

2003-392 Attachment A

14805

**KEY TOWER LEASE
BETWEEN
THE CITY OF SEATTLE,
AS LANDLORD,
AND
KING COUNTY
AS TENANT**

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KEY TOWER LEASE

THIS LEASE is entered into by and between **THE CITY OF SEATTLE** ("Landlord"), a city of the first class of the State of Washington and **KING COUNTY** ("Tenant"), a county of the State of Washington, operating under its own charter.

Landlord and Tenant covenant and agree as follows:

1. **Lease Data; Exhibits.** The following terms shall have the following meanings, except as otherwise specifically modified in this Lease:

A. **Building:** Key Tower, 700 Fifth Avenue, Seattle, King County, Washington 98104, situated on real property described more particularly in Subsection 2.A.

B. **Premises:** A Rentable Area (as defined in Subsection 2.B) identified as Suite 1800 consisting of approximately 5,694 Rentable Square Feet located on Building Floor 18 as outlined on the floor plan of the Building attached hereto as Exhibit A (the "Floor Plan of Premises"), including tenant improvements described in Exhibit B; and

A Rentable Area (as defined in Subsection 2.B) identified as Suite 2300 consisting of approximately 20,852 Rentable Square Feet located on Building Floor 23 as outlined on the floor plan of the Building attached hereto as Exhibit A (the "Floor Plan of Premises"), including tenant improvements described in Exhibit B; and

A Rentable Area (as defined in Subsection 2.B) identified as Suite 2450 consisting of approximately 11,570 Rentable Square Feet located on Building Floor 24 as outlined on the floor plan of the Building attached hereto as Exhibit A (the "Floor Plan of Premises"), including tenant improvements described in Exhibit B; and

A Rentable Area (as defined in Subsection 2.B) identified as Suite 5959 consisting of approximately 8,820 Rentable Square Feet located on Building Floor 59 as outlined on the floor plan of the Building attached hereto as Exhibit A (the "Floor Plan of Premises"), including tenant improvements described in Exhibit B.

C. **Estimated Commencement Date:** March 15, 2004, or such earlier or later date as is provided in Section 3.

D. **Expiration Date:** March 14, 2009, unless the Term of this Lease is extended pursuant to Subsection 3.B.

E. Base Rent and Additional Charges: For use and occupancy of the Premises during the Initial Term hereof, Tenant shall pay Landlord the following dollar amounts per Rentable Square Foot per year as Base Rent, as and when specified in Section 4.

<u>Months</u>	<u>Rent/RSF/Year</u>
1-12	\$24.00
13-24	\$25.00
25-36	\$26.00
37-48	\$26.00
49-60	\$26.00

Whether or not so designated, all other sums due from Tenant under this Lease shall constitute Additional Charges, payable when specified in this Lease.

F. Security Deposit: none.

G. Base Year: 2004.

H. Expense Year: Each full calendar year during the Lease Term, and the portion of any partial calendar year following the beginning of the Lease Term, and the portion of any partial calendar year preceding the expiration or earlier termination of this Lease.

I. Parking: The license granted pursuant to Section 37 of this Lease is limited to thirty-four (34) automobiles.

J. Permitted Use: General office purposes.

K. Notice Addresses:

To Landlord: City of Seattle
c/o Cushman & Wakefield of Washington, Inc.
700 Fifth Avenue, Suite 4040
Seattle, WA 98104

To Tenant: King County Property Services
500 County Administration Building
500--4th Avenue
Seattle, WA 98104
Facsimile: (206) 296-0196
Attn: Timothy Clancy

L. Exhibits: The following exhibits are made a part of this Lease:

- Exhibit A - Floor Plan of Premises.
- Exhibit B - Tenant Improvements.
- Exhibit C - Rules and Regulations.

2. **Premises.**

- A. **Grant.** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, those certain premises (the "Premises") located on the floor(s) and having the Rentable Area referenced in Section 1. The Premises are part of the Building which is located on and includes the real property described as follows: Lots 1, 4, 5, 6, 7 and 8 in Block 29 of addition to the Town of Seattle, as laid out by the claim 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), as per Plat recorded in Volume 1 of Plats, Page 25, Records of King County; together with the westerly 1/2 of vacated alley adjoining Lots 1 and 4; and together with all of the vacated alley adjoining Lots 5, 6, 7 and 8; Lots 2 and 3 in Block 29 of addition to the Town of Seattle, as laid out on the claim 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), as per plat recorded in Volume 1 of Plats, Page 25, Records of King County; together with the northeasterly 1/2 of vacated alley adjoining; situate in the City of Seattle, County of King, State of Washington.
- B. **Confirmation of Rentable Area.** The actual Rentable Area of the Premises may vary from the amount set forth in Subsection 1.B, depending on the final contract documents for the Premises agreed to between Landlord and Tenant in accordance with the procedures set forth in Exhibit B. Within thirty (30) days of the Commencement Date, Landlord shall certify in writing to Tenant the actual Rentable Area of the Premises. Any objection by Tenant to Landlord's certification of the actual Rentable Area of the Premises must be made within thirty (30) days after Landlord's certification thereof. If the actual Rentable Area varies from that stated in Subsection 1.B, (i) Base Rent shall be adjusted in accordance with the per square foot rental rate stated in Subsection 1.E, and (ii) Tenant's Share shall be adjusted in accordance with the formula stated in Section 5. "Rentable Area" and "Useable Area" (and their components "Rentable Square Feet" and "Useable Square Feet") shall have the same meaning as set forth in the "Standard Method for Measuring Floor Area in Office Buildings" (American National Standard Institute ANSI Z65.1 - 1996) published by Building Owners and Managers Association International.
- C. **Condition.** The Premises are leased by Landlord and accepted by Tenant in an "as is" condition, except as may be modified by the improvements, alterations or modifications to be made by Landlord pursuant to Exhibit B.

