from other Building tenants for special services provided to such tenant, in excess of the services provided to Tenant hereunder; (ii) amounts received from insurance claims and costs of repair and reconstruction related thereto to the extent of such insurance proceeds (other than deductible amounts under applicable insurance policies); (iii) ground rent (if any); (iv) interest or loan fees incurred in connection with any loan secured by the Building or the Real Property; (v) leasing commissions; (vi) except as permitted under Section 4.4.1(j) above, depreciation or amortization of the Building or Building Components or expenses that should be capitalized in accordance with standard accounting practices, consistently applied; (vii) any penalties due to violation of law or fines imposed for late payment of any Operating Costs by Landlord or interest thereon, unless such penalties, interest or fines were caused directly or indirectly by Tenant; (viii) attorneys' fees, costs, disbursements and other expenses incurred in connection with disputes with tenants, or lease negotiations with prospective tenants; or (ix) any costs of removal, remediation or encapsulation of any asbestos containing materials in the Building.

**4.5 Adjustment for Occupancy.** Notwithstanding any other provision herein to the contrary, if during any year of the Term the Building is not fully occupied by tenants paying full rent or all premises within the Building do not receive Basic Services (as defined in Section 5.1 below), then an adjustment shall be made in computing Operating Costs for such year so that Operating Costs shall be computed as though the Building had been fully occupied by tenants paying full rent and provided with Basic Services during such year; provided, however, that in no event shall Landlord collect in total, from Tenant and all other tenants of the Building, an amount greater than one hundred percent (100%) of Operating Costs during any year of the Term.

**4.6 Computation of Operating Costs Adjustment.** The term "**Operating Costs Adjustment**" for any calendar year shall mean the difference, if any, between Estimated Operating Costs and actual Operating Costs for that calendar year. Landlord shall, within a reasonable period of time after the end of any calendar year for which Estimated Operating Costs differs from actual Operating Costs, give written notice thereof to Tenant (a "**Cost Statement**"). The Cost Statement shall include a statement of the total Operating Costs applicable to such calendar year and the computation of the Operating Costs Adjustment. Landlord's failure to give such Cost Statement within a reasonable period of time after the end of any calendar year for which an Operating Costs Adjustment is due shall not release either party from the obligation to make the adjustment provided for in Section 4.7.

**4.7 Adjustment for Variation Between Estimated and Actual.** If Tenant's Proportionate Share of Operating Costs for any calendar year exceeds the payments received by Landlord towards Tenant's Proportionate Share of Estimated Operating Costs for such year, Tenant shall pay to Landlord Tenant's Proportionate Share of the Operating Costs Adjustment within thirty (30) days after the date of the Landlord's Cost Statement. If the Tenant's Proportionate Share of Operating Costs for any calendar year is less than the payments received by Landlord towards Tenant's Proportionate Share of Estimated Operating Costs for such year, then Landlord, at Landlord's option, shall either (a) pay Tenant's Proportionate Share of the Operating Costs Adjustment to Tenant in cash, or (b) credit said amount against future installments of Estimated Operating Costs payable by Tenant hereunder. If the Term commences or terminates at any time other than the first day of a calendar year, Tenant's Proportionate Share of the Operating Costs Adjustment shall be calculated based upon the exact number of calendar days during such calendar year that fall within the Term, and any payment by Tenant required hereunder shall be paid even if the Term has expired when such determination is made.

**4.8 Cap On Controllable Operating Costs.** Notwithstanding anything to the contrary contained herein, Tenant's Proportionate Share of Controllable Operating Costs during the Initial Term shall not increase by more than five percent (5%) per year on a cumulative, compounding basis over the then-expired portion of the Initial Term. "**Controllable Operating Costs**" shall mean those charges for which Landlord has a clear ability to control the price paid through bidding or other procedures and shall not include taxes, government imposed charges, utility charges, insurance premiums or deductibles, payments that do not recur each year, the cost of any contract the price of which is dependent on union labor, management fees that are stated as a percentage of revenue, amortization of capital items permitted hereunder, and the cost of any contract where Landlord is not able to terminate such contract and replace the service provider with a comparable provider at a better cost.

## ARTICLE 5
## Landlord's Covenants

**5.1 Basic Services.** So long as Tenant is not in default of its obligations under this Lease, during Tenant's occupancy of the Premises Landlord shall provide the following ("**Basic Services**"):

**(a)** Cold and hot water (other than hot water for special needs which will be supplied as an Extra Service) at those points of supply provided generally for use of tenants in the Building.

**(b)** Central heat and air conditioning in season, at such temperatures and in such amounts as are considered by Landlord to be standard or as may be permitted or controlled by applicable Laws (as defined in Section 6.9) during Normal Office Hours.

**(c)** Routine maintenance, repairs, structural and exterior maintenance (including exterior glass and glazing), painting and electric lighting service for all public areas and special service areas of the Building in the manner and to the extent deemed by Landlord to be necessary or desirable. Landlord's obligation with respect to repair as part of Basic Services under this Section 5.1 shall be limited to (i) the structural portions of the Building, (ii) the exterior walls of the Building, including glass and glazing, (iii) the roof, (iv) mechanical, electrical, plumbing and life safety systems that are considered Building Standard Improvements (as defined in Section 5.7), and (v) Common Areas.

**(d)** Janitorial service on a five (5) day week basis, excluding holidays, in accordance with Landlord's customary janitorial specifications which shall not include cleaning of any specialized equipment in the Premises.

**(e)** An electrical system to convey power delivered by public utility or other providers selected by Landlord, in amounts sufficient for normal administrative office operations during Normal Office Hours as provided in similar office buildings, but not to exceed a total allowance of four (4) watts per square foot of Net Rentable Area (which includes an allowance for lighting of the Premises), provided that no single item of electrical equipment consumes more than one-half (0.5) kilowatt at rated capacity or requires a voltage other than one hundred twenty (120) volts, single phase. If Tenant's electrical requirements, as estimated by Landlord based upon rated capacity (or based upon metered consumption), exceed four (4) watts per square foot of Net Rentable Area or if Tenant installs equipment exceeding the foregoing capacity, Tenant shall pay the full amount of such excess together with any additional cost necessary to provide such excess capacity. Tenant may not install equipment exceeding such capacity without Landlord's prior approval which may be conditioned on Tenant's installation of submetering equipment either as part of the initial Tenant Improvements or when such equipment is installed. If the installation and operation of Tenant's electrical equipment requires additional air conditioning capacity above that provided by the Building Standard Improvements, then the cost of installing additional air conditioning and operation thereof (including utilities) shall be paid by Tenant and shall be considered an Extra Service, subject to the provisions of Section 5.4 below. Landlord may

require Tenant to pay for the installation and operation of utility metering devices to measure actual utility consumption in the Premises.

**(f)** Installation, maintenance and replacement of Building standard lamps, bulbs and ballasts used in the Premises.

**(g)** Limited security service for the Building in accordance with Landlord's customary practices, which may include electronic card key access, roving personnel or surveillance devices; provided, however, that any security service shall be provided by unarmed personnel and shall not include alarm systems for special surveillance of the Premises; and provided, further, that Landlord shall not be liable to Tenant or any third party for any breach of security or any losses due to theft, burglary, battery or for damage done or injury inflicted by persons in or on the Building.

**(h)** Public elevator service to the Garage and the floor(s) on which the Premises are located during Normal Office Hours; provided, however, that Tenant shall have access to the Premises twenty-four (24) hours per day, seven (7) days per week provided that such access shall: (i) be in accordance with all reasonable access control measures as may be imposed by Landlord from time to time and as are generally applicable to tenants of the Building and their invitees; and (ii) be subject to restrictions on access recommended or imposed as a result of an emergency.

**5.2 Hours of Operation.** The term "**Business Days**" shall mean Monday through Friday, excluding State and Federal holidays and all days that maintenance employees of the Building are entitled to take off or to receive extra compensation for, from time to time under their union contract or other agreement. The term "**Normal Office Hours**" shall mean Business Days from 8:00 a.m. to 6:00 p.m., and Saturdays from 9:00 a.m. to 1:00 p.m.

**5.3 Interruption.** Landlord shall not be liable for damages to either person or property, nor for injury to or interference with or interruption of Tenant's business operations, nor shall Landlord be deemed to have evicted Tenant, nor shall there be any abatement of Rent, nor shall Tenant be relieved from performance of any covenant on its part to be performed hereunder by reason of (a) interruption of, or deficiency in, the provision of Basic Services; (b) breakdown or malfunction of lines, cables, wires, pipes, equipment or machinery utilized in supplying or permitting Basic Services or telecommunications; or (c) curtailment or cessation of Basic Services due to causes or circumstances beyond the reasonable control of Landlord, including but not limited to (i) strikes, lockouts or other labor disturbance or labor dispute of any character, (ii) governmental regulation, moratorium or other governmental action, (iii) inability, despite the exercise of reasonable diligence, to obtain electricity, water or fuel from the providers thereof, (iv) acts of God, and (v) war, terrorism, civil unrest, and rioting. Landlord shall use reasonable diligence to make such repairs as may be required to lines, cables, wires, pipes, equipment or machinery within the Building to provide restoration of Basic Services and, where the cessation or interruption of Basic Services has occurred due to circumstances or conditions beyond Real Property boundaries or outside the Landlord's control, to cause the same to be restored, by application or request to the provider thereof.

**5.4 Extra Services.** Landlord may provide to Tenant in Landlord's discretion and at Tenant's cost and expense (and subject to the limitations hereinafter set forth) the additional services described below ("**Extra Services**"). Tenant shall pay Landlord for the cost (including capital costs, out-of-pocket expenses and the allocated cost of Landlord's employees) of providing any Extra Services, together with an administrative fee equal to fifteen percent (15%) of such cost, within ten (10) days following presentation of an invoice therefor by Landlord to Tenant. The cost chargeable to Tenant for Extra Services shall constitute additional Rent.

**(a)** Any extra cleaning and janitorial services in excess of that required for Building Standard Improvements.

**(b)** Additional air conditioning and ventilating capacity required by reason of any electrical, data processing or other equipment or facilities or services required to support the same, in excess of that which would be required for Building Standard Improvements.

**(c)** Heating, ventilation, air conditioning or extra electrical equipment or service during hours other than Normal Office Hours. Landlord shall provide said heating, ventilation and air conditioning or extra service solely upon the prior request of Tenant given in compliance with the notice requirements and procedures that Landlord may establish from time to time; provided, however, that Tenant shall not pay for the first forty (40) hours of after-hours HVAC service used by Tenant in each year of the Term (as such Term may be extended hereunder).

**(d)** Repair and maintenance for which Tenant is responsible hereunder, including Tenant's obligations at the time of surrender under Section 6.13.

**(e)** Any Basic Service in amounts determined by Landlord to exceed the amounts required to be provided under Section 5.1, but only if Landlord elects to provide such additional or excess service.

**(f)** Any services in connection with construction of the Tenant Improvements except to the extent Landlord agrees to provide such services under Exhibit C.

**(g)** Any other item or service described in this Lease as an Extra Service or that Landlord is not required to provide as part of Basic Services.

**5.5 Window Coverings.** Unless otherwise approved by Landlord, Tenant shall use only Building standard window coverings. Tenant shall not remove, replace or install any window coverings, blinds or drapes on any exterior window without Landlord's prior written approval. Tenant acknowledges that breach of this covenant shall directly and adversely affect the exterior appearance of the Building and the operation of the heating, ventilation and air conditioning systems.

**5.6 Graphics and Signage.** Landlord shall provide the initial identification of Tenant's name on the directory board and/or electronic directory, if any, in the main lobby of the Building and in the elevator lobby on each floor on which the Premises is located. All signs, notices and graphics of every kind or character, visible in or from public corridors, the Common Areas or the exterior of the Premises shall comply with Landlord's design guidelines and with the construction regulations and procedures for the Building adopted by Landlord from time to time and any deviation shall be subject to Landlord's prior written approval.

**5.7 Building Standard Improvements.** As used herein, "**Building Standard Improvements**" shall mean Tenant Improvements which are consistent with the Landlord's standard specifications for the Building as to type, quality, size and quantity. Landlord may make changes to the specifications for the Building Standard Improvements from time to time. As used herein, "**Tenant Extra Improvements**" shall mean those Tenant Improvements that are unique to this Tenant or are of a type, quality, size or quantity different from the Building Standard Improvements. All Tenant Extra Improvements shall be constructed of materials and designed to standards of at least the same or better quality as comparable Building Standard Improvements. In instances where this Lease refers to Building Standard Improvements as a standard for the provision of services, maintenance, repair or replacement by Tenant or Landlord, such reference shall be to the difference in required services, maintenance, repairs or replacements between the Tenant Improvements as constructed in the Premises and the Building Standard Improvements, had Building Standard Improvements been constructed in the Premises.

**5.8 Peaceful Enjoyment.** Tenant shall peacefully have, hold and enjoy the Premises, subject to the other terms hereof, provided that Tenant pays the Rent and performs all of Tenant's covenants and agreements herein contained. This covenant and the other covenants of Landlord contained in this Lease

shall be binding upon Landlord and its successors only with respect to breaches occurring during its and their respective ownerships of Landlord's interest hereunder.

## ARTICLE 6
## Tenant's Covenants

**6.1 Compliance With Exhibit C.** Tenant shall comply with the terms and conditions and deadlines set forth in Exhibit C and in the construction manual for the Building, which is incorporated herein by this reference (the "**Construction Manual**") with respect to design and construction of Tenant Improvements in the Premises. As used in this Lease, "**Tenant Improvements**" shall mean all alterations and improvements necessary to refurbish or adapt the Premises to Tenant's use or to ready the Premises for Tenant's initial occupancy, including Building Standard Improvements and Tenant Extra Improvements.

**6.2 Construction of Tenant Improvements.** Tenant shall be solely responsible for the design, permitting and construction of all Tenant Improvements. All additions to or improvements of the Premises, whether of Building Standard Improvements or Tenant Extra Improvements, shall be and become the property of Landlord upon installation and shall be surrendered to Landlord upon termination of this Lease by lapse of time or otherwise, except as otherwise stated herein. Although Tenant Extra Improvements become the property of Landlord upon installation, they are intended to be for the convenience of Tenant and are not intended to be a substitute for Rent or any part thereof.

**6.3 Telecommunications.** Tenant shall install and maintain all required intrabuilding network cable and other communications wires and cables necessary to serve the Premises from the point of presence in the Building. Tenant shall obtain telecommunications services within the Building from vendors selected by Landlord and approved by Landlord in its sole discretion.

**6.4 Taxes on Personal Property and Tenant Extra Improvements.** In addition to, and wholly apart from its obligation to pay Tenant's Proportionate Share of Operating Costs, Tenant shall be responsible for, and shall pay prior to delinquency, all taxes or governmental service fees, possessory interest taxes, fees or charges in lieu of any such taxes, capital levies, or other charges imposed upon, levied with respect to or assessed against Tenant's furniture, equipment, machinery, trade-fixtures, personal property, goods or supplies ("**Tenant's Personal Property**"), on the value of its Tenant Extra Improvements, on its interest pursuant to this Lease or on any use made of the Premises or the Common Areas by Tenant in accordance with this Lease. To the extent that any such taxes are not separately assessed or billed to Tenant, Tenant shall pay the amount thereof as invoiced to Tenant by Landlord.

**6.5 Repairs by Tenant.** Tenant shall maintain and repair the Premises and keep the same in good condition. Tenant's obligation shall include, without limitation, the obligation to maintain and repair all walls, floors, ceilings and fixtures and to repair all damage caused by Tenant or Tenant's employees, agents, contractors, officers, directors, partners, members, licensees, subtenants, assignees, invitees and guests ("**Tenant Parties**") to the Premises or the Building, whatever the scope of the work of maintenance or repair required. Tenant shall repair all damage caused by installation or removal of Tenant's movable equipment or furniture or the installation or removal of any Tenant Extra Improvements or Alterations (as defined in Section 6.7) permitted or required by Landlord, all as provided in Section 6.13. Any repair or maintenance that Tenant is required to perform under this Lease may be performed at Tenant's expense by Landlord's employees as an "Extra Service" subject to Section 5.4, or by contractors selected by Tenant and approved in advance by Landlord. If Tenant fails or refuses to perform such work in a timely and efficient manner, then Landlord may perform such work for the account of Tenant as an Extra Service. Any work of repair and maintenance performed by or for the account of Tenant by persons other than Landlord shall be performed at Tenant's risk using contractors approved by Landlord prior to commencement of the work and in accordance with procedures Landlord

shall from time to time establish. All such work shall be performed in compliance with all applicable Laws and Tenant shall provide to Landlord copies of all permits and records of inspection issued or obtained by Tenant in connection therewith to establish such compliance. Any work of repair and maintenance performed by or for the account of Tenant by persons other than Landlord shall be performed by contractors approved by Landlord prior to commencement of the work and in accordance with procedures Landlord shall from time to time establish. Tenant shall comply with all Landlord's procedures and requirements for the Building (including, without limitation, Landlord's requirements relating to insurance). Tenant shall not be required to perform any maintenance or repair required solely by reason of the negligence or wrongful acts of Landlord or its property manager or ether of their employees, agents, contractors, officers, owners, directors, partners, licensees, lenders, affiliates, and members ("**Landlord Parties**"). Tenant shall promptly notify Landlord of any needed repairs in the Premises or to the Building Components and shall be liable for any damages incurred by Landlord as a result of any delay in notification.

**6.6 Waste.** Tenant shall not commit or allow Tenant Parties to commit any waste or damage in any portion of the Premises or the Building.

**6.7 Alterations, Additions, Improvements.** Tenant shall not make or allow to be made any alterations, additions or improvements in or to the Premises (collectively, "**Alterations**") without obtaining the prior written consent of Landlord. Landlord's consent shall not be unreasonably withheld with respect to proposed Alterations that (a) comply with all applicable Laws and Landlord's rules and regulations; (b) are compatible with the Construction Manual and the Building, its architecture and its mechanical, electrical, HVAC and life safety systems; (c) do not interfere with the use and occupancy of any other portion of the Building by any other tenant or their invitees; (d) do not affect the structural portions of the Building; (e) do not and shall not, whether alone or taken together with other improvements, require the construction of any other improvements or alterations within the Building; (f) do not reduce the value of the Premises or increase the cost to Landlord of reletting the Premises; (g) do not affect the exterior appearance of the Building; and (h) are reasonably expected to cost less than Ten Thousand Dollars ($10,000). In determining whether to consent to the proposed Alterations, Landlord shall have the right (without limitation) to review and approve plans and specifications for proposed Alterations, construction means and methods, the identity of any contractor or subcontractor to be employed on the work for Alterations, and the time for performance of such work. Tenant shall not employ, directly or indirectly, any contractor, mechanic or laborer that will introduce labor conflicts to the Building. Tenant shall obtain all permits, approvals and certificates required by governmental authorities from the start through the completion of the work. No work shall be performed and no deliveries of materials shall be made during Normal Office Hours without Landlord's prior written approval and then only in compliance with any restrictions imposed by Landlord. All Alterations permitted hereunder shall be made and performed by Tenant, without cost or expense to Landlord, in a diligent and first-class workmanlike manner and in accordance with plans and specifications approved by Landlord, and shall comply with all laws, ordinances, orders, rules and regulations and Landlord's construction procedures and requirements for the Building (including, without limitation, Landlord's requirements relating to insurance). All Alterations shall use materials comparable to or better than Building Standard Improvements. All work must comply with Landlord's construction rules and regulations for the Building. Tenant shall supply to Landlord any documents and information requested by Landlord in connection with any Alterations to the Premises, including insurance certificates naming the parties identified by Landlord as additional insureds. Landlord may hire outside consultants to review such documents and information and Tenant shall reimburse Landlord for the cost thereof as well as Landlord's internal costs as an Extra Service subject to Section 5.4. All Alterations permitted hereunder shall be made and performed by Tenant or, at Landlord's election, may be performed by Landlord or by contractors selected by Landlord, without cost or expense to Landlord and as an Extra Service. Landlord

may supervise and administer the installation of Alterations as an Extra Service. Upon completion of any Alterations, Tenant shall provide to Landlord, at Tenant's expense, (x) a complete set of "as built" plans in such format as is required by Landlord from time to time together with specifications reflecting the actual conditions of the Alterations as constructed in the Premises, together with a copy of such plans on diskette in a computer assisted design format acceptable to Landlord, (y) a final signoff or inspection or certificate of occupancy (as applicable), and (z) an air balancing report, if applicable. The obligations of the parties with respect to removal of Alterations shall be controlled by Section 6.13.

**6.8 Liens.** Tenant shall keep the Premises and the Building free from any liens arising out of any (a) work performed or material furnished to or for the Premises, and (b) obligations incurred by or for Tenant or any person claiming through or under Tenant. Tenant shall, within ten (10) days following the imposition of any such lien, cause such lien to be released of record by payment or posting of a bond fully satisfactory to Landlord in form and substance and in compliance with RCW 60.04. Landlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law, or that Landlord shall deem proper for the protection of Landlord, the Premises, the Building and any other party having an interest therein, from mechanics', materialmen's and other liens. Landlord may cause such liens to be released by any means it deems proper, including, without limitation, payment of any such lien, at Tenant's sole cost and expense. All costs and expenses incurred by Landlord in causing such liens to be released shall be repaid by Tenant to Landlord immediately upon demand, together with an administrative fee equal to twenty percent (20%) of such costs and expenses. In addition to all other requirements contained in this Lease, Tenant shall give Landlord at least ten (10) Business Days prior written notice before commencement of any construction on the Premises.

**6.9 Compliance With Laws and Insurance Standards.**

**(a)** Tenant shall comply with all federal, state and local laws, ordinances, codes, orders, rules, regulations and policies (collectively, "**Laws**"), now or hereafter in force, as amended from time to time, in any way related to the use, condition or occupancy of the Premises (including any improvements therein), regardless of when such Laws become effective, including, without limitation, all applicable Hazardous Materials Laws (as defined in Section 7.2(a)), the Americans with Disabilities Act of 1990, as amended and any laws prohibiting discrimination against, or segregation of, any person or group of persons on account of race, color creed, religion, sex, marital status, national origin or ancestry. It is the intention of Tenant and Landlord that the obligations of Tenant under this Section 6.9 shall apply regardless of the scope of work required to achieve such compliance or the degree to which the curative action may interfere with Tenant's use or enjoyment of the Premises, or the likelihood that the parties contemplated the particular law involved. Tenant waives any rights now or hereafter conferred upon it by any existing or future law to terminate this Lease or to receive any abatement, diminution, reduction or suspension of payment of Rent by reason of the obligations of Tenant under this Section 6.9. Tenant shall also comply with the terms of any transportation management program or similar programs affecting the Building and required by any governmental authority. Tenant shall immediately deliver to Landlord a copy of any notices received from any governmental agency in connection with the Premises. It is the intention of Tenant and Landlord that the obligations of Tenant under this Section 6.9 shall apply irrespective of the scope of work required to achieve such compliance. Tenant shall not use or occupy the Premises in any manner that creates, requires or causes imposition of any requirement by any governmental authority for structural or other upgrading of or improvement to the Building.

**(b)** Tenant shall not occupy or use, or permit any portion of the Premises to be occupied or used, for any business or purpose that is unlawful, disreputable or constitutes a fire hazard. Tenant shall not permit anything to be done that would increase the rate of fire or other insurance coverage on the Building and/or its contents. If Tenant does or permits anything to be done that increases the cost of any insurance policy carried by Landlord, then Tenant, at Landlord's option, shall not be in

default under this Lease, but shall reimburse Landlord, upon demand, for any such additional premiums as an Extra Service.

**6.10 Entry for Repairs, Inspection, Posting Notices, Etc.** After reasonable notice (except in emergencies where no such notice shall be required), Landlord or Landlord Parties shall have the right to enter the Premises to inspect the same, to clean, to perform such work as may be permitted or required hereunder, to investigate the condition of the Building, to make repairs to or alterations of the Building or other tenant spaces therein, to deal with emergencies, to comply with legal obligations, to post such notices as may be permitted or required by law to prevent the perfection of liens against Landlord's interest in the Building or to exhibit the Premises to prospective tenants, purchasers, encumbrancers or others, or for any other purpose as Landlord may deem necessary or desirable; provided, however, that Landlord shall make reasonable efforts not to unreasonably interfere with Tenant's business operations during Normal Office Hours. In no event shall Tenant be entitled to any abatement of Rent by reason of the exercise of any such right of entry.

**6.11 No Nuisance.** Tenant shall not create any nuisance, or interfere with, annoy, endanger or disturb any other tenant or Landlord in its operation of the Building. Tenant shall not place any loads upon the floor, walls or ceiling of the Premises that exceed the load capacity, or that endanger the structure nor place any harmful liquids or Hazardous Material (as defined in Section 7.2) in the drainage system of the Building. Tenant shall not permit any vibration, noise or odor to escape from the Premises and shall not do or permit anything to be done within the Premises which would adversely affect the quality of the air in the Building.

**6.12 Rules and Regulations.** Tenant shall comply with the rules and regulations for the Building attached as Exhibit D and such amendments or supplements thereto as Landlord may adopt from time to time with prior notice to Tenant. Tenant acknowledges that the rules and regulations applicable to other tenants of the Building may not be the same as those applicable to Tenant and agrees that Landlord shall not be liable to Tenant for or in connection with the failure of any other tenant of the Building to comply with any rules and regulations applicable to such other tenant under its lease.

**6.13 Surrender of Premises on Termination.** On or before the ninetieth (90th) day preceding the Expiration Date, Tenant shall notify Landlord in writing of the precise date upon which Tenant plans to surrender the Premises to Landlord. On expiration of the Term, Tenant shall quit and surrender the Premises to Landlord, broom clean, in good order, condition and repair as required by this Lease, with all of Tenant's movable equipment, furniture, trade fixtures and other personal property removed therefrom. In addition, Tenant shall remove all telecommunications and computer networking wiring and cabling serving the Premises from the Building, unless Landlord requires such materials to be surrendered to Landlord. All Alterations and Tenant Improvements shall be surrendered with the Premises in good condition and repair, reasonable wear and tear (but only to an extent consistent with the Premises remaining in good condition and repair) and casualty damage that is not required to be repaired by Tenant excepted, unless (a) Tenant has obtained Landlord's agreement in writing that it can remove an Alteration or item of Tenant Improvements, or (b) Landlord has notified Tenant that Tenant must remove an Alteration or item of Tenant Improvements. Any property of Tenant not removed from the Premises shall be deemed, at Landlord's option, to be abandoned by Tenant and Landlord may store such property in Tenant's name at Tenant's expense, and/or dispose of the same in any manner permitted by law. If Landlord desires to have the Premises, or any part or parts thereof, restored to a condition that existed prior to installation of any Tenant Extra Improvements or to the condition prior to making any Alterations, Landlord may so notify Tenant in writing at any time prior to the regularly scheduled Expiration Date (or if this Lease is sooner terminated, within ten (10) days after the date of such termination); and upon receipt of such notice, Tenant shall, at Tenant's sole cost and expense, so restore the Premises, or such part or parts thereof, before the regularly scheduled Expiration Date (or if this Lease

is sooner terminated, within ten (10) days after receipt of notice). Tenant shall repair at its sole cost and expense, all damage caused to the Premises or the Building by removal of Tenant's movable equipment or furniture and such Tenant Improvements and Alterations as Tenant shall be allowed or required to remove from the Premises by Landlord. If the Premises are not surrendered as of the end of the Term in the manner and condition herein specified, Tenant shall indemnify, defend, protect and hold Landlord and Landlord Parties harmless from and against any and all damages resulting from or caused by Tenant's delay or failure in so surrendering the Premises, including, without limitation, any claims made by any succeeding tenant due to such delay or failure. Tenant acknowledges that Landlord shall be attempting to lease the Premises with any such lease to be effective upon expiration of the Term, and failure to surrender the Premises could cause Landlord to incur liability to such successor tenant for which Tenant shall be responsible.

**6.14 Corporate Authority.** If Tenant is a corporation or limited liability company or partnership or if Tenant is a partnership on whose behalf a partner which is a corporation or limited liability company executes this Lease, then in any such case, each individual executing this Lease on behalf of such corporation, limited liability company, or partnership represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said corporation, limited liability company and/or partnership, as the case may be.

**6.15 Utilities.** Tenant shall not obtain any electrical or other utility services from vendors other than those selected by Landlord or approved by Landlord in writing.

**6.16 Security for Premises.** Tenant acknowledges that it has neither received nor relied upon any representation or warranty made by or on behalf of Landlord with respect to the safety or security of the Premises or the Building or any part thereof or the extent or effectiveness of any security measures or procedures now or hereafter provided by Landlord, and further acknowledges that Tenant has made its own independent determinations with respect to all such matters. Landlord shall not be required to provide, operate or maintain alarm or surveillance systems for the Premises or the Common Areas. Subject to Landlord's approval of the work to be performed and the system to be used, Tenant may provide its own supplemental security services within the Premises and may install within the Premises such supplemental security equipment, systems and procedures as Tenant determines may reasonably be required for the protection of its employees and invitees, provided that Tenant shall coordinate such services and equipment with any security provided by Landlord. The determination of the extent to which such supplemental security equipment, systems and procedures are reasonably required shall be made in the sole judgment, and shall be the sole responsibility, of Tenant.

## ARTICLE 7
## Hazardous Materials

**7.1 Prohibition and Indemnity With Respect to Hazardous Materials.** Except as stated below, Tenant shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises by Tenant or Tenant Parties without the prior written consent of Landlord. Tenant may, at Tenant's risk, bring, store and use reasonable quantities of Permitted Hazardous Materials in the Premises for their intended use. If Tenant violates this provision, or if contamination of the Premises or the Real Property by Hazardous Material occurs for which Tenant or any Tenant Party is responsible, or if Tenant's activities or those of Tenant Parties result in or cause a Hazardous Materials Claim, then Tenant shall indemnify, defend, protect and hold Landlord and Landlord Parties harmless from and against any and all claims, judgments, damages, penalties, fines, costs, expenses, liabilities or losses (including, without limitation, diminution in value of the Premises or the Building or the Real Property, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises or the Building, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims,

attorneys' fees, consultants' fees and experts' fees) (collectively, "**Claims**") which arise during or after the Term as a result of such contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local government agency or political subdivision because of any Hazardous Material present in the soil or ground water on or under the Premises. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

**7.2 Definitions.** The following terms shall have the meanings given below for purposes of this Lease.

**(a)** "**Hazardous Material**" shall mean any (a) oil, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which (i) pose a hazard to the Building or to persons on or about the Building or (ii) cause the Building to be in violation of any Hazardous Materials Laws; (b) asbestos in any form, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls, or radon gas; (c) chemical, material or substance defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," "moderate risk waste," or "toxic substances" or words of similar import under any applicable local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 1801, *et seq.*; the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, *et seq.*; and the Model Toxics Control Act, as amended, RCW 70.105D; (d) chemicals, materials or substances, exposure to which is prohibited, limited or regulated by any governmental authority or may or could pose a hazard to the health and safety of the occupants of the Building or the owners and/or occupants of property adjacent to or surrounding the Building, or any other person coming upon the Building or adjacent property; (e) other chemicals, materials or substances which may or could pose a hazard to the environment; and (f) medical products or byproducts such as sharps, medicines, and human waste, tissue or blood products.

**(b)** "**Hazardous Materials Claims**" shall mean any enforcement, cleanup, removal, remedial or other governmental or regulatory actions, agreements or orders instituted pursuant to any Hazardous Materials Laws; and any claims made by any third party against Landlord, Tenant or the Building relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, release or discharge of any Hazardous Materials. Tenant shall promptly cure and satisfy all Hazardous Materials Claims arising out of or by reason of the activities or business of Tenant, Tenant Parties or any party claiming by or through Tenant and its employees, agents, contractors, officers, directors, partners, licensees, invitees and guests.

**(c)** "**Hazardous Materials Laws**" shall mean any federal, state or local laws, ordinances, orders, rules, regulations or policies, now or hereafter in force, as amended from time to time, in any way relating to the environment, health and safety, and Hazardous Materials (including, without limitation, the use, handling, transportation, production, disposal, discharge or storage thereof) or to industrial hygiene or the environmental conditions on, under or about the Building and Real Property, including, without limitation, soil, groundwater and indoor and ambient air conditioning.

**(d)** "**Permitted Hazardous Materials**" shall mean Hazardous Materials which are contained in ordinary office supplies of a type and in quantities typically used in the ordinary course of business within executive offices of similar size and location, but only if and to the extent that such supplies are transported, stored and used in full compliance with all Hazardous Materials Laws and their packaging instructions and otherwise in a safe and prudent manner. Hazardous Materials which are

contained in ordinary office supplies but which are transported, stored and used in a manner which is not in full compliance with all Hazardous Material Laws and their packaging instructions or which is not in any respect safe and prudent shall not be deemed to be Permitted Hazardous Materials for the purposes of this Lease.

## ARTICLE 8
## Assignment or Sublease

**8.1 Consent Required.** Tenant shall not assign or market for assignment this Lease in whole or in part, sublease or market for sublease all or any part of the Premises or otherwise sell, transfer or hypothecate this Lease or grant any right to use or occupy the Premises to another party (all of such events shall be referred to herein as a "**Transfer**" and any such assignee, purchaser, subtenant or other transferee shall be a "**Transferee**" for purposes of this Article) without Landlord's prior written consent which may be given or withheld in Landlord's sole and absolute discretion. Tenant shall provide Landlord with written notice at least ten (10) days prior to commencing to publicly market any portion of the Premises for purposes of a Transfer. Landlord's approval of Tenant's marketing of any portion of the Premises for the purpose of a Transfer shall not obligate Landlord to approve any Transfer proposed by Tenant. If Tenant intends to enter into a Transfer, Tenant shall give Landlord at least thirty (30) days written notice of such intent. Tenant's notice shall set forth the effective date of such Transfer and shall be accompanied by an exact copy of the proposed agreements between Tenant and the proposed Transferee and complete financial information regarding the proposed Transferee. If requested by Landlord, Tenant shall provide Landlord with (a) any additional information or documents reasonably requested by Landlord relating to the proposed Transfer or the Transferee, and (b) an opportunity to meet and interview the proposed Transferee. This Lease may not be transferred by operation of law. All of the following shall constitute Transfers subject to this Article 8: (x) if Tenant is a corporation that is not publicly traded on a national exchange, then any transfer of this Lease by merger, consolidation or liquidation, or any direct, indirect or cumulative change in the ownership of, or power to vote the majority of Tenant's outstanding voting stock, shall constitute a Transfer; (y) if Tenant is a partnership, then a change in general partners in, or voting or decision-making control of, the partnership shall constitute a Transfer; and (z) if Tenant is a limited liability company or other legal entity, then a change in members or owners in the entity that results in a change in voting or decision-making control of the limited liability company or other entity shall constitute a Transfer. Any change in ownership of Tenant's parent of the type described in (x), (y) or (z) above shall also constitute a Transfer subject to this Article 8. These provisions shall apply to any single transaction or any series of related or unrelated transactions having the effect described. Notwithstanding anything to the contrary contained herein, Tenant may not enter into any Transfer if Tenant is in default hereunder or before the Term Commencement Date has occurred.