- D. Common Areas. During the Lease Term, Tenant and its licensees, invitees, customers and employees shall have the non-exclusive right to use the Building garage and all entrances, lobbies, elevators, stairs, corridors, restrooms and other public areas of the Building (the "Common Areas") in common with Landlord, other Building tenants and their respective licensees, invitees, customers and employees. Landlord shall at all times have exclusive control and management of the Common Areas and no diminution thereof shall be deemed a constructive or actual eviction or entitle Tenant to compensation or a reduction or abatement of rent.
- E. Alterations. Landlord, in its discretion, may increase, decrease or change the number, locations and dimensions of any hallways, lobby areas, Common Areas and other improvements shown on Exhibit A that are not within the Premises. Landlord reserves the right from time to time (i) to install, use, maintain, repair, relocate and replace pipes, ducts, conduits, wires and appurtenant meters and equipment for service to the Premises or to other parts of the Building in areas above the suspended ceiling surfaces, below the floor surfaces, within the walls and in the central core areas of the Building within the Premises and elsewhere in the Building; (ii) to alter or expand the Building; and (iii) to alter, relocate or substitute any of the Common Areas.

3. Lease Term.

- A. Initial Term. The date set forth in Subsection 1.C of this Lease is the Estimated Commencement Date. This Lease shall commence on the earlier of the Estimated Commencement Date or the date on which Tenant takes possession or commences beneficial occupancy of the Premises. If Tenant's Work is not completed by the Estimated Commencement Date, such non-completion shall have no effect on the commencement date. Under no circumstances shall the actual commencement date be later than the Estimated Commencement date. Landlord shall not be liable to Tenant for any loss or damage resulting if Tenant's Work is not completed by the Estimated Commencement Date. Landlord shall confirm the actual Commencement Date by written notice to Tenant. This Lease shall be for a term ("Lease Term") beginning on the actual Commencement Date and ending on the Expiration Date, unless extended or sooner terminated in accordance with the terms of this Lease. Notwithstanding the foregoing, all provisions of this Lease other than those relating to payment of Base Rent shall become effective upon the first to occur of (a) the date that Tenant or any of its officers, employees, agents or contractors is first present on the Premises, whether for inspection, construction, installation or other purposes; or (b) such other date, if any, as may be specified in an exhibit hereto as the effective date for such provisions.

- B. Tenant's First Opportunity to Extend Lease Term. If (1) Landlord determines that all or a portion of the Premises, will not be required for use by Landlord, itself, and (2) Tenant (a) has not materially defaulted in the performance of its obligations under this Agreement at any time prior to such Landlord determination or (b) has materially defaulted in such performance during such period but has cured all such defaults, then Landlord shall provide Tenant with the first opportunity to extend the Lease Term and Tenant's use and occupancy of the Premises for up to five (5) years. Tenant shall advise Landlord, by notice as provided in Section 30 hereof, on or before nine (9) months prior to the expiration date, whether Tenant desires to extend the Lease Term. Landlord shall advise Tenant, by notice as provided in Section 30 hereof, whether such opportunity exists, and in any such notice shall specify (i) the number of months that Landlord then anticipates would elapse before Landlord, itself, requires use and occupancy of the Premises, (ii) what the Base Rent would be for Tenant's continued use and occupancy of the Premises during those additional months, and (iii) the date on or by which Tenant must give notice to Landlord that such opportunity will be taken by Tenant. Notwithstanding any other provision hereof, in the event Tenant materially defaults in the performance of any of its obligations under this Agreement between the date such opportunity is extended and the expiration date of the initial Lease Term and fails to cure such default by such expiration date, Landlord, in the exercise of its sole discretion, may declare such opportunity null and void and deny Tenant's right to use and occupy the Premises during the extended term.
- C. Tenant's Early Termination Option. If, before the expiration of the Initial Term, Tenant (i) actually purchases or commences construction of another office building for Tenant's own use and (ii) desires to transfer its permitted office use from the Premises to such other office building, and does so transfer before the expiration of the Initial Term, then Tenant may terminate the Lease under the following terms and conditions:
- (1) Tenant must provide notice, as provided in Section 30, of its intent to terminate the lease at least twenty four (24) months prior to the intended effective date of termination;
 - (2) Tenant may only terminate the Lease on one of two possible effective dates: either the last day of month thirty six (36) or the last day of month (48) of the Initial Term;
 - (3) Tenant may only terminate the Lease of the entire Premises, and may not terminate as to only a portion of the Premises;
 - (4) Tenant must pay to Landlord, in cash, an amount equal to the unamortized portion of the sum of the tenant improvement allowance and brokers commission paid by Landlord and shall be amortized over the life of the initial term at an

amortized rate of no less than six percent (6%). Such payment is due the effective date of termination; and

(5) Tenant's obligation to pay to Landlord Base Rent and Additional Charges under the Lease and other obligations under the Lease after any termination date shall terminate except for those obligations that expressly continue in effect after the expiration or early termination of the Lease. Any early termination shall have no effect on any prior obligation of Tenant under the Lease.