**8.2 Landlord's Options.** If Tenant proposes a Transfer, Landlord may elect to (a) terminate this Lease as to the space so affected as of the date so specified by Tenant in its notice under Section 8.1, in which event Tenant shall be relieved of all further obligations hereunder as to such space; (b) permit Tenant to complete a proposed Transfer on the terms set forth in such notice, subject, however, to such reasonable conditions as Landlord may require and to the balance of this Article 8, or (c) deny the request to enter into a Transfer. Landlord shall have a period of twenty (20) days following any interview and receipt of such additional information as Landlord requests (or thirty (30) days from the date of Tenant's original notice if Landlord does not request additional information or an interview) within which to respond to Tenant's request. If Landlord fails to notify Tenant in writing of such election within said period, Landlord shall be deemed to have waived option (a) above and to have denied consent to the proposed Transfer. In deciding whether to consent to a proposed Transfer, Landlord may consider any factors that Landlord deems relevant, including but not limited to the following: (i) whether the use of the Premises by the proposed Transferee would be a Permitted Use; (ii) whether the proposed Transferee is of

sound financial condition and has sufficient financial resources and business expertise, as determined by Landlord, to perform under this Lease; (iii) whether the proposed Transferee's use involves the storage, use, treatment or disposal of any Hazardous Materials; (iv) whether the proposed use or the proposed Transferee could cause the violation of any covenant or agreement of Landlord to any third party or sublessee or permit any other tenant to terminate its lease; (v) whether the proposed Transferee leases or occupies any other space in the Building or has negotiated with or contacted Landlord or Landlord's leasing agent or another tenant regarding leasing or subleasing any space in the Building; (vi) whether the terms of the proposed Transfer are reasonable; and (vii) whether there is other comparable space available for lease in the Building. Failure by Landlord to approve a proposed Transfer shall not cause a termination of this Lease or subject Landlord to liability for damages, and the sole remedy of Tenant shall be an action for injunctive or declaratory relief.

**8.3 Minimum Rental; Division of Excess Rent.** In any Transfer of this Lease, Tenant shall seek to obtain from the Transferee consideration reflecting the then-current fair market rent for the space subject to such Transfer. Any rent or other consideration realized by Tenant in connection with or as a result of any Transfer in excess of the Base Rent payable hereunder, after first deducting all reasonable and customary costs actually incurred by Tenant to effect such Transfer (such as tenant improvements, brokerage fees, advertising costs and the like) shall be divided equally between Landlord and Tenant and Landlord's share shall be paid promptly to Landlord as Rent hereunder; provided, however, that Landlord shall be entitled to receive the total rent and other consideration if Tenant is in default of any obligation under this Lease until such default is cured.

**8.4 Tenant Not Released.** No Transfer by Tenant shall relieve Tenant of any obligation under this Lease. Any Transfer that conflicts with the provisions hereof shall be void. No consent by Landlord to any Transfer shall constitute a consent to any other Transfer nor shall it constitute a waiver of any of the provisions of this Article 8 as they apply to any such future Transfers. Following any assignment of this Lease by Tenant, Tenant and each subsequent transferor shall remain liable for any obligations arising in connection with any amendments to this Lease executed by Landlord and the assignee tenant, whether or not such amendments are made with knowledge or consent of the transferor.

**8.5 Written Agreement.** Any Transfer must be in writing and the Transferee shall assume in writing, for the express benefit of Landlord, all of the obligations of Tenant under this Lease with respect to the space transferred, provided that no such assumption shall be deemed a novation or other release of the transferor. Tenant shall provide to Landlord true and correct copies of the executed Transfer documents and any amendment thereto during the Term.

**8.6 Conditions.** Landlord may condition its consent to any proposed Transfer on such conditions as Landlord may require including, construction of any improvements deemed necessary or appropriate by Landlord by reason of the Transfer. Any improvements, additions, or alterations to the Building that are required by any law, ordinance, rule or regulation, or are deemed necessary or appropriate by Landlord as a result of any Transfer hereunder, shall be installed and provided by Tenant in accordance with Section 6.7, without cost or expense to Landlord.

**8.7 Expenses.** Landlord may hire outside consultants to review the Transfer documents and information. Tenant shall pay Landlord an administrative fee of One Thousand Dollars ($1,000) and in addition shall reimburse Landlord for all costs and expenses incurred by Landlord in connection with any request for consent under this Article 8 (even if consent is denied or the request is withdrawn) and such reimbursement shall include the allocated cost of Landlord's or its management company's staff plus all out-of-pocket expenses, including reasonable attorneys' fees, on demand.

**8.8 No Restriction on Landlord.** Without liability to Tenant, Landlord shall have the right to offer and to lease space in the Building, or in any other property, to any party, including without limitation parties with whom Tenant is negotiating, or with whom Tenant desires to negotiate, a Transfer.

**8.9 No Leasehold Financing.** Tenant shall not encumber, pledge or mortgage the whole or any part of the Premises or this Lease, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court or otherwise without the prior written consent of Landlord, which consent may be given or withheld in Landlord's sole discretion.

**8.10 Additional Prohibition.** Notwithstanding anything in this Lease to the contrary, in no event shall Tenant assign this Lease or enter into any sublease, license, concession or other agreement for use, occupancy or utilization of any part of the Premises, or otherwise transfer its rights hereunder, if the same would (i) require the payment of any consideration or result in receipt by Landlord of any amount that would not qualify as "rents from real property", as that term is defined in Section 856(d) of the Internal Revenue Code of 1986, as amended (the "**Code**"), or (ii) cause any portion of the amounts payable under this Lease to fail to qualify as rents from real property within the meaning of Section 856(d) of the Code. Any purported assignment, sublease, license, concession or other agreement that is in contravention of the foregoing provisions of this Section 8.10 shall be absolutely void and ineffective as a conveyance of any right or interest in the possession, use, occupancy or utilization of any part of the Premises.

## ARTICLE 9
## Condition and Operation of the Building

**9.1 No Warranty.** Landlord's entire obligation with respect to the condition of the Premises, its suitability for Tenant's uses and the improvements to be installed therein shall be as stated in Exhibit C. Landlord shall have no other obligation of any kind or character, express or implied, with respect to the condition of the Premises, or the Building or the suitability thereof for Tenant's purposes, and Tenant acknowledges that it has neither received nor relied upon any representation or warranty made by or on behalf of Landlord with respect to such matters.

**9.2 Building Alterations.** Landlord may, in its sole discretion, at any time and from time to time: (a) make alterations, structural modifications, seismic modifications or additions to the Building (including building additional stories); (b) change, add to, eliminate or reduce the extent, size, shape or configuration of any aspect of or improvement (including the Building) located on the Real Property or its operations; (c) change the arrangement, character, use or location of corridors, stairs, toilets, mechanical, plumbing, electrical or other operating systems or any other parts of the Building; (d) change the name, number or designation by which the Building is commonly known; or (e) alter, relocate or remove any portion of the Common Areas or any other common facility. None of the foregoing acts shall be deemed an actual or constructive eviction of Tenant, entitle Tenant to any reduction of Rent or result in any liability of Landlord to Tenant. Landlord shall have the exclusive rights to the airspace above and around, and the subsurface below, the Premises and the Building, including, without limitation, the exclusive right to use all exterior walls, roofs and other portions of the Building for signs, notices and other promotional purposes. Landlord shall have the sole and exclusive right to possession and control of the Common Areas and all other areas of the Building and Real Property outside the Premises.

## ARTICLE 10
## Lender Rights

**10.1 Subordination.** This Lease is subject and subordinate to each ground or land lease which may now or hereafter cover all or any portion of the Building or Real Property and to each mortgage, deed of trust or other financing or security agreement which may now or hereafter encumber all or any portion of the Building or Real Property and to all renewals, modifications, consolidations,

replacements and extensions thereof (collectively, the "**Senior Instruments**"). This Section 10.1 shall be self-operative and no further instrument of subordination need be required by any lessor or any holder or beneficiary of any Senior Instrument (collectively, the "**Senior Parties**"). Tenant, however, upon Landlord's or any Senior Party's request, shall execute promptly any certificate or instrument in the form required by any Senior Party to confirm such subordination and shall deliver the same to such party within ten (10) days following receipt thereof. Tenant hereby constitutes and appoints Landlord as Tenant's attorney-in-fact to execute any such certificate or instrument for and on behalf of Tenant if Tenant fails to execute such certificate or instrument and deliver the same as required hereunder.

**10.2 Attornment.** In the event of the enforcement by any Senior Party under any Senior Instrument provided for by law or by such Senior Instrument, Tenant shall attorn to any person or party succeeding to the interest of Landlord as a result of such enforcement including any purchaser of all or any portion of the Building or the Real Property at a public or private foreclosure sale or exercise of a power of sale under such mortgage or deed of trust (collectively, "**Successor**") and shall recognize such Successor as the Landlord under this Lease without change in the terms or other provisions of this Lease; provided, however, that such Successor shall not be (a) subject to any credits, offsets, defenses or claims which Tenant may have against any prior landlord; (b) bound by any payment of Rent for more than one (1) month in advance; (c) bound by any amendment or modification of this Lease made after the applicable Senior Instrument is placed against the Building or the Real Property (and Tenant has been given notice thereof) without the written consent of such Senior Party; (d) liable for any act, omission, neglect or default of any prior landlord; or (e) required to make any capital improvements to the Building or the Premises which Landlord may have agreed to make but had not completed. Notwithstanding the foregoing, a Senior Party may elect at any time to cause its interest in the Building or the Real Property to be subordinate and junior to Tenant's interest under this Lease by filing an instrument in the real property records of King County, Washington effecting such election and providing Tenant with notice of such election. In no event shall any Senior Party or any Successor have any liability or obligation whatsoever to Tenant or Tenant's successors or assigns for the return of all or any part of the Security Deposit unless, and then only to the extent that, such Senior Party or Successor actually receives all or any part of the Security Deposit. Tenant, upon Landlord's or any Successor's request, shall execute promptly a written agreement to confirm such attornment and if Tenant fails or refuses to do so within ten (10) days after written request therefor, such failure or refusal shall constitute a material default by Tenant under this Lease.

**10.3 Estoppel Certificate.** Within ten (10) days of a written request from Landlord, Tenant shall execute and deliver to Landlord an estoppel certificate addressed to Landlord and/or to any Senior Party or prospective Senior Party or, any purchaser or prospective purchaser of all or any portion of, or interest in, the Building or Real Property, on a form supplied by Landlord or such other addressee, certifying as to such facts (if true) and agreeing to such reasonable notice and cure provisions and other matters as the addressee may reasonably require, including but not limited to the form attached hereto as Exhibit F. If Tenant fails or refuses to deliver an estoppel certificate to Landlord within ten (10) days of a written request, then Tenant shall conclusively be deemed, without exception, to have acknowledged the correctness of the statements set forth in the form of certificate provided and Tenant shall be estopped from denying the correctness of each such statement, and the addressee thereof may rely on the correctness of the statements in such form of certificate, as if made and certified by Tenant. Tenant hereby constitutes and appoints Landlord as Tenant's attorney-in-fact to execute any such certificate for and on behalf of Tenant if Tenant fails to execute such certificate or instrument and deliver the same within ten (10) days following Landlord's request.

## ARTICLE 11
## Insurance

**11.1 Landlord's Property Insurance.** Landlord shall maintain, or cause to be maintained, a policy or policies of insurance with the premiums thereon fully paid in advance, issued by and binding upon an insurance company of good financial standing, insuring the Building against loss or damage by fire or other insurable hazards (including earthquake loss if Landlord elects to maintain such coverage) and contingencies for the full insurable value thereof or, in the alternative, insuring for eighty percent (80%) of the replacement cost thereof (or such minimum amount as shall be required to eliminate operation of coinsurance provisions), exclusive of excavations and foundations. Landlord shall not be obligated to insure any of Tenant's Personal Property, or any Tenant Extra Improvements or Alterations that Tenant may make upon the Premises. If the annual premiums paid by Landlord for such property insurance exceed the standard premium rates because the nature of Tenant's operations result in extra-hazardous or higher than normal risk exposure, then Tenant shall, upon receipt of appropriate premium invoices, reimburse Landlord for such increases in premium. All insurance proceeds payable under Landlord's insurance carried hereunder shall be payable solely to Landlord and Tenant shall have no interest therein.

**11.2 Liability Insurance.** Landlord shall maintain or cause to be maintained with respect to the Building a policy or policies of commercial general liability insurance with the premiums thereon fully paid in advance, issued by and binding upon an insurance company of good financial standing, such insurance to afford minimum protection of not less than Two Million Dollars ($2,000,000.00), per occurrence, combined single limit, for bodily injury (including death and property damage). The coverages required to be carried shall be extended to include, but not to be limited to, blanket contractual liability, personal injury liability (libel, slander, false arrest and wrongful eviction), and broad form property damage liability. Upon written request from Tenant no more than one time per year, Landlord shall provide Tenant reasonable evidence that the insurance required to be maintained hereunder by Landlord is in full force and effect.

**11.3 Tenant's Insurance.**

**(a) Property Insurance.** Tenant shall provide "all risk" insurance coverage during the Term insuring against loss or damage by fire and such other risks as are from time to time included in an ISO Special Form (ISO CP 10 30 or equivalent) policy or any other comparable or better coverage (including without limitation sprinkler leakage and water damage), insuring the full replacement cost of any Tenant Extra Improvements, any Alterations and Tenant's Personal Property, as the same may exist from time to time, naming Landlord as the loss payee with respect to the Tenant Extra Improvements and Alterations. Such policy shall contain agreed value, ordinance or law coverage, plate glass, and legal liability endorsements in a form reasonable satisfactory to Landlord and any mortgagee of Landlord. The amount of any deductible or self-insured retention shall not exceed Five Thousand Dollars ($5,000.00).

**(b) Liability Coverage.** Tenant shall maintain or cause to be maintained a policy or policies of commercial general liability and excess liability insurance with the premiums thereon fully paid in advance, issued by and binding upon an insurance company of good financial standing, such insurance to afford minimum protection of not less than Five Million Dollars ($5,000,000.00), per occurrence, combined single limit, for personal injury, bodily injury (including death) and property damage, or such higher amounts as Landlord may from time to time reasonably designate by not less than thirty (30) days' notice. The coverages required to be carried shall be extended to include, but not to be limited to, blanket contractual liability, personal injury liability (libel, slander, false arrest and wrongful eviction), and broad form property damage liability. Tenant's contractual liability insurance shall apply to Tenant's indemnity obligations under this Lease and the certificate evidencing Tenant's insurance coverage shall state that the insurance includes the liability assumed by Tenant under this Lease. Tenant's policy shall be written on an occurrence basis and shall be primary with any other insurance available to Landlord or any other additional insured being excess and non-contributing.

**(c) Workers' Compensation Insurance.** Throughout the Lease Term, Tenant, at its own expense, shall keep and maintain in full force and effect workers' compensation insurance in an amount equal to at least the minimum statutory amount then currently required in the State of Washington. In addition, Tenant shall maintain Employer's Liability Insurance with limits of at least One Million Dollars ($1,000,000.00).

**(d) Business Income Insurance.** Tenant shall maintain Business Income and Extra Expense insurance covering a minimum period of six (6) months.

**(e) Auto Liability Insurance.** If Tenant operates any automobile or other motor vehicle servicing the Premises, Tenant shall maintain insurance covering liability arising out of the operation of any automobile or other motor vehicle, including owned, hired and non-owned vehicles, with a limit of not less than One Million Dollars ($1,000,000.00).

**(f) Other.** Such other form or forms of insurance as are generally required or obtained for similar projects, as Landlord or any mortgagee of Landlord may reasonably require from time to time, against the same or other insurable hazards which at the time are commonly insured against in the case of premises similarly situated, due regard being given to the height and type of buildings thereon and their construction, use and occupancy.

**(g) Policy Form.** All policies required to be carried by Tenant, under this Article 11 shall be written with financially responsible companies with a Best & Company rating of "B+ IX" or better, and (except for the workers compensation coverage) shall name Landlord, Landlord's partners or members, Landlord's property manager, any Senior Party and any other party designated by Landlord from time to time as additional insureds using the ISO CG 20 26 or its equivalent or such other form required by Landlord from time to time, and each insurer shall agree not to cancel or alter the policy without at least thirty (30) days prior written notice to Landlord and all named and additional insureds. Any deductible or self-insurance provisions under any insurance policies maintained by Tenant shall be subject to Landlord's prior written approval.

**(h) Certificates.** Upon execution of this Lease by Tenant and thereafter during the Term at least fifteen (15) days before the expiration date of any such coverage, Tenant shall deliver to Landlord copies of the insurance policies or a certificate or certificates of the insurance required hereunder together with copies of all endorsements required above. If Tenant fails to provide such proof of insurance, Landlord shall be authorized (but not required) to procure such coverage in the amounts stated with all costs thereof to be charged to Tenant and paid upon written invoice therefor as an Extra Service.

**11.4 Indemnity and Exoneration.**

**(a)** Landlord shall not be liable to Tenant or any party claiming through Tenant for any loss, damage or injury to person or property caused by (i) theft, fire, vandalism, breach of security, assault, battery, act of God, acts of the public enemy, acts of terrorists or criminals, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority, whether or not the negligence of Landlord was a partial cause of or contributed to such loss, damage or injury, or (ii) the negligence or willful misconduct of Tenant or Tenant Parties, or (iii) repair or alteration of any part of the Building or failure to make any such repair except as expressly otherwise provided in this Lease.

**(b)** Tenant shall indemnify, defend, protect and hold Landlord and Landlord Parties harmless from and against any and all Claims arising out of or related to claims of injury to or death of persons, damage to property occurring or resulting directly or indirectly from the use or occupancy of the Premises or activities of Tenant or Tenant Parties in or about the Premises, the Building or the Real Property; provided, however, that the foregoing indemnity shall not be applicable to claims arising solely

out of the gross negligence or willful misconduct of Landlord, unless such claims are or should be covered by insurance required to be carried by Tenant under the terms of this Lease, in which case such claims shall be subject to the terms of this indemnity.

**(c)** Landlord shall indemnify, defend, protect and hold Tenant and Tenant Parties harmless from and against any and all claims, judgments, damages, penalties, fines, costs, expenses, liabilities or losses arising solely out of the negligence or willful misconduct of Landlord, unless such claims are or should be covered by insurance required to be carried by Tenant under the terms of this Lease, in which case such claims shall not be subject to the terms of this indemnity; provided, however, that the foregoing indemnity shall not include claims arising, in whole or in part, by reason of the gross negligence or willful misconduct of Tenant or Tenant Parties.

**(d)** To the extent, but only to the extent, necessary to fully indemnify the parties from claims made by the indemnifying party or its employees, the indemnities herein constitute a waiver of the indemnifying party's immunity under the Washington Industrial Insurance Act, RCW Title 51, as between Landlord and Tenant only.

**(e) LANDLORD AND TENANT ACKNOWLEDGE BY THEIR INITIALS BELOW THAT EACH INDEMNIFICATION PROVISION OF THIS LEASE (INCLUDING, BUT NOT LIMITED TO, THOSE RELATING TO WORKER'S COMPENSATION BENEFITS AND LAWS) AND EACH WAIVER OF CLAIMS HEREIN WAS SPECIFICALLY NEGOTIATED AND AGREED TO BY LANDLORD AND TENANT.**

| _____ | _____ |
|---|---|
| Tenant's Initials | Landlord's Initials |

**11.5 Indemnity for Liens.** Tenant shall indemnify, defend and protect Landlord and hold and save Landlord harmless of and from any and all loss, claims, proceedings, cost, damage, injury, causes of action, liabilities or expense arising out of or in any way related to work or labor performed, materials or supplies furnished to or at the request of Tenant or in connection with performance of any work done for the account of Tenant in the Premises or the Building.

**11.6 Waiver of Subrogation Rights.** Anything in this Lease to the contrary notwithstanding, Landlord and Tenant each waive all rights of recovery, claim, action or cause of action, against the other, Tenant Parties or Landlord Parties, as applicable, for third-party liability and any loss or damage that may occur to the Premises, or any improvements thereto, or the Building or Real Property or any personal property of such party therein, by reason of fire, the elements, or any other cause to the extent that such rights of recovery, claim, action or cause of action is or would be covered by insurance required to be obtained pursuant to this Lease, regardless of cause or origin, including negligence of the other party, Landlord Parties or Tenant Parties, as applicable, and each party covenants that no insurer shall hold any right of subrogation against such other party. Tenant shall advise its insurers of the foregoing and such waiver shall be a part of each policy maintained by Tenant that applies to the Premises, any part of the Building or Real Property or Tenant's use and occupancy of any part thereof.

## ARTICLE 12
## Casualty and Eminent Domain

**12.1 Damage and Destruction.** If a fire or other casualty in the Premises or the Building occurs, Tenant shall immediately give notice thereof to Landlord. The following provision shall apply to any fire or other casualty:

**(a)** If the damage is limited solely to the Premises and the Premises can, in the reasonable opinion of Landlord, be made tenantable with all damage repaired within six (6) months from the date of damage or destruction, then Landlord shall diligently rebuild the same; provided, however,

that Landlord shall not be obligated to expend for such repair an amount in excess of the insurance proceeds recovered or recoverable as a result of such damage.

**(b)** If portions of the Building outside the boundaries of the Premises are damaged or destroyed (whether or not the Premises are also damaged or destroyed) and (i) the Premises and the Building can both, in the reasonable opinion of Landlord, be made tenantable with all damage repaired within six (6) months from the date of damage or destruction, and (ii) Landlord determines that such reconstruction is economically feasible, then Landlord shall diligently rebuild the same; provided, however, that Landlord shall not be obligated to expend for such repair an amount in excess of the insurance proceeds recovered or recoverable as a result of such damage and Landlord shall have no obligation to repair or restore Tenant's Personal Property, Tenant Extra Improvements or Alterations.

**(c)** If (i) the Premises should be damaged by any occurrence not covered by Landlord's insurance, or (ii) the Premises or the Building should be damaged to the extent that the damage cannot, in Landlord's reasonable opinion be restored within six (6) months from the date of damage, or (iii) the Building should be damaged to the extent of more than fifty percent (50%) of the cost of replacement thereof, notwithstanding that the Premises may be undamaged, or (iv) if the damage occurs during the last two (2) years of the Term, Landlord may elect either to repair or rebuild the Premises or the Building or to terminate this Lease upon giving notice in writing of such election to Tenant within sixty (60) days after the happening of the event causing the damage.

**(d)** During any period when the Premises are rendered untenantable because of any casualty, Rent shall abate proportionately until such time as the Premises are made tenantable as reasonably determined by Landlord, and no portion of the Rent so abated shall be subject to subsequent recapture; provided, however, that there shall be no such abatement (i) except to the extent that the amount thereof is compensated for and recoverable from the proceeds of rental abatement or business interruption insurance maintained by Landlord with respect to this Lease, the Premises or the Building or (ii) if the damage is caused by Tenant or any Tenant Party.

**(e)** The proceeds from any insurance paid by reason of damage to or destruction of the Building or any part thereof, the Building Standard Improvements or any other element, component or property insured by Landlord shall belong to and be paid to Landlord subject to the rights of any mortgagee of Landlord's interest in the Building or Real Property or the beneficiary of any deed of trust that constitutes an encumbrance thereon. If this Lease is terminated by either party as a consequence of a casualty in accordance with any of the provisions of this Section 12.1, all proceeds of insurance required to be maintained either by Landlord or Tenant shall be paid to Landlord subject to the rights of any mortgagee of Landlord's interest in the Building or Real Property or the beneficiary of any deed of trust that constitutes an encumbrance thereon; provided, however, that Tenant shall be paid all proceeds of insurance payable in connection with Tenant's Personal Property. If Tenant has failed to maintain any policy of insurance required under this Lease, then Tenant shall pay to Landlord on demand an amount equal to proceeds which Landlord reasonably concludes would have been available for the repair and reconstruction from such policies had Tenant maintained all of the required policies of insurance.

**(f)** If the Premises, or any part thereof, or any portion of the Building necessary for Tenant's use of the Premises, are damaged or destroyed during the last twelve (12) months of the Term, or any extension thereof, Landlord or Tenant may terminate this Lease by giving written notice thereof to the other party within thirty (30) days after the date of the casualty, in which case this Lease shall terminate as of the later of the date of the casualty or the date of Tenant's vacation of the Premises.

**(g)** Except to the extent expressly provided in this Lease, nothing contained in this Lease shall relieve Tenant of any liability to Landlord or to Landlord's insurance carriers that Tenant may

have under law or under the provisions of this Lease in connection with any damage to the Premises or the Building by fire or other casualty.

**(h)** If Landlord rebuilds the Premises under any provision of this Article 12, Tenant shall repair and restore Tenant Extra Improvements and any Alterations at Tenant's expense so as to restore the Premises to the condition existing prior to such damage or destruction, or, at Landlord's election, Landlord may repair and rebuild the Tenant Extra Improvements or Alterations, at Tenant's sole cost and expense in accordance with Section 6.7 of this Lease.

**12.2 Condemnation.**

**(a)** If such portion of the Premises or any portion of the Building or Real Property shall be taken or condemned for any public purpose and the remainder of the Premises are rendered untenantable, as reasonably determined by Landlord, this Lease shall, at the option of either party, terminate as of the date of such taking. If this Lease is not terminated in its entirety then it shall terminate only as to the portion of the Premises taken and Base Rent and Tenant's Proportionate Share shall be adjusted to reflect the new Net Rentable Area of the Premises and/or the Building. If any portion of the Building or Real Property shall be taken or condemned for any public purpose to such an extent as to render the Building not economically viable in Landlord's discretion, then whether or not the Premises or any part thereof is taken or conveyed, Landlord may by notice in writing to Tenant terminate this Lease, and the Base Rent and other charges shall be paid or refunded as of the date of termination.

**(b)** If during the Term of this Lease the entire Premises shall be taken by eminent domain or destroyed by the action of any public or quasi-public authority or in the event of conveyance in lieu thereof, this Lease shall terminate as of the day possession shall be taken by such authority, and Tenant shall pay Rent up to that date with an appropriate refund by Landlord of such rent as shall have been paid in advance for a period subsequent to the date of the taking of possession.

**(c)** If a temporary taking of all or a portion of the Premises occurs, there shall be no abatement of Rent and Tenant shall remain fully obligated for performance of all of the covenants and obligations on its part to be performed pursuant to the terms of this Lease. All proceeds awarded or paid with respect thereto shall belong to Tenant.

**(d)** All compensation awarded for any such taking or conveyance whether for the whole or a part of the Premises shall be the property of Landlord, whether such damages shall be awarded as compensation for diminution in the value of the leasehold or of the fee of or underlying leasehold interest in the Premises, and Tenant waives all claims against Landlord and the condemning authority for damages for termination of its leasehold interest or interference with its business and hereby assigns to Landlord all of Tenant's right, title and interest in and to any and all such compensation; provided, however, that Tenant shall be entitled to claim, prove and receive in the condemnation proceedings such separate award as may under the laws of the State of Washington be expressly allocated to Tenant's personal property or relocation expenses, provided that such award shall be made by the court in addition to and shall not result in a reduction of the award made to Landlord.

## ARTICLE 13
## Default

**13.1 Events of Default.** The occurrence of any of the following shall constitute an event of default ("**Event of Default**") on the part of Tenant:

**(a) Abandonment**. Vacation or abandonment of the Premises for a continuous period in excess of five (5) Business Days;

**(b) Nonpayment of Rent.** Failure to pay any installment of Base Rent, Operating Costs or other items of Rent, upon the date when payment is due;

**(c) Other Obligations.** Failure to perform any obligation, agreement or covenant under this Lease other than those matters specified in Sections 13.1(a), 13.1(b) and 13.1(i), such failure continuing for fifteen (15) days after written notice of such failure (or with respect to nonmonetary obligations only, such longer period as is reasonably necessary to remedy such default, provided that Tenant shall continuously and diligently pursue such remedy at all times until such default is cured);

**(d) General Assignment.** A general assignment for the benefit of creditors by Tenant or any guarantor of Tenant's obligations hereunder ("**Guarantor**");

**(e) Bankruptcy.** The filing of any voluntary petition in bankruptcy by Tenant or Guarantor, or the filing of an involuntary petition by Tenant's or Guarantor's creditors, which involuntary petition remains undischarged for a period of thirty (30) days. If under applicable law the trustee in bankruptcy or Tenant has the right to affirm this Lease and continue to perform the obligations of Tenant hereunder, such trustee or Tenant shall, in such time period as may be permitted by the bankruptcy court having jurisdiction, cure all defaults of Tenant hereunder outstanding as of the date of the affirmance of this Lease and provide to Landlord such adequate assurances as may be necessary to ensure Landlord of the continued performance of Tenant's obligations under this Lease;

**(f) Receivership.** The employment of a receiver to take possession of substantially all of Guarantor's assets, Tenant's assets or the Premises, if such receivership remains undissolved for a period of ten (10) Business Days after creation thereof;

**(g) Attachment.** The attachment, execution or other judicial seizure of all or substantially all of Guarantor's assets, Tenant's assets or the Premises, if such attachment or other seizure remains undismissed or undischarged for a period of ten (10) Business Days after the levy thereof;

**(h) Insolvency.** The admission by Tenant or Guarantor in writing of its inability to pay its debts as they become due, the filing by Tenant or Guarantor of a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, the filing by Tenant or Guarantor of an answer admitting or failing timely to contest a material allegation of a petition filed against Tenant or Guarantor in any such proceeding or, if within thirty (30) days after the commencement of any proceeding against Tenant or Guarantor seeking any reorganization, or arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed; and

**(i) Failure to Deliver.** Failure to deliver any subordination or attornment agreement or estoppel certificate when and as required under Article 10; and

**(j) Guarantor.** If any Guarantor ceases to exist as an ongoing business with assets comparable to the Guarantor's assets at the time the guaranty is signed, unless within ten (10) days after written demand, Tenant provides a substitute guaranty from an entity approved by Landlord in its discretion or if any person who guaranties Tenant's obligations dies or becomes incapacitated and Tenant fails to provide an affirmation of the guaranty by such person's estate or a new guaranty from a person or entity approved by Landlord in its discretion.

**13.2 Remedies Upon Default.**

**(a) Termination.** If an Event of Default occurs, Landlord shall have the right, with or without notice or demand, immediately (after expiration of the applicable grace periods specified herein) to terminate this Lease, and at any time thereafter recover possession of the Premises or any part

thereof and expel and remove therefrom Tenant and any other person occupying the same, by any lawful means, and again repossess and enjoy the Premises without prejudice to any of the remedies that Landlord may have under this Lease, or at law or equity by reason of Tenant's default or of such termination.

**(b) Continuation After Default**. Even though Tenant has breached this Lease and/or abandoned the Premises, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession under Section 13.2(a) hereof, and Landlord may enforce all of its rights and remedies under this Lease, including (but without limitation) the right to recover Rent as it becomes due. Acts of maintenance, preservation or efforts to lease the Premises or the appointment of receiver upon application of Landlord to protect Landlord's interest under this Lease shall not constitute an election to terminate Tenant's right to possession. If Landlord does not terminate this Lease, then, regardless of whether Tenant shall have abandoned the Premises, and without demand or notice, Landlord may re-enter and take possession of the Premises or any part thereof, expel from the Premises Tenant and anyone claiming through or under Tenant, and remove the personal property of either. Landlord may relet the Premises, or any part of them, in Landlord's or Tenant's name for the account of Tenant, for such period of time and at such other terms and conditions as Landlord, in its sole discretion, may determine. Landlord may collect and receive the rents from the Premises. Re-entry or taking possession of the Premises by Landlord under this Section shall not be construed as an election on Landlord's part to terminate this Lease, unless a written notice of termination is given to Tenant. Landlord reserves the right following any re-entry or reletting, or both, under this Section to exercise its right to terminate the Lease. During the Event of Default, Tenant will pay Landlord the Rent and other sums that would be payable under this Lease if repossession had not occurred, less the net proceeds, if any, after reletting the Premises, after deducting Landlord's Reletting Expenses. "**Reletting Expenses**" is defined to include all expenses incurred by Landlord in connection with reletting the Premises, including without limitation, all repossession costs, labor costs, brokerage commissions, attorneys' fees, remodeling and repair costs, costs for removing and storing Tenant's property and equipment and rent concessions granted by Landlord to any new tenant, prorated over the life of the new lease.

**(c) Acceleration**. Landlord shall also have the right to declare the entire balance of the Rent for the remainder of the Term of this Lease to be due and payable immediately, and collect such balance in any manner not inconsistent with applicable law. Accelerated payments payable under this Lease shall not constitute a penalty or forfeiture or liquidated damages, but shall merely constitute payment of Rent in advance.

**(d) Cure**. Landlord may cure such default or perform such obligation on Tenant's behalf and at Tenant's expense as an Extra Service. Tenant shall reimburse Landlord on demand pursuant to Section 5.4.

**(e) Waiver of Redemption Rights**. Tenant, for itself, and on behalf of any and all persons claiming through or under Tenant, including creditors of all kinds, hereby waives and surrenders all rights and privileges that they may have under any present or future law, to redeem the Premises or to have a continuance of this Lease for the Lease Term, as it may have been extended.

**13.3 Damages Upon Termination.** Should Landlord terminate this Lease pursuant to the provisions of Section 13.2(a) hereof, Landlord shall have all the rights and remedies of a landlord under applicable law and, in addition, Landlord shall be entitled to recover from Tenant: (a) the worth at the time of award of the unpaid Rent and other amounts which had been earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such Rent loss that Tenant proves could have been reasonably avoided; (c) the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such Rent loss that the Tenant

proves could be reasonably avoided; (d) all costs incurred by Landlord in reletting the Premises, including without limitation, brokerage commissions, attorneys' fees, marketing and advertising expenses and expenses of cleaning, restoring or remodeling the Premises; and (e) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which, in the ordinary course of things, would be likely to result therefrom. The "worth at the time of award" of the amounts referred to in (a) and (b) shall be computed with interest at eighteen percent (18%) per annum or the highest lawful commercial interest rate, whichever is the lower. The "worth at the time of award" of the amount referred to in (c) shall be computed by discounting such amount at the "discount rate" of the Federal Reserve Bank of San Francisco in effect as of time of award plus one percent (1%) and, where rental value is a material issue, shall be based upon competent appraisal evidence.

**13.4 Computation of Rent for Purposes of Default.** For purposes of computing unpaid Rent that would have accrued and become payable under this Lease pursuant to the provisions of Section 13.3, unpaid Rent shall consist of the sum of:

**(a)** the total Base Rent for the balance of the Term, plus

**(b)** a computation of the Operating Costs for the balance of the Term, the assumed Operating Costs for the calendar year of the default and each future calendar year in the Term to be equal to the Operating Costs for the calendar year prior to the year in which default occurs compounded at a per annum rate equal to the mean average rate of inflation for the preceding five (5) calendar years as determined by reference to the Consumer Price Index – All Items for Seattle-Tacoma-Bremerton, All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor (Base Year 1982-84=100), or such successor index as may be established to provide a measure of the current purchasing power of the dollar (provided, however, that if no successor index is published by the United States Department of Labor, Landlord may select in its reasonable discretion a substitute index or method of measuring inflation); plus

**(c)** the total payments for Parking Passes required to be purchased by Tenant pursuant to Section 14.23 for the balance of the Term; plus

**(d)** the total payments for Extra Services required as a result of Tenant Extra Improvements for the balance of the Term.

**13.5 Late Charge.** Tenant acknowledges that late payment by Tenant of Rent will cause Landlord to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impracticable to fix. Such costs include, without limitation, processing and accounting charges, and late charges that may be imposed on Landlord by the terms of any note secured by a Senior Instrument covering the Premises. Therefore, in addition to Landlord's other remedies, if any payment of Rent is not received by the fifth (5th) day after the due date thereof, Tenant shall pay a late fee in an amount equal to Two Hundred Fifty Dollars ($250.00) plus five percent (5%) of the delinquency, the parties agreeing that such sum represents a reasonable estimate of Landlord's costs. In addition, any sums not paid by Tenant when due shall bear interest from the due date until paid in full at an annual interest rate of eighteen percent (18%) or the highest commercial interest rate permitted by Law, if less. The provision for a late charge and interest and collection of such late charge or interest by Landlord, shall not be deemed a waiver of any breach or Event of Default by Tenant under this Lease. If Tenant pays Rent more than five (5) days after the due date thereof more than two (2) times in any twelve (12) month period then the next late payment shall constitute a noncurable default and Landlord shall be entitled to reject such late payment and exercise its remedies under Section 13.2. If any of Tenant's Rent checks is returned by the bank without payment then Tenant shall pay a bounced check charge of seventy-five

dollars ($75.00) and Landlord may require Tenant to pay future installments of Rent by certified or cashiers' check.