4. Rent.

- A. Rent During Initial Lease Term. Tenant shall pay to Landlord at the address and to the account specified by Landlord, without notice or demand or any setoff or deduction whatsoever, in lawful money of the United States (a) one-twelfth (1/12th) of the annual Base Rent specified in Subsection 1.E in advance on the first day of each month and (b) Additional Charges as and when specified elsewhere in this Lease, but if not specified, then within ten (10) days after demand. Base Rent and, if appropriate, as reasonably determined by Landlord, Additional Charges shall be prorated on a daily basis for any partial month within the Lease Term, and for any partial initial month in the Lease Term shall be paid on the first day of the Lease Term.
- B. Rent During Extended Lease Term. If Tenant elects to extend the Lease Term pursuant to Section 3.B hereof, the Base Rent for the extended term shall be equal to one hundred percent (100%) of the Fair Market Rental Rate for a five (5)-year term; however, notwithstanding anything in this Section, in no event shall the Base Rent for the extended term be less than the Base Rent paid in the last year of the Initial Term. "Fair Market Rental Rate" shall mean the annual amount per rentable square foot that a willing, comparable, non-equity lessee would pay, and a willing, comparable lessor of a comparable first-class downtown Seattle office building would accept, in an arms-length transaction, giving appropriate consideration to, among other matters, annual rental rates per rentable square foot, building services being provided by the lessor, building operating cost escalators, and size and location of premises being leased, tenant improvement allowances and rental concessions. Landlord shall advise Tenant in writing of Landlord's Fair Market Rental Rate in the notice provided by Landlord pursuant to Subsection 3.B of Tenant's opportunity to extend the Lease Term. If Tenant disagrees with such Fair Market Rental Rate, it shall advise Landlord in writing thereof within twenty (20) days after the date of Landlord's notice of the Fair Market Rental Rate. If there is a disagreement on such calculation, the parties shall promptly meet to attempt to resolve their differences. If these differences as to the Fair Market Rental Rate are not resolved within a thirty (30) day period, then the parties shall submit the matter to arbitration in accordance with the terms of Subsection 4.C so that the Fair Market Rental Rate is determined no later than the expiration of the Initial Lease Term. The Extended Term shall have a new

Base Year, which shall be the calendar year in which the Extended Term commences.

- C. Arbitration of Fair Market Rental Rate. If the parties are unable to reach agreement on the Fair Market Rental Rate during the period specified in Subsection 4.B, then within ten (10) days thereafter either party may advise the other in writing of the name and address of its arbitrator. Each arbitrator shall be qualified as a real estate appraiser familiar with rental rates in comparable first class Seattle office buildings who would qualify as an expert witness. Within ten (10) days after receipt of such notice from the initiating party (the "Instigator") designating its arbitrator, the other party (the "Recipient") shall give notice to Instigator, specifying the name and address of the person designated by Recipient to act as arbitrator on its behalf who shall be similarly qualified. If Recipient fails to notify Instigator of the appointment of its arbitrator within or by the time above specified, then the arbitrator appointed by Instigator shall be the arbitrator to determine the issue. The duty of the arbitrator(s) shall be to determine the Fair Market Rental Rate. If the two (2) arbitrators are so chosen, the arbitrators so chosen shall meet within ten (10) days after the second arbitrator is appointed and, if within ten (10) days after such first meeting the two arbitrators are unable to agree promptly upon a determination of the Fair Market Rental Rate, they, themselves, 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) days after expiration of said ten (10) day period, the third arbitrator shall be selected by the parties themselves, if they can agree thereon, within a further period of ten (10) days. If the parties do not so agree, then either party, on behalf of both, may request appointment of such a qualified person by the then presiding judge of King County Superior Court acting in his private non-judicial capacity, and the other party shall not raise any questions as to such judge's full power and jurisdiction to entertain the application for and make the appointment, and the parties agree to indemnify and hold the presiding judge fully and completely harmless from and against all claims arising out of the presiding judge's appointment of an arbitrator. The three (3) arbitrators shall decide the dispute, if it has not been previously resolved, by following the procedure set forth in this section. The arbitrators selected by each of the parties shall state in writing his determination of the Fair Market Rental Rate supported by the reasons therefor. The arbitrators shall arrange for the simultaneous exchange of such proposed determinations and the delivery of a counterpart copy to each party. The role of the third arbitrator shall be to select which of the two proposed resolutions most closely approximates his own determination of Fair Market Rental Rate