**13.6 Remedies Cumulative.** All of the remedies permitted or available to Landlord under this Lease, or at law or in equity, shall be cumulative and not alternative and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

**13.7 Tenant's Remedies.** Landlord shall not be in default unless Landlord fails to cure a default by Landlord of its obligations under this Lease within sixty (60) days after its receipt of notice thereof from Tenant, or if such default is not capable of being cured within said sixty (60) day period, Landlord has failed to commence such cure and diligently pursue such cure until completion. In no event shall Landlord be liable for consequential damages. Tenant shall not sue, seek any remedy or enforce any right against Landlord until (a) Tenant gives written notice to all Senior Parties, and (b) a reasonable time for such Senior Party, at its option, to remedy the act or omission has elapsed following the giving of notice by Tenant to Senior Party required hereunder, including, without limitation, time to obtain possession from Landlord by power of sale or judicial foreclosure, it being agreed that the Senior Party shall have no obligation to Tenant to cure or remedy any act or omission of Landlord. Tenant shall look solely to Landlord's interest in the Building for recovery of any judgment from Landlord whether from a breach hereof or from a right created by statute or at common law. Landlord and Landlord Parties shall not be personally liable for any such judgment. Tenant agrees that no other property or assets of Landlord or any Landlord Party shall be subject to levy, execution or other enforcement procedures for satisfaction of any such judgment or decree; no Landlord Party shall be sued or named as a party in any suit or action (except as may be necessary to secure jurisdiction over Landlord); no service of process shall be made against any Landlord Party (except as may be necessary to secure jurisdiction over Landlord); no judgment shall be taken against any Landlord Party; no writ of execution shall ever be levied against the assets of any Landlord Party; and these covenants, limitations and agreements are enforceable both by Landlord and by any Landlord Party. Any lien obtained to enforce any such judgment and any levy of execution thereon shall be subject and subordinate to any Senior Instrument.

## ARTICLE 14
## Miscellaneous

**14.1 No Waiver.** Failure of Landlord or Tenant to declare any default immediately upon occurrence thereof, or delay in taking any action in connection therewith, shall not waive such default, but Landlord or Tenant, as the case may be, shall have the right to declare any such default at any time thereafter. No waiver by Landlord of an Event of Default, or any agreement, term, covenant or condition contained in this Lease, shall be effective or binding on Landlord unless made in writing and no such waiver shall be implied from any omission by Landlord to take action with respect to such Event of Default or other such matter. No express written waiver by Landlord of any Event of Default, or other such matter, shall affect or cover any other Event of Default, matter or period of time, other than the Event of Default, matter and/or period of time specified in such express waiver. One or more written waivers by Landlord of any Event of Default, or other matter, shall not be deemed to be a waiver of any subsequent Event of Default, or other matter, in the performance of the same provision of this Lease. Acceptance of Rent by Landlord hereunder, or endorsement of any check, shall not, in and of itself, constitute a waiver of any breach or Event of Default or of any agreement, term, covenant or condition of this Lease, except as to the payment of Rent so accepted, regardless of Landlord's knowledge of any concurrent Event of Default or matter. Landlord may, at its election, apply any Rent received from Tenant to the oldest obligation outstanding from Tenant to Landlord, any endorsement or other statement of Tenant to the contrary notwithstanding. No course of conduct between Landlord and Tenant, and no acceptance of the keys to or possession of the Premises before the termination of the Term by Landlord or

any employee of Landlord shall constitute a waiver of any such breach or of any term, covenant or condition of this Lease or operate as a surrender of this Lease.

**14.2 Holding Over.** If Tenant (or anyone claiming under Tenant) remains in possession after expiration or termination of this Lease without the written consent of Landlord, Tenant shall comply with all terms and conditions of this Lease except that Tenant shall pay Base Rent for each month or partial month of occupancy thereafter at a rate equal to two hundred percent (200%) of the Base Rent for the last month of the Term, together with such other amounts as may become due hereunder. No occupancy or payment of Rent by Tenant after expiration of the Term shall operate to renew or extend the Term. If Tenant remains in possession after the expiration or termination of this Lease without Landlord's consent, in addition to the payment described in the first sentence of this Section 14.2, Tenant shall indemnify, defend, protect and hold Landlord and Landlord Parties harmless from and against any and all Claims for damages by any other tenant or third person to whom Landlord may have leased or offered to lease all or any part of the Premises effective on or after the termination of this Lease, together with all loss, cost, expense, damages and liabilities in connection with any such reletting, including, without limitation, attorneys' fees and Landlord's lost revenues. If Tenant holds over with the consent of Landlord in writing Tenant shall thereafter occupy the Premises under this Lease on a month-to-month basis and Base Rent shall be increased to the greater of (a) one hundred twenty-five percent (125%) of the Rent for the last month of the term, or (b) the then current fair market rent for the Premises as determined by Landlord in its reasonable discretion. For purposes of this Section 14.2, the term "remains in possession" shall include circumstances where Tenant has failed to fully vacate the Premises or failed to fully complete all removal and restoration work required under this Lease.

**14.3 Attorneys' Fees.** If either party places the enforcement of this Lease, or any part thereof, or the collection of any Rent due, or to become due hereunder, or recovery of the possession of the Premises in the hands of an attorney or collection agency, or files suit upon the same, or seeks a judicial declaration of rights hereunder, the prevailing party shall recover its reasonable attorneys' fees, court costs and collection agency charges. As used herein, "prevailing party" shall mean the party who substantially prevails in the matter at issue, including without limitation, a party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached or consideration substantially equal to the relief sought in the action.

**14.4 Amendments.** This Lease may not be altered, changed or amended, except by an instrument in writing signed by both parties.

**14.5 Transfers by Landlord.** Landlord shall have the right to transfer and assign, in whole or in part, all of its rights and obligations hereunder and in the Building and Real Property. If Landlord sells or otherwise transfers the Building, or if Landlord assigns its interest in this Lease, other than an assignment solely for security purposes, such purchaser, transferee or assignee thereof shall be deemed to have assumed Landlord's obligations hereunder, and Landlord shall thereupon be relieved of all liabilities hereunder arising thereafter, but this Lease shall otherwise remain in full force and effect. Landlord or any person or party succeeding to possession of the Building as a successor to Landlord shall be subject to Landlord's obligations hereunder only during the period of such person's or party's ownership.

**14.6 Severability.** If any term or provision of this Lease, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and shall be enforceable to the extent permitted by law.

**14.7 Notices.** All notices, demands, consents and approvals that may or are required to be given by either party to the other hereunder shall be in writing and shall be deemed to have been given

upon refusal of delivery or upon delivery if sent by personal delivery or when deposited with a nationally recognized overnight courier service or in the United States mail, certified or registered, postage prepaid, and addressed to the party to be notified at the address for such party specified on the Basic Lease Information Sheet, or to such other place as the party to be notified may from time to time designate by at least fifteen (15) days' notice to the notifying party. Tenant shall deliver a copy of any notice given to Landlord to (a) Landlord's property manager, (b) any Senior Party whose address is known to Tenant, and (c) Hines, 101 California, Suite 1000, San Francisco, CA 94111, Attn: VP of Operations and Executive VP. Notwithstanding the foregoing, personal delivery of notices to Tenant may be made by leaving a copy of the notice, addressed to Tenant, at the Premises. Tenant appoints as its agent to receive service of all default notices and notice of commencement of unlawful detainer proceedings the person in charge of or apparently in charge of or occupying the Premises at the time, and, if there is no such person, then such service may be made by attaching the same on the main entrance of the Premises.

**14.8 Building Planning.** Intentionally omitted.

**14.9 No Option.** Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or an option to lease, and it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant. Landlord shall not be deemed to have made an offer to Tenant by furnishing Tenant with a copy of this Lease with particulars inserted. No contractual or other rights shall exist or be created between Landlord and Tenant until all parties hereto have executed this Lease and until it has been approved in writing by any Senior Party and fully executed copies have been delivered to Landlord and Tenant. Tenant agrees to make such changes herein as may be requested by any Senior Party so long as such do not increase Rent or other charges due from Tenant hereunder or otherwise materially alter Tenant's rights hereunder.

**14.10 Integration and Interpretation.** The terms of this Lease are intended by the parties as a final expression of their agreement with respect to such terms as are included in this Lease and may not be contradicted by evidence of any prior or contemporaneous agreement, arrangement, understanding or negotiation (whether oral or written). The parties further intend that this Lease constitutes the complete and exclusive statement of its terms. The language in all parts of this Lease shall in all cases be construed as a whole and in accordance with its fair meaning and not construed for or against any party, regardless of which party may have drafted the provision in question, it being agreed that this is a negotiated agreement. The following exhibits and schedules are attached hereto and incorporated by this reference as if fully set forth herein:

| | |
|---|---|
| Exhibit A | Floor Plan of the Premises |
| Exhibit B | Legal Description of the Real Property |
| Exhibit C | Work Letter |
| Exhibit D | Rules and Regulations |
| Exhibit E | Lease Commencement Certificate |
| Exhibit F | Form of Estoppel Certificate |
| Rent Rider | |

**14.11 Quitclaim.** Upon expiration or earlier termination of this Lease, Tenant shall, immediately upon request of Landlord, execute, acknowledge and deliver to Landlord a recordable deed quit-claiming to Landlord all interest of Tenant in the Premises, the Real Property, the Building and this Lease.

**14.12 No Easement for Light, Air and View.** This Lease conveys to Tenant no rights for any light, air or view. No diminution of light, air or view, or any impairment of the visibility of the Premises from inside or outside the Building, by any structure or other object that may hereafter be erected

(whether or not by Landlord) shall entitle Tenant to any reduction of Rent under this Lease, constitute an actual or constructive eviction of Tenant, result in any liability of Landlord to Tenant, or in any other way affect this Lease or Tenant's obligations hereunder.

**14.13 No Merger.** The voluntary or other surrender or termination of this Lease by Tenant, or a mutual cancellation thereof shall not work a merger, but, at Landlord's sole option, shall either terminate all existing subleases or subtenancies or shall operate as an assignment to Landlord of all such subleases or subtenancies.

**14.14 Memorandum of Lease.** Tenant shall, upon request of Landlord, execute, acknowledge and deliver a short form memorandum of this Lease (and any amendment hereto or consolidation hereof), in form suitable for recording. In no event shall this Lease or any memorandum thereof be recorded without the prior written consent of Landlord, and any attempt to do so shall constitute a default by Tenant.

**14.15 Survival.** All of Tenant's covenants and obligations contained in this Lease shall survive the expiration or earlier termination of this Lease. No provision of this Lease providing for termination in certain events shall be construed as a limitation or restriction of Landlord's rights and remedies at law or in equity available upon a breach by Tenant of this Lease.

**14.16 Financial Statements.** This provision shall apply only if Tenant assigns this Lease to an entity that is not a governmental office. If Landlord intends to sell all or any portion of the Building or the Real Property (or any interest therein), or obtain a loan secured by the Building or the Real Property (or any interest therein), then Tenant shall, within fifteen (15) days of Landlord's written request, furnish Landlord with financial statements, dated no earlier than one (1) year before such request, certified as accurate by Tenant, or, if available, audited financial statements prepared by an independent certified public accountant with copies of the auditor's statement, reflecting Tenant's then current financial condition, or the financial condition of the individuals comprising Tenant, in such form and detail as Landlord may reasonably request.

**14.17 No Joint Venture.** This Lease shall not be construed to create a partnership, joint venture or similar relationship or arrangement between Landlord and Tenant hereunder.

**14.18 Successors and Assigns.** Except as otherwise provided herein, this Lease shall be binding upon and inure to the benefit of Landlord, its successors and assigns; and shall be binding upon and inure to the benefit of Tenant, its successors, and to the extent assignment may be approved by Landlord hereunder, Tenant's assigns.

**14.19 Applicable Law.** All rights and remedies of Landlord and Tenant under this Lease shall be construed and enforced according to the laws of the State of Washington. Any actions or proceedings brought under this Lease, or with respect to any matter arising under or out of this Lease, shall be brought and tried only in courts located in the County of King, Washington (excepting appellate courts). LANDLORD AND TENANT EACH WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY OF ANY CONTRACT OR TORT CLAIM, COUNTERCLAIM, CROSS-COMPLAINT, OR CAUSE OF ACTION IN ANY ACTION, PROCEEDING, OR HEARING BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, OR TENANT'S USE OR OCCUPANCY OF THE PREMISES.

**14.20 Time of the Essence; Force Majeure.** Time is of the essence of each and every covenant herein contained. If either party to this Lease, as the result of any (i) strikes, lockouts, or labor disputes; (ii) failure of power or other utilities; (iii) inability to obtain labor or materials or reasonable substitutes therefor; (iv) war, governmental action, court order, condemnation, civil unrest, riot, fire or

other casualty; (v) extreme or unusual weather conditions, acts of God or unforeseen soil conditions; or (vi) other conditions similar to those enumerated in this Section beyond the reasonable control of the party obligated to perform (except for financial inability) (collectively, "**Force Majeure**") fails punctually to perform any obligation on its part to be performed under this Lease, then such failure shall be excused and not be a breach of this Lease by the party in question but only to the extent occasioned by such event. If any right or option of either party to take any action under or with respect to this Lease is conditioned upon the same being exercised within any prescribed period of time or at or before a named date, then such prescribed period of time and such named date shall be deemed to be extended or delayed, as the case may be, for a period equal to the period of the delay occasioned by any event described above. Notwithstanding anything herein contained, however, the provisions of this Section shall not be applicable to Tenant's obligation to pay Rent under this Lease or its obligations to pay any other sums, monies, costs, charges or expenses required to be paid by Tenant hereunder.

**14.21 Confidentiality.** Except as necessary to obtain City Council approval or as legally required in connection with a public records request, Tenant shall treat the contents of this Lease as confidential information and shall not disclose the terms and conditions hereof to other parties; provided, however, Tenant may disclose portions of the Lease to its officers, directors, employees, attorneys, architects, accountants, and other consultants and advisors to the extent such persons need to know such information provided such parties are first informed of the confidential nature of such information and each such party agrees to treat the information as confidential. In addition, the contents of this Lease may be divulged by Tenant to the extent, but only to the extent, required by law or in any administrative or judicial proceeding in which Tenant is required to divulge such information, however Tenant shall notify Landlord prior to making such disclosure. Tenant shall be responsible for any disclosure of this Lease in violation of the terms of this Section made by any person who received this Lease or learns of its terms and conditions, directly or indirectly, from Tenant.

**14.22 Interpretation.** Except as specifically provided otherwise in this Lease, Landlord may act in its sole and absolute discretion when required to act hereunder or when deciding to grant its approval of any Tenant act. Whenever Landlord has agreed to act reasonably, it shall be reasonable for Landlord to consider the financial impact of the decision on Landlord and Landlord shall be deemed to be reasonable if its action or decision is consistent with actions or decisions of other comparable institutional owners of comparable commercial projects. The term, "including" shall mean "including, without limitation." All indemnities contained herein shall survive termination of this Lease with respect to any act, condition or event that is the subject matter of such indemnity and that occurs prior to the Expiration Date. Notwithstanding anything herein to the contrary, all provisions of this Lease which require the payment of money or the delivery of property after the Expiration Date shall survive termination of the Lease.

**14.23 Parking.** Tenant may purchase parking passes equal to the number of parking passes (the "**Parking Passes**") set forth in Item 13 of the Basic Lease Information Sheet which number shall include Tenant's Proportionate Share of any carpool spaces Landlord is required to provide or maintain by any governmental authority. Unless Tenant purchases its full allocation of Parking Passes for the then-current Premises (calculated just prior to any expansion), Tenant's allocation shall not be increased when Tenant leases any of the First Expansion Premises, Second Expansion Premises or any Offer Space. Landlord may, but shall have no duty to, make the unused allocation available to Tenant. Tenant shall pay the monthly fee per Parking Pass established by Landlord from time to time for the applicable type of permit, plus any tax or assessment imposed by any governmental authority in connection with such parking privileges. The parking fees shall be payable in advance on the first day of the month together with the payment of Base Rent. Each Parking Pass shall entitle the vehicle on which the Parking Pass is presented to park in the parking garage located beneath the Building (the "**Garage**") during Normal

Office Hours on a nonpreferential and nonexclusive basis. Landlord shall have exclusive control over the day-to-day operations of the Garage. No specific spaces in the Garage shall be assigned to Tenant. Landlord may make, modify and enforce reasonable rules and regulations relating to the parking of vehicles in the Garage, and Tenant shall abide by such rules and regulations and shall cause its employees and invitees to abide by such rules and regulations. In lieu of providing parking stickers or cards, Landlord may use any reasonable alternative means of identifying and controlling vehicles authorized to be parked in the Garage. Landlord may designate areas within the Garage for short term or nontenant parking only and Landlord may change such designations from time to time. Landlord reserves the right to alter the size of the Garage and the configuration of parking spaces and driveways therein. Landlord may assign any unreserved and unassigned parking spaces and/or make all or a portion of such spaces reserved or institute any other measures, including but not limited to valet, assisted or tandem parking, that Landlord determines are necessary or desirable for tenant requirements or orderly and efficient parking. Landlord at any time may substitute for Tenant's Parking Passes an equivalent number of parking spaces in a parking structure or subterranean parking facility or within a surface parking area located a reasonable distance from the Building.

Landlord may operate the Garage or, in its discretion, may arrange for the Garage to be operated by a third party and, for purposes of this Section 14.23, such operator shall be entitled to exercise any rights granted to Landlord under this Section. Upon request, Tenant will execute and deliver a parking agreement with the operator of the Garage on the operator's standard form of agreement. If Landlord hires a third party to operate the Garage then the monthly parking charges shall be paid to such operator at such place as the operator may direct but the parking charges shall be considered additional Rent hereunder.

**14.24 Brokers.** Tenant and Landlord each represent and warrant to the other that it has had no dealing with any broker or agent other than the Broker(s) identified in the Basic Lease Information Sheet as Item 15. Tenant and Landlord shall each indemnify, defend and hold the other party harmless from and against any and all liabilities for commissions or other compensation or charges claimed by any other broker or agent based on dealings with the indemnifying party with respect to this Lease. The foregoing indemnity shall survive termination or earlier expiration of this Lease.

**14.25 USA Patriot Act Disclosures.** Pursuant to United States Presidential Executive Order 13224 ("**Executive Order**") and related regulations of the Office of Foreign Assets Control ("**OFAC**") of the U.S. Department of the Treasury, U.S. persons and entities are prohibited from transacting business with persons or entities who, from time to time are determined to have committed, or to pose a risk of committing or supporting, terrorist acts, narcotics trafficking, money laundering and related crimes. Those persons and entities are identified on a list of Specially Designated Nationals and Blocked Persons (the "**List**"), published and regulated by OFAC. The names, including aliases, of these persons or entities ("**Blocked Persons**") are updated frequently. In addition, OFAC enforces other Executive Orders which, from time to time, impose restrictions on transactions with, or involving certain countries. Tenant hereby certifies and represents that neither it, nor any of its owners, members of its governing body, management, employees or agents is on the List or is acting for, or on behalf of any person or entity on the List. Tenant further acknowledges its obligation to remain in compliance with existing and future regulations promulgated by OFAC throughout the term of the Lease.

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

**Landlord:**

**BLOCK 24 SEATTLE, LTD., L.P.**

By: Hines Northwest Properties, Inc.,

Its: General Partner

By: _____
Name: James C. Buie, Jr.
Title: Vice President

**Tenant:**

**THE CITY OF SEATTLE**

By: _____
Name: _____
Title: _____

**Landlord Acknowledgement**

STATE OF CALIFORNIA )
) ss.
COUNTY OF SAN FRANCISCO )

On this _____ day of _____, 2013, before me, a Notary Public in and for the State of California, personally appeared **James C. Buie, Jr.**, Vice President, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

_____

NOTARY PUBLIC in and for the State of California,
residing at _____

My appointment expires _____

Print Name _____

**Tenant Acknowledgement**

STATE OF WASHINGTON )
) ss.
COUNTY OF KING )

On this _____ day of _____, 2013, before me, a Notary Public in and for the State of Washington, personally appeared _____*[name]*, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged it as the _____*[title]* of THE CITY OF SEATTLE, to be the free and voluntary act and deed of said municipality for the uses and purposes mentioned in the instrument.

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

_____

NOTARY PUBLIC in and for the State of Washington,
residing at _____
My appointment expires _____
Print Name _____

# EXHIBIT A

## FLOOR PLAN OF PREMISES

**[to be attached]**

## EXHIBIT B

## LEGAL DESCRIPTION OF THE REAL PROPERTY

Lots 1 to 8 inclusive, Block 24, addition to the town of Seattle, as laid out on the claims of C.D. Boren and A.A. Denny and H.L. Yesler (commonly known as C.D. Boren's addition to the City of Seattle), according to plat recorded in volume 1 of plats, page 25, records of King County, Washington, and subject to all matters now or hereafter of record.

SITUATE IN THE CITY OF SEATTLE, COUNTY OF KING, STATE OF WASHINGTON, AND SUBJECT TO ALL MATTERS NOW OR HEREAFTER OF RECORD

# EXHIBIT C

## WORK LETTER

## INITIAL IMPROVEMENT OF THE PREMISES

**1. Work Letter Definitions.** Capitalized terms used herein and not otherwise defined shall have the meanings given in the Lease of which this Exhibit is a part. This Work Letter shall be applied separately to each of the Initial Premises, First Expansion Premises, Second Expansion Premises and each increment of Offer Space added to the Premises. The following terms, as used in this Exhibit C and elsewhere in the Lease, shall have the following meanings:

**(a)** "**Architect**" means an architect selected by Tenant and approved by Landlord in writing.

**(b)** "**Base Building**" means the Building (excluding the interior improvements in the Premises) and Building systems existing as of the date of this Lease.

**(c)** "**CAD**" means the AutoCAD format or another computer assisted design format approved by Landlord.

**(d)** "**Cash Allowance**" means the amount Landlord is required to contribute to the cost of the improvements to be performed by Tenant in the Premises. With respect to the Initial Premises, the Cash Allowance shall be an amount equal to Thirty-five Dollars ($35.00) per square foot of Net Rentable Area in the Initial Premises which may be allocated between the floors in any manner Tenant deems appropriate. With respect to the First Expansion Premises, the Cash Allowance shall be an amount equal to Fifty-five Dollars ($55.00) per square foot of Net Rentable Area in the First Expansion Premises and shall be used to improve the entire First Expansion Premises. With respect to the Second Expansion Premises, the Cash Allowance shall be an amount equal to Fifty-five Dollars ($55.00) per square foot of Net Rentable Area in the Second Expansion Premises multiplied by a fraction equal to the number of months remaining in the Initial Term when Tenant will begin paying Base Rent on the Second Expansion Premises divided by 120 and shall be used to improve the entire Second Expansion Premises. With respect to the Offer Space, the Cash Allowance shall be determined in the arbitration of Fair Market Rent under Section 2.6(c) of the Lease and shall be used to improve the entire Offer Space leased by Tenant.

**(e)** "**Construction Contract**" means the contract between Tenant and the Contractor.

**(f)** "**Construction Drawings**" has the meaning given in Paragraph 6 below.

**(g)** "**Contractor**" means the contractor selected by Tenant and approved by Landlord in writing who shall complete the Tenant Improvements on behalf of Tenant.

(h) "**Space Plan**" has the meaning given in Paragraph 5 below.

**2. Base Building.** Tenant acknowledges that a prior occupant of the Premises constructed the existing improvements in the Premises and that Landlord makes no representation or warranty as to the nature or quality of such improvements. Except as expressly provided herein, (a) Tenant shall accept the Base Building, the Premises and the Real Property in their "AS IS" condition as of the date of this Lease; and (b) Landlord shall not be obligated to make or pay for any alterations or improvements to the Premises, the Base Building or the Real Property. If Tenant wishes to make any changes, relocations or other modifications or upgrades to the Base Building or any Base Building system to accommodate the Tenant Improvements, Tenant, at Tenant's expense, shall hire the architect or engineer designated by Landlord to prepare all necessary plans for Landlord's review and approval. Tenant may not make any

such modifications unless the plans are approved by Landlord in writing. Landlord's approval may be given, withheld or subject to such conditions as Landlord in its sole discretion desires. If Landlord approves any changes to the Base Building outside the Premises then Landlord shall cause such changes to be made and Tenant shall pay Landlord, in advance, the actual costs associated with the changes approved by Landlord (including all architectural and engineering fees) plus an administrative fee equal to fifteen percent (15%) of the costs of such modifications. If applicable, Landlord may deduct such costs from the Cash Allowance. If Tenant does not make such payment upon demand then it shall be deemed to have withdrawn its request for changes to the Base Building.

**3. Architect.** Tenant shall retain the Architect and shall cause the Architect to design the Tenant Improvements, to complete the Space Plan and the Construction Drawings and to obtain all required building or other permits to allow construction of the Tenant Improvements in the Premises. Tenant or its Architect shall retain the consultants designated by Landlord to design and engineer any changes to the structural, mechanical, electrical, plumbing, life safety, sprinkler, HVAC and telecommunication systems included in the Tenant Improvements. Tenant and Architect are solely responsible for: (i) the completeness of the plans; (ii) the conformity of the plans with the existing conditions in the Building and the Premises; (iii) the compatibility of the plans with the Base Building including the mechanical, plumbing, life safety or electrical systems of the Building; and (iv) the compliance of the plans with all applicable regulations, laws, ordinances, codes and rules, including, without limitation, the Americans With Disabilities Act and any applicable fire-safety and insurance requirements.

**4. Payment.**

**(a) Tenant's Responsibility.** Tenant shall pay for all costs of designing and constructing additional Tenant Improvements in the Premises, except that Landlord shall reimburse Tenant for its actual costs of designing and completing the Tenant Improvements provided that the maximum reimbursement shall be the amount of the Cash Allowance. If the cost of the Tenant Improvements will exceed the Cash Allowance, all additional costs shall be Tenant's responsibility. Except as provided below, the Cash Allowance shall be used solely for the construction of Tenant Improvements approved by Landlord including labor and materials, project management fees, permit fees, taxes, and space planning, architectural and engineering fees and the actual cost of Tenant's communications systems, cabling, furniture, equipment, trade fixtures, furnishings installed in the Premises. After completion of Tenant Improvements in all of the Initial Premises and expiration of any time period for liens to be filed in connection therewith, if Tenant has not used all of the Cash Allowance applicable to the Initial Premises, Tenant may apply up to Five Dollars ($5.00) per square foot of the Initial Premises from the remainder of the Cash Allowance for the Initial Premises to the cost of moving into the Premises. Tenant shall present Landlord with invoices establishing the amount of any costs paid by Tenant for which reimbursement is sought. Tenant acknowledges that it has no right to allow liens on the Real Property or the Premises and that Tenant is not acting as Landlord's construction agent and Tenant shall require Tenant's Architect, the Contractor and each subcontractor and all materialmen and suppliers to acknowledges that they do not have any right to lien the Real Property or the Tenant Improvements.

**(b) Cash Allowance.** Landlord shall pay the Cash Allowance to or on behalf of Tenant within thirty (30) days after all of the following conditions have been satisfied: (i) completion of the Tenant Improvements for which reimbursement is sought in accordance with the approved Construction Drawings, (ii) Landlord's receipt of invoices for all costs and expenses for which reimbursement is sought, including such appropriate back-up documentation as Landlord shall request, (iii) Landlord's receipt of final lien releases from all contractors, subcontractors and suppliers, and (iv) Landlord's receipt of a copy of the certificate of occupancy for the Premises and the as-built plans

required under Paragraph 11 of this Exhibit C. Landlord may elect to pay the Cash Allowance directly to the Contractor or other suppliers. Landlord shall have no obligation to disburse all or any portion of the Cash Allowance to Tenant unless Tenant makes a proper request for disbursement within nine (9) months after Tenant is given possession of the applicable portion of the Premises. Tenant shall not be entitled to any credit for any unused portion of the Cash Allowance and Tenant shall not be entitled to any cash payment and may not apply such excess to any future alterations. Landlord shall have no obligation to disburse all or any portion of the Cash Allowance to Tenant during any period when an Event of Default is outstanding under the Lease or if any event or condition occurs which, with the passage of time or the giving of notice or both would constitute an Event of Default. Landlord may offset any amount due and owing by Tenant under the Lease or this Work Letter against the Cash Allowance. Landlord may deduct from the Cash Allowance any out of pocket costs incurred by Landlord in connection with the plan review or construction oversight but shall not be entitled to receive a project management fee.

**5. Submittal of Space Plan.** Tenant shall cause the Architect to develop a space plan showing the layout of the Tenant Improvements with a general description of the equipment to be contained therein and the general purpose of each area (the "**Space Plan**" ). Within a reasonable time following receipt of the Space Plan, Landlord shall, review, comment on and return the Space Plan to Tenant, marked "Approved," "Approved as Noted" or "Disapproved as Noted, Revise and Resubmit." Landlord's failure to respond to the Space Plan shall not constitute approval by Landlord of the design or specifications shown thereon.

**(a)** If the Space Plan is approved, Tenant shall cause Architect to complete the Construction Drawings pursuant to Paragraph 6 below.

**(b)** If the Space Plan is returned to Tenant marked "Approved as Noted," the Space Plan so submitted shall be deemed approved by Landlord and Tenant shall cause Architect to complete the Construction Drawings pursuant to Paragraph 6 below; provided, however, in preparing the Construction Drawings, Architect shall incorporate Landlord's noted items into the Construction Drawings.

**(c)** If the Space Plan is returned to Tenant marked "Disapproved as Noted, Revise and Resubmit," Architect shall revise the Space Plan, taking into account the reasons for Landlord's disapproval, and shall resubmit a revised Space Plan to Landlord and Tenant for review. The same procedure shall be repeated until Landlord approves the Space Plan.

**6. Submittal of Construction Drawings.** Following Landlord's approval of the Space Plan, Tenant shall cause Architect to prepare a final and complete set of plans and specifications (including architectural, structural, mechanical, electrical and plumbing) in a form which is sufficiently detailed to submit for permits, bid out the work and serve as the basis for the Contractor to complete the Tenant Improvements (the "**Construction Drawings**" ). The Construction Drawings shall be consistent with and a logical extension of the Space Plan approved by Landlord. Within a reasonable time after receipt thereof, Landlord shall return to Tenant and Architect one (1) copy of the Construction Drawings marked "Approved," "Approved as Noted" or "Disapproved as Noted, Revise and Resubmit"; provided, however, that failure to respond to the Construction Drawings shall not constitute approval by Landlord of the design or specifications shown thereon.

**(a)** If the Construction Drawings are returned to Tenant marked "Approved," the Construction Drawings, as submitted, shall be deemed approved by Landlord and Tenant.

**(b)** If the Construction Drawings are returned to Tenant marked "Approved as Noted," the draft of the Construction Drawings shall be deemed approved by Landlord and Tenant; provided, however, in preparing the final approved Construction Drawings, Architect shall incorporate Landlord's noted items into the Construction Drawings.

**(c)** If the Construction Drawings are returned to Tenant marked "Disapproved as Noted, Revise and Resubmit," Architect shall revise the Construction Drawings, taking into account the reasons for Landlord's disapproval and shall resubmit revised plans to Landlord and Tenant for review. The same procedure shall be repeated until Landlord and Tenant fully approve the Construction Drawings.

**(d)** Tenant shall be deemed to have approved any revisions to the Construction Drawings required by Landlord unless Tenant objects in writing within five (5) days after receipt of the annotated Construction Drawings.

**(e)** When the Construction Drawings are approved by Landlord and Tenant, the parties shall each acknowledge their approval by signing or initialing each sheet of one copy of Construction Drawings and Tenant shall submit the approved Construction Drawings to the City of Seattle for permitting.

**(f)** Once the Construction Drawings have been approved by Landlord, Tenant may not modify the Tenant Improvements specified in the approved Construction Drawings without first obtaining Landlord's prior written consent. Any request for a change shall be accompanied by plans, specifications and details as may be required to fully identify and quantify such changes. Tenant shall not install or permit to be installed any Tenant Improvements that do not conform to the Construction Manual and the approved Construction Drawings, or that conflict with applicable Laws.

**7. Landlord's Review Responsibilities; Standard for Approvals.** Tenant acknowledges and agrees that Landlord's review and approval of the Space Plan and Construction Drawings is solely for the benefit of Landlord and to protect the interests of Landlord in the Building and the Premises, and Landlord shall not be the guarantor of, nor in any way or to any extent responsible for, the correctness or accuracy of any Space Plan and Construction Drawings or of the compliance of the Space Plan and Construction Drawings with applicable Laws, or of the conformance or compatibility of the Space Plan and Construction Drawings with existing conditions in the Building or Premises or with the Base Building. In any instance in which Landlord's approval of any plans or any change to the plans is required under this Work Letter, such approval shall not be unreasonably withheld except that Landlord reserves the right to disapprove in its sole discretion any elements of the Tenant Improvements that (a) affect the structural portions of the Building or its electrical, plumbing, mechanical, HVAC, security, communications and life safety systems; (b) affect the exterior appearance of the Building; (c) are visible from outside the Premises; (d) do not comply with applicable Laws, or (e) trigger any requirement for upgrades or code compliance in any other part of the Building, or (f) are not consistent with the Space Plan. Landlord reserves the right to require Tenant at any time and from time to time during the construction of the Tenant Improvements, to make any changes necessary (a) to obtain any permit, (b) to comply with all applicable Laws, (c) to achieve the compatibility, as reasonably determined by Landlord, with the Base Building, (d) to avoid impairing or voiding any third-party warranties, (e) to respond to existing conditions, or (f) to comply with the terms of this Lease.

**8. Completion of Tenant Improvements.** All Tenant Improvements shall be furnished and installed by Tenant in accordance with the Construction Drawings and specifications to be prepared by the Architect and approved by Landlord in accordance with this Work Letter. Tenant must retain the services of a professional construction or project manager to assist Tenant with the design, permitting and construction of the Tenant Improvements.

**(a) Existing Conditions.** Prior to commencement of construction of the Tenant Improvements, Tenant shall require and be solely responsible for ensuring that the Architect, and Tenant's engineers and contractors verify all existing conditions in the Building and the Premises, insofar as they are relevant to, or may affect, the design and construction of the Tenant Improvements. Tenant

shall be solely responsible for the completeness of all plans for the Tenant Improvements and for conformity of the plans with the existing conditions in the Building and the Premises. Tenant shall be responsible for any modifications to the Construction Drawings necessary to accommodate existing conditions. Tenant acknowledges that Landlord did not construct the Base Building or any existing interior improvements in the Premises and agrees that any information provided by Landlord with respect to existing conditions in the Premises is provided without any warranty of accuracy or completeness. Landlord shall have no liability to Tenant for any inaccuracy or incorrectness in any of the information supplied by Landlord with regard to existing conditions. Notwithstanding that the Construction Drawings may be reviewed or approved by Landlord and notwithstanding any advice or assistance which may be rendered to Tenant by Landlord or Landlord's agents or representatives, Landlord shall have no liability whatsoever in connection therewith and shall not be responsible for any omissions or errors contained in the Construction Drawings.

**(b) Contract.** Tenant shall solicit bids from contractors on the list of contractors approved to work in the Building or otherwise approved by Landlord in its discretion. Neither Tenant nor its general contractor shall use any subcontractors other than those on Landlord's approved list or otherwise approved by Landlord. Tenant must use subcontractors designated by Landlord for any work on the Building's structural, mechanical, electrical, plumbing, telecommunication, life safety and security systems. Tenant shall enter into the Construction Contract with Contractor for construction of the Tenant Improvements on a form reasonably acceptable to Landlord. Tenant shall not modify the Construction Contract or agree to any substantial change orders without Landlord's prior written consent. Prior to entering into the Construction Contract, Tenant shall submit to Landlord a list of proposed subcontractors by trade together with a draft of the Construction Contract and drafts of the proposed subcontracts. Landlord may require Tenant to contract with Landlord's base building subcontractors for any mechanical, electrical, plumbing, life safety, structural, heating, ventilation, and air-conditioning work in the Premises. Landlord shall review and approve or provide comments on the draft Construction Contract, subcontracts and the list of proposed subcontractors, in its discretion, within a reasonable period of time after Landlord's receipt thereof. Landlord shall be named as a third party beneficiary to the Construction Contract, pursuant to provisions therein which are acceptable to Landlord.

**(c) Access.** Landlord shall provide Tenant with access and entry to the Premises only after Tenant has provided (i) proof of all insurance required hereunder by Tenant and the Contractor and its subcontractors, (ii) copies of all permits necessary for construction of the Tenant Improvements, and (iii) copies of the final Construction Drawings and the executed Construction Contract. Landlord may immediately suspend Tenant's right of access at any time if a default occurs under the Lease. Upon and following any entry into the Premises by Tenant, Tenant shall perform all of the obligations of Tenant applicable under the Lease during the Term (except the obligation to pay Base Rent), including, without limitation, obligations pertaining to insurance, indemnity, compliance with laws, and Hazardous Materials. In addition to the indemnity obligations of Tenant under the Lease, Tenant shall indemnify, defend and protect Landlord and hold Landlord harmless from and against any and all claims, proceedings, losses, costs, damages, causes of action, liabilities, injuries or expenses arising out of or related to claims of injury to or death of persons or damage to property occurring or resulting directly or indirectly from the presence in the Premises or the Building of Tenant's contractors or representatives or the activities of Tenant or its contractors or representatives in or about the Premises or Building during the construction period, such indemnity to include, without limitation, the obligation to provide all costs of defense against any such claims. This indemnity shall survive the expiration or sooner termination of the Lease.

**(d) Site Rules.** All contractors, subcontractors and materialmen shall be subject to prior approval by Landlord and shall be required to comply with Landlord's construction rules and

procedures and any site rules imposed by Landlord.. All Tenant Improvements shall be handled in such a manner as to maintain harmonious labor relations and as not to interfere with or delay any other work occurring in the Building. All contractors, subcontractors and materialmen shall take all necessary steps to insure, so far as may be possible, the progress of the work without interruption on account of strikes, work stoppage or similar causes for delay. If Tenant's contractors or subcontractors do not promptly cause any pickets to be withdrawn and any other disruptions to the operations of the Building promptly to cease, or if Landlord notifies Tenant that Landlord has in good faith concluded that picketing or other disruptive activities are an imminent threat, Tenant shall immediately cause the withdrawal from the job of all its contractors, subcontractors or materialmen involved in the dispute.

**(e) Insurance.** Tenant shall cause Tenant's contractor and all subcontractors to maintain during the construction period the following insurance: (i) commercial general liability insurance, with limits of not less than $1,000,000 per occurrence, and $2,000,000 in the aggregate, plus umbrella coverage of at least $5,000,000 for personal injury, bodily injury or death or property damage or destruction, arising out of or relating to the contractor's work at or in connection with the Premises and including completed operations for one (1) year following job completion with a waiver of subrogation by the insurance company; (ii) workers' compensation insurance with respect to each contractor's workers at the site or involved in the Tenant Improvements, in the amount required by statute; (iii) employer's liability insurance in the amount of at least $1,000,000 per accident and at least $1,000,000 for disease, each employee; (iv) comprehensive automobile liability insurance covering all owned, hired or nonowned vehicles, including the loading and unloading thereof, with limits of not less than $2,000,000 per occurrence and $5,000,000 in the aggregate (the portion of such coverage over $1,000,000 may be provided under an umbrella or excess liability policy); and (v) builder's risk insurance covering the Tenant Improvements reasonably satisfactory to Landlord. Landlord shall reasonably consider specific requests to reduce insurance requirements for small subcontractors. Landlord, any Senior Party, Landlord's property manager, and such other parties as reasonably designated by Landlord, shall be additional insureds on a primary and noncontributory basis under the commercial general liability and umbrella policies. All insurance required hereunder shall be provided by responsible insurers rated at least A- and VII in the then current edition of AM Best Rating Guide and shall be authorized to do business in the State of Washington. Tenant shall provide, or cause its contractors to provide, such certificates prior to the start of construction. Such certificates shall state that the coverage may not be changed or cancelled without at least thirty (30) days prior written notice to Landlord.

**9. Landlord's Access.** Landlord shall have the right to observe the construction of the Tenant Improvements and to inspect the Tenant Improvements. Tenant shall notify Landlord of all construction meetings relating to the Tenant Improvements and Landlord has the right, but not the obligation, to attend all such meetings. Tenant shall provide Landlord with a copy of all minutes taken at such meetings. Tenant shall cause any party performing any part of the Tenant Improvements to cooperate fully and promptly with Landlord. If Tenant fails to comply with Landlord's requests for cooperation then Landlord may require Tenant to cease work in the Premises. Landlord's failure to inspect the Tenant Improvements shall in no event constitute a waiver of any of Landlord's rights hereunder nor shall Landlord's inspection of the Tenant Improvements constitute Landlord's approval of the same. If Landlord disapproves any portion of the Tenant Improvements, Landlord shall notify Tenant in writing of such disapproval and shall specify the items disapproved. Any defects or deviations in, and/or disapproval by Landlord of, the Tenant Improvements shall be promptly corrected by Tenant at no expense to Landlord.

**10. Designation of Construction Representatives.** Tenant hereby designates _____ as its representative in connection with the design and construction of the Tenant Improvements and Landlord shall be entitled to rely upon the decisions and agreements made by such

representative as binding upon Tenant. Landlord hereby appoints Kathy O'Kelley (or such other individual as may be subsequently appointed by Landlord) to act on its behalf and represent its interests with respect to all matters requiring Landlord action in this Exhibit C. Either party may change its construction representative hereunder upon delivery of at least ten (10) days prior written notice thereof to the other party. Tenant acknowledges and agrees that no other person claiming to act on behalf of Landlord is authorized to do so. Tenant further acknowledges that Landlord's construction representative is authorized to approve plans and make decisions regarding construction but is not authorized to amend or modify the Lease or to increase the amount of the Cash Allowance or contribute any additional Landlord funds toward the cost of the Tenant Improvements. No consent, authorization or other action shall bind Landlord unless in writing and signed by Landlord's construction representative. If Tenant complies with any request or direction presented to it by anyone else claiming to act on behalf of Landlord, such compliance shall be at Tenant's sole risk and responsibility and shall not in any way alter or diminish the obligations and requirements created and imposed by this Exhibit and Landlord shall have the right to enforce compliance with this Exhibit without suffering any waiver, dilution or mitigation of any of its rights hereunder.

**11. Obligation to Provide As-Built Plans.** Within thirty (30) days after opening for business in the Premises, Tenant shall cause Architect to provide Landlord with a complete set of reproducible plans and specifications reflecting the actual conditions of the Tenant Improvements as constructed in the Premises, together with a copy of such plans on diskette in the CAD format.

**12. Specific Performance.** Tenant acknowledges that a material consideration for Landlord to enter into this Lease is the timely build-out of the Premises. Notwithstanding any provision to the contrary contained in the Lease, if a default by Tenant occurs under this Exhibit C or any other provision of the Lease at any time on or before the completion of the Tenant Improvements, then (i) in addition to all other rights and remedies granted to Landlord under the Lease, at law and/or in equity, Landlord shall have the right to cause Contractor to cease the construction of the Tenant Improvements, and (ii) all other obligations of Landlord under the Lease and this Exhibit C shall be forgiven until such time as such default is cured pursuant to the terms of the Lease. In addition, Tenant agrees that if this Lease is terminated by Tenant or due to an Event of Default by Tenant prior to completion of the Tenant Improvements, then Landlord may in its discretion require completion of all or part of the Tenant Improvements at Tenant's sole expense. In such event, notwithstanding any other provision of this Lease, in addition to any other remedies available to Landlord under the Lease, at law and/or in equity, Landlord shall not be required to contribute the Cash Allowance to the cost of the Tenant Improvements and Tenant shall within five (5) days after demand, deposit with Landlord cash in an amount equal to the total anticipated cost of the Tenant Improvements. At Landlord's election, Landlord may elect to remove any or all of the Tenant Improvements previously installed and Tenant shall pay Landlord all costs of such removal and restoration of the Premises to their prior condition. Landlord shall have the right to specific performance of any or all of Tenant's obligations under this Exhibit C.

**13. Deadlines.** Tenant shall be solely responsible for ensuring that design and construction of the Tenant Improvements progresses on schedule and Tenant acknowledges that Landlord's only obligations are those set forth in this Exhibit C. Rent shall not abate or be deferred in whole or in part if construction is delayed.

# EXHIBIT D

## RULES AND REGULATIONS

1. The sidewalks, doorways, halls, stairways, vestibules and other similar areas shall not be obstructed by any Tenant or used by them for any purpose other than ingress to and egress from their respective Leased Premises, and for going from one part of the Project to another part.

2. Plumbing fixtures and appliances shall be used only for their designated purpose, and no sweeping rubbish, rags or other foreign substances of any kind shall be deposited herein. Damage to any such fixture resulting from misuse by Tenant or any employee or invitee of Tenant shall be repaired at the expense of Tenant, and Landlord shall in no way be held responsible.

3. Signs, advertisements, graphics, or notices visible in or from public corridors or the Project exterior shall be subject to Landlord's prior written approval. Nails, screws, and other attachments to the Project require prior written consent from Landlord as well.

4. Landlord shall provide and maintain a directory board in the main lobby of the Project for all Tenants. Any other directory will require prior written consent from landlord.

5. Landlord shall provide all locks for all doors in the Tenant's Leased Premises. Any additional lock or locks to be placed on any door within the Leased Premises shall require written consent from Landlord. All requests for duplicate keys and locks will be made to the Property Management Office.

6. Proposed plans for alterations affecting any physical portion of the Project shall require prior written consent from the Landlord. All contractors and technicians rendering any installation service to Tenant shall be referred to Landlord for approval and supervision prior to performing services. This applies to all work performed in the Project, including, but not limited to, installation of telephone, telegraph equipment, and electrical devices, as well as all installations affecting floors, walls, woodwork, windows, ceilings and any other physical portion of the Project.

7. Movement in or out of the Project of furniture, office equipment, or other bulky materials which require the use of elevators, stairways, or the Project entrance and lobby shall be restricted to hours established by Landlord. All such movement shall be under Landlord's supervision, and the use of an elevator for such movements shall be restricted to the Project's freight and service elevators. Pre-arrangements with Landlord should be made regarding the time, method and routing of any movement. Limitations for safety or other concerns may prohibit any article, equipment or other item from being brought into the Project. Tenant shall assume all risks of damage to articles moved and injury to persons or public resulting from such moves. Landlord shall not be liable for any acts or damages resulting from any such activity.

8. Landlord reserves the right to prescribe the weight and position of safes and other heavy equipment, and prior written approval is required from the Property Management Office before such positioning transpires. Any damage incurred to the Project by the movement of Tenant's property while in the Project, shall be repaired at Tenant's expense.

9. Corridor doors, when not in use, shall be kept closed.

10. Tenant shall cooperate with Landlord in maintaining the Leased Premises. Tenant shall not employ any person(s) for the purpose of such cleaning other than the Project's cleaning and maintenance personnel. Landlord shall in no way be responsible to the Tenant, its agents, employees, or invitees for any loss of property from the Leased Premises or public areas or for any damage to any property within the Leased Premises.

11. To ensure orderly operations of the Project, no deliveries of ice, water, soft drinks, towels, newspapers, and other such items to any Leased Premises shall be made except by persons appointed or approved by Landlord in writing.

12. Tenant shall not make or permit any improper noises within the Project or otherwise interfere with other Tenants or persons conducting business within the Project.

13. Nothing shall be swept or thrown into the corridors, halls, elevator shafts, or stairways. No birds, fish or animals of any kind shall be brought into or kept in, on or about the Leased Premises with the exception of service animals being utilized by an individual with a disability.

14. Tenant shall not install any food, soft drink or other vending machine within the Leased Premises without prior written consent of Landlord.

15. Tenant within the Leased Premises shall operate no heavy machinery of any kind without the prior written consent of Landlord. Nor shall Tenant use or keep on its Leased Premises any kerosene, gasoline, or inflammable or combustible fluid or material. Tenant shall not use or keep any noxious gas or substances in the Leased Premises, or permit the Leased Premises to be used in a manner offensive or objectionable to Landlord or other occupants of the Project by reason of noise, odors, or vibrations, or interfere in any way with other Tenants or those conducting business therein.

16. No portion of the Tenant's Leased Premises shall be used or occupied as sleeping, lodging quarters or living quarters.

17. Tenant is requested to lock all doors leading to corridors and to turn out all lights at the close of the working day.

18. Landlord shall not be responsible for lost or stolen personal property within the Leased Premises or the public areas of the Project, regardless of whether such loss occurred when area was locked against entry.

19. Tenant shall not tamper with or attempt to adjust temperature control thermostats in the Leased Premises. Landlord shall make adjustments to thermostats at the request of the Tenant. Damage caused by tampering will be repaired at Tenant's expense.

20. Tenant shall comply with all requirements necessary for the security of the Leased Premises, including, but not limited to, the use of Removal Authorization Passes issued by Landlord for removal of office equipment/packages from the Building, and signing the security register in the Building lobby after standard business hours.

21. Canvassing, peddling, soliciting, and distribution of handbills in the Building are prohibited, and each tenant will cooperate to prevent these activities.

22. Photocopy machines, laser printers and other such equipment producing ozone gas must be equipped with ozone filters that Tenant must replace periodically based upon the manufacturer's scheduled maintenance for such equipment.

23. Large copy and laser printer operations, photo processing, spray painting, spray gluing and wet process copying is prohibited unless prior written authorization is received from Landlord.

24. Painting in Tenant space requires Landlord's approval and shall be accomplished after regular office hours only and overtime air conditioning must be provided.

25. Tenant shall not operate individual space heaters and humidifiers.

26. Landlord reserves the right to rescind any of these Rules and Regulations and to make future rules and regulations required for the safety, protection, and maintenance of the building, the operation and preservation of good order thereof, and the protection and comfort of the tenants and their employees and visitors. Such rules and regulations, when made and written notice given to Tenant, shall be binding as if originally included herein.

27. Smoking is not allowed in any area of the building or the adjacent grounds, including Tenant's private offices.

# EXHIBIT E

## SAMPLE FORM OF LEASE COMMENCEMENT CERTIFICATE

Re: [Tenant]
[Suite No.]
[Address]
Seattle, Washington

This is to certify that pursuant to the terms of that certain Office Lease Agreement dated as of _____, between THE CITY OF SEATTLE ("Tenant") and BLOCK 24 SEATTLE, LTD., L.P., Tenant has taken possession of the Initial Premises described therein. Tenant hereby certifies and agrees that the following information is true and correct:

1. Term Commencement Date: _____

2. Lease Expiration Date: _____

3. Net Rentable Area of Premises: _____

4. Attached hereto is a the Insurance Certificate required by Article 11 of the Lease

[Name of Tenant]

By: _____

Name: _____

Title: _____

Date: _____

# EXHIBIT F

## SAMPLE FORM OF ESTOPPEL CERTIFICATE

TENANT: _____ [insert full legal name]
DATE OF LEASE: _____
AMENDMENTS: _____
PREMISES: Suite No. ____ / Floors: _____

To: _____

The undersigned hereby certifies as follows:

1. The undersigned is the "**Tenant**" under the above referenced lease ("**Lease**") with BLOCK 24 SEATTLE, LTD., L.P. ("**Landlord**") covering the above referenced Premises ("**Premises**"). A true, correct and complete copy of the Lease (including all riders, amendments, modifications and supplements thereto) is attached hereto as Exhibit A.

2. The Lease constitutes the entire agreement between landlord under the Lease and Tenant with respect to the Premises and the Lease has not been modified, changed, altered or amended in any respect except as set forth in Exhibit "A" and the Lease is valid and in full force and effect as of the date hereof.

3. The term of the Lease commenced on _____, 20_____, and, including any presently exercised option or renewal term, will expire on _____, 20_____, unless sooner terminated or extended in accordance with the terms of the Lease. Tenant has accepted possession of the Premises and is the actual occupant in possession and has not sublet, assigned or hypothecated Tenant's leasehold interest, except as follows: _____.

4. As of the date of this Estoppel Certificate, there exists no breach or default on the part of either Tenant or Landlord and, to the best of Tenant's knowledge, no event has occurred and no condition exists which, with the giving of notice or the lapse of time, or both, will constitute a default under the Lease. To the best of Tenant's knowledge, no claim, controversy, dispute, quarrel or disagreement exists between Tenant and Landlord.

5. There are no remaining unsatisfied obligations under the Lease on the part of Landlord with respect to tenant improvements, free rent, partial rent, rebate of rent, credits, offsets or deduction in rent or any other type of rental concessions, except: _____.

6. Tenant is currently obligated to pay base rental in monthly installments of $_____ per month and monthly installments of base rental and estimated operating expenses have been paid through _____, 20_____. No other rent has been paid in advance (other than estimates of operating expenses) and Tenant has no claim or defense against Landlord under the Lease and is asserting no offsets or credits against either the rent or Landlord. Tenant has no claim against Landlord for any security or other deposits except $_____ which was paid pursuant to the Lease. The current proportionate share from which Tenant's operating expenses are calculated is _____.

7. Tenant has no option or preferential right to purchase all or any part of the Premises (or the real property of which the Premises are a part). Tenant has no right to renew or extend the term of the Lease or expand the Premises except: _____.

8. There has not been filed by or against Tenant a petition in bankruptcy, voluntary or otherwise, any assignment for the benefit of creditors, any petition seeking reorganization or arrangement under the bankruptcy laws of the United States, or any state thereof, or any other action brought under said bankruptcy laws with respect to Tenant.

9. Tenant's address for notice purposes is: _____.

Any item left blank in the foregoing certificate shall be deemed to have been completed with the word "none". This Estoppel Certificate is made to _____ ("**Buyer**") [or, ("**Lender**")] and BLOCK 24 SEATTLE, LTD., L.P. ("**Owner**") in connection with the prospective purchase by Buyer, or Buyer's assignee, of the building containing the Premises [or, Lender's prospective loan to Owner which will be secured by Owner's interest in the Lease and the building containing the Premises]. This Certificate may be relied on by Buyer [Lender] and Owner and their successors and assigns and any other party who acquires an interest in the Premises in connection with such purchase [or loan] and any person or entity which may finance Buyer's purchase.

Dated this _____ day of _____, 20___.

TENANT

_____
[insert full legal name]

By: _____
Name: _____
Title: _____

## RENT RIDER

**Base Rent Schedule for Initial Premises:**

| Time Period | Annual Base Rent Rate per square foot of Net Rentable Area in the Initial Premises (exclusive of Operating Costs) |
|---|---|
| Months 1-8 | Twenty-four and 50/100 Dollars ($24.50) subject to abatement as provided below |
| Months 9-12 | Twenty-four and 50/100 Dollars ($24.50) |
| Months 13-24 | Twenty-five and 50/100 Dollars ($25.50) |
| Months 125-36 | Twenty-six and 50/100 Dollars ($26.50) |
| Months 37-48 | Twenty-seven and 50/100 Dollars ($27.50) |
| Months 48-60 | Twenty-eight and 50/100 Dollars ($28.50) |
| Months 61-72 | Twenty-nine and 50/100 Dollars ($29.50) |
| Months 73-84 | Thirty and 50/100 Dollars ($30.50) |
| Months 85-96 | Thirty-one and 50/100 Dollars ($31.50) |
| Months 97-108 | Thirty-two and 50/100 Dollars ($32.50) |
| Months 109-120 | Thirty-three and 50/100 Dollars ($33.50) |

**Base Rent Schedule for First Expansion Premises:**

| Time Period | Annual Base Rent Rate per square foot of Net Rentable Area in the First Expansion Premises (exclusive of Operating Costs) |
|---|---|
| Months 1-5 | Eighteen and 25/100 Dollars ($18.25) subject to abatement as provided below |
| Months 6-12 | Eighteen and 25/100 Dollars ($18.25) |
| Months 13-24 | Nineteen and 25/100 Dollars ($19.25) |
| Months 125-36 | Twenty and 25/100 Dollars ($20.25) |
| Months 37-48 | Twenty-one and 25/100 Dollars ($21.25) |
| Months 48-60 | Twenty-two and 25/100 Dollars ($22.25) |
| Months 61-72 | Twenty-three and 25/100 Dollars ($23.25) |
| Months 73-84 | Twenty-four and 25/100 Dollars ($24.25) |
| Months 85-96 | Twenty-five and 25/100 Dollars ($25.25) |
| Months 97-108 | Twenty-six and 25/100 Dollars ($26.25) |
| Months 109-120 | Twenty-seven and 25/100 Dollars ($27.25) |

Base Rent shall be abated (the "**Abated Rent**") in the months set forth above provided that no Event of Default occurs under this Lease. If an Event of Default occurs under this Lease, no further abatement shall be allowed and Tenant must pay Landlord upon demand the amount of the Abated Rent previously recognized.

Form revised: December 12, 2012

# FISCAL NOTE FOR NON-CAPITAL PROJECTS

| Department: | Contact Person/Phone: | CBO Analyst/Phone: |
|---|---|---|
| Finance and Administrative Services | Bill Craven/733-9238 | Jennifer Devore/615-1328 |

**Legislation Title:** AN ORDINANCE authorizing the Director of Finance and Administrative Services to enter into a lease agreement with Block 24 Seattle, LTD, L.P. for office space in the Bank of America Fifth Avenue Plaza, for office use by various City Departments.

**Summary of the Legislation:**
This legislation authorizes the Director of Finance and Administrative Services (FAS) to enter into a lease agreement with Block 24 Seattle, LTD, L.P. ("Landlord") for up to approximately 131,000 square feet of office space in the Bank of America Plaza (BofAP) located at 800 Fifth Avenue in Seattle. This legislation will allow the Director to enter into an agreement for an initial period no longer than ten years, with two additional five year extensions; commencing upon substantial completion of the tenant improvements as generally depicted in the Lease Agreement (See Attachment 1). The Director is seeking greater flexibility in negotiating and finalizing the Lease Agreement, as negotiations for the office space and lease document are ongoing. Legislation is required, because the amount of leased space exceeds FAS' leasing authority under Seattle Municipal Code 3.127 020.C.1 of 5,000 square feet of office space in any one building in one calendar year.

**Background:**
In March 2007, FAS' predecessor department entered into a Sublease Agreement for one floor of office space in the BofAP. This existing lease agreement was authorized by Ordinance 122367. The intent of this new Lease Agreement is to renegotiate the existing leased space for a lower rental rate and to provide additional office space to the City of Seattle. The BofAP is located immediately north of the Seattle Municipal Tower, and is connected by a tunnel under Columbia Street.

FAS and other departments either have existing office space expansion needs or near term office space expansion needs that exceed the city's current available inventory of office space. In order to assist FAS' needs as well as other city departments with their space needs more effectively, FAS has negotiated with the Landlord to provide a flexible lease agreement that immediately addresses the needs of the City and allows future growth as needed under pre-negotiated terms. This legislation will allow the Director, at his discretion, to expand the leased area up to five additional floors.

The city and the Landlord have a good working relationship, which has allowed for productive

and open-ended negotiations; the lease agreement will allow the City to be flexible with its space needs now and in the future. By negotiating a lease agreement that exceeds the city's immediate needs the city is able to secure better lease terms and conditions (See Attachment 2, basic lease terms.)

The Lease Agreement allows the City to take up to 6 floors in the BofAP building. This includes floor 30 which is presently occupied by the Department of Transportation and will continue to use that floor under this new lease. The city negotiated the right of first offer on floor 31, with the intent that the Department of Transportation may require contiguous space at some time in the future. Additionally, the City has the right of first offer for 4 floors located between floors 7 and 14. The City will not be charged rent, or any other fee until such time that the city begins occupying a floor. The Lease Agreement allows for the City to take a single floor at a time.

Before selecting this building, FAS considered proposals from the Columbia Center as well as the BofAP. The BofAP was determined to be the best option because of the location, the lease rate, and the efficiency of the floor plan.

Please check one of the following:

**__X__ This legislation has financial implications.**

**Appropriations:**

| Fund Name and Number | Department | Budget Control Level* | 2013 Appropriation | 2014 Anticipated Appropriation |
|---|---|---|---|---|
| | | | | |
| TOTAL | | | | |

**See budget book to obtain the appropriate Budget Control Level for your department.*

Appropriations Notes:
FAS will pass through the rental cost of the office space that is used by each user of the space..

**Anticipated Revenue/Reimbursement Resulting from this Legislation:**

| Fund Name and Number | Department | Revenue Source | 2013 Revenue | 2014 Revenue |
|---|---|---|---|---|
| | | | | |
| TOTAL | | | | |

Revenue/Reimbursement Notes:
FAS will be reimbursed by the individual departments for the rental of their portion of the lease space as detailed in the lease agreement.

**Spending/Cash Flow:**

| Fund Name & # | Department | Budget Control | 2013 | 2014 Anticipated |
|---|---|---|---|---|

| | | Level* | Expenditures | Expenditures |
|---|---|---|---|---|
| | | | | |
| **TOTAL** | | | | |

** See budget book to obtain the appropriate Budget Control Level for your department.*

Spending/Cash Flow Notes:

Table 1 and 2 below illustrates the lease costs for the different floors during the initial lease period of 10 years. In addition to the yearly rent FAS charges a 3% overhead fee in addition to the base rent to each department that is utilizing the office space.

**Table 1: Floors 30 and 31 base rental rate and projected NNN charges:**

| Months: | Yearly Rent/SF | NNN Charges/ SF/Year[1] | Yearly Total/SF |
|---|---|---|---|
| 1 – 9 | $0.00 | $11.22 | $11.22 |
| 10 – 12 | $24.50 | $11.22 | $35.72 |
| 13 – 24 | $25.50 | $11.78 | $37.28 |
| 25 - 36 | $26.50 | $12.37 | $38.87 |
| 37 - 48 | $27.50 | $12.99 | $40.49 |
| 49 - 60 | $28.50 | $13.64 | $42.14 |
| 61 - 72 | $29.50 | $14.32 | $43.82 |
| 73 - 84 | $30.50 | $15.03 | $45.53 |
| 85 - 96 | $31.50 | $15.79 | $47.29 |
| 97 - 108 | $32.50 | $16.58 | $49.08 |
| 109 - 120 | $33.50 | $17.40 | $50.90 |

**Table 2: Floors 7 through 14 base rental rate and projected NNN charges:**

| Months: | Yearly Rent/SF | NNN Charges/SF/Year[1] | Yearly Total/SF |
|---|---|---|---|
| 1 – 5 | $0.00 | $11.22 | $11.22 |
| 6 - 12 | $18.25 | $11.22 | 35.72 |
| 13 – 24 | $19.25 | $11.78 | $31.03 |
| 25 - 36 | $20.25 | $12.37 | $32.62 |
| 37 - 48 | $21.25 | $12.99 | $34.24 |
| 49 - 60 | $22.25 | $13.64 | $35.89 |
| 61 - 72 | $23.25 | $14.32 | $37.57 |
| 73 - 84 | $24.25 | $15.03 | $39.28 |
| 85 - 96 | $25.25 | $15.79 | $41.04 |
| 97 - 108 | $26.25 | $16.58 | $42.83 |
| 109 - 120 | $27.25 | $17.40 | $44.65 |

[1] NNN Charges are an industry term referring to the operating charges of the building and typically include the building taxes, insurance and common area expenses. Approximate NNN Charges will vary based on occupancy of entire building, the negotiated lease does not

allow these charges to increase any more than 5% per year.

**Other Implications:**

a) **Does the legislation have indirect financial implications, or long-term implications?**
This legislation will obligate the City to pay to the Landlord the monthly rental amount as described in Table 1 and 2 for the duration of the lease agreement. The City has a one time right to terminate the lease agreement at year seven, with a modest termination penalty. As mentioned previously, the City will not be required to pay any rent or fees for space it is not leasing to hold the space in the building.

b) **What is the financial cost of not implementing the legislation?**
If the lease is not implemented for the office space, FAS and other departments will need to reassess their project plans; and or find office space in other buildings that may not have as favorable office rates as FAS has negotiated with the Landlord.

c) **Does this legislation affect any departments besides the originating department?**
Yes, this legislation affects the Department of Transportation, as they are currently leasing floor 30 in the BofAP building, FAS administers the lease agreement and passes along any charges.

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
The only viable alternative would be to secure similar office space at a property that would likely be inferior to this office space, while not achieving any financial advantage.

e) **Is a public hearing required for this legislation?**
No.

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No.

g) **Does this legislation affect a piece of property?**
Yes, this legislation authorizes the Director of Finance and Administrative Services to execute a lease agreement on a portion of property located at 800 Fifth Avenue. Please see Attachment 2, proximity map of the leased office space.

h) **Other Issues:**

**List attachments to the fiscal note below:**
Attachment 1: Basic lease terms
Attachment 2: Proximity map of leased property

Bill Craven
FAS - BofA Plaza Lease Fisc – ATT 1
July 29, 2013
Version #1

Basic Lease Terms
Bank of America Plaza Lease Agreement

**Premises:** Floor 30 (SDOT currently occupies floor 30) and an option to take floor 31
Additional option to take up to four additional floors located between floors 7 and 14 (lower floors)

**Term:** 10 years, plus two 5 year options to extend.

**Rental Rate:** Floors 30 & 31: Free rent for first 9 months, then $24.50/rsf, plus $1.00/rsf annual increase.
Lower floors: Occupancy by August 31, 2014, 5 months free rent, $18.25/rsf plus $1.00/rsf annual increases.
After September 1, 2014, ability to take up to four additional floors at then market rate.

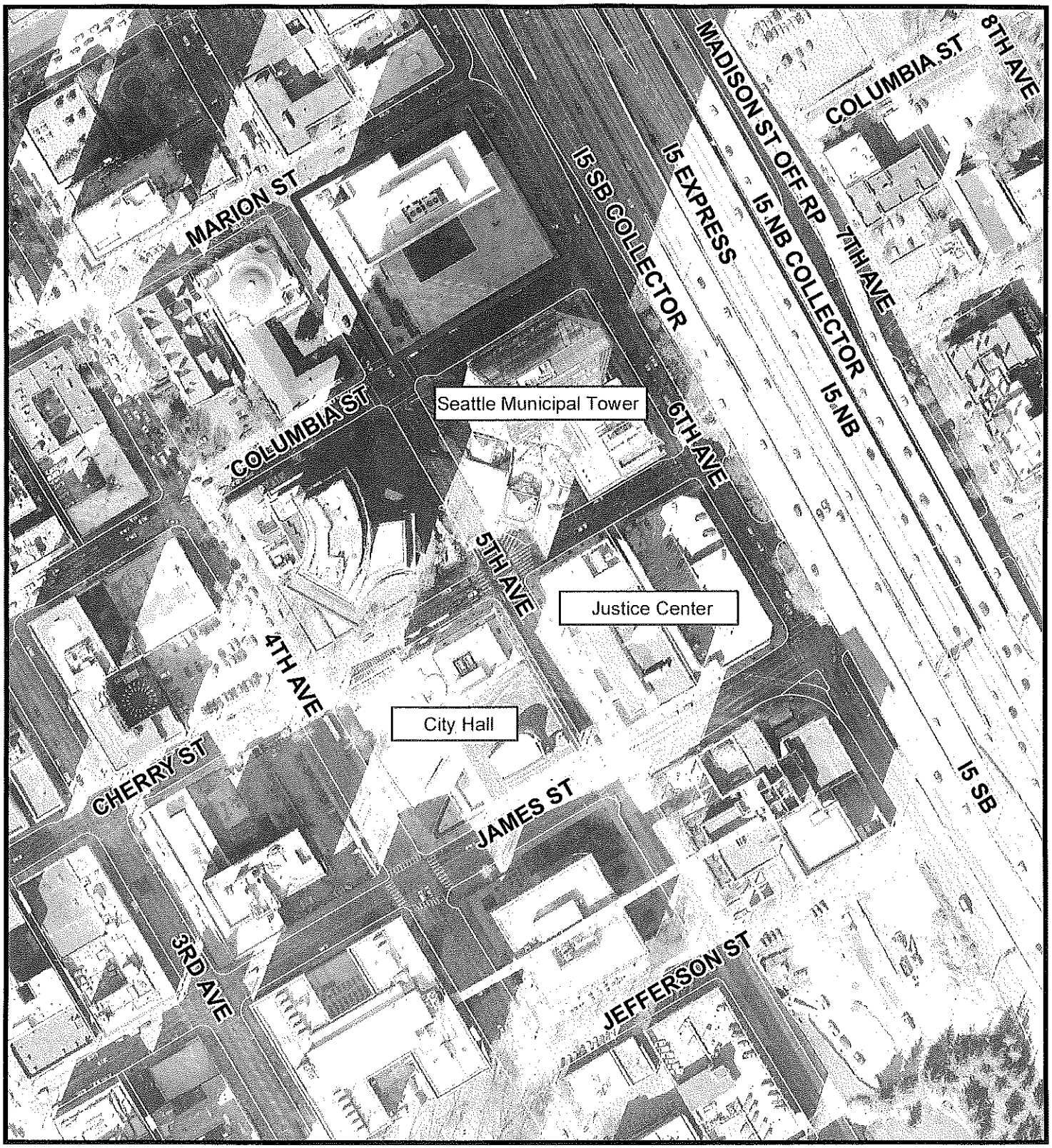
**OpEx (NNN):** $11.22/rsf for 2013; cannot increase more than 5.0% annually.

**Tenant Imp:** Floors 30 & 31: $35.00/rsf
Lower Floors: $55.00/rsf
TI can be combined between floors for 30 & 31 and between the lower floors; for example floor 30 may require only $5.00/sf in T/I's the remainder can be used on floor 31 for a total of $65.00/sf.
Up to $5.00 of unused T/I allowance can be applied towards move costs.

**Termination:** Right to terminate all or part of the lease (full floors) at year 7 of lease; City will be responsible for unamortized free rent, T/I Allowance, 3 months of rent and other associated transaction.

**Parking:** Right, but no obligation to lease from landlord up to 1 stall per 2,500rsf of lease space (approximately 17 stalls for floors 30 & 31, and up to an additional 17 stalls for the lower floors.)

Bill Craven
FAS BofA Plaza Lease, FISC Att2
July 30, 2013
Version #1




City of Seattle

Bank of America Plaza
Office Lease
800 Fifth Ave

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FAS Facility Operations Division
WCraven July 2013
All rights reserved. No guarantee of any sort is implied, including accuracy, completeness, of fitness for use.

Attachment 2 to FAS - BofA Plaza Lease FISC

**City of Seattle**
Office of the Mayor

September 3, 2013

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill authorizing the Director of Finance and Administrative Services (FAS) to execute a lease agreement with Block 24, LP (Landlord) for up to 131,000 sq ft (a total of approximately 6 floors) of office space at 800 Fifth Avenue (Bank of America Plaza) for an initial period of ten years with two five year extension options. Currently, FAS leases approximately 21,500 square feet (i.e. one floor) of office space in the Bank of America Plaza.

The Seattle Municipal Tower is currently at its maximum capacity. In order to assist City departments with their space needs more effectively, FAS has negotiated with the landlord, to provide a flexible lease agreement that addresses immediate needs as well as provides for future growth as needed under pre-negotiated terms.

The property secured by this lease is ideal because it is immediately north of the Seattle Municipal Tower, one block away from City Hall, and has a very efficient floor plan lending itself to more people per square foot. Also, the City has IT infrastructure in the building as SDOT currently occupies a portion of the property. With rents in the central business district averaging from $32.50/sf/yr, FAS was pleased to negotiate a rental rate starting at $24.50/sf/yr due to the amount of office space being leased, the credit worthiness of the City, and the current occupancy of the Bank of America Plaza.

Legislation is required to renew the lease because the size of the space exceeds FAS' statutory authority for leasing without the Council's approval. As suitable space in City-owned buildings will not be available for the foreseeable future, the lease authorized by this legislation will provide the City with additional options to manage its ongoing space needs. Should you have questions, please contact Bill Craven at 733-9238.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
Office of the Mayor
600 Fourth Avenue, 7th Floor
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Seattle, WA 98124-4749

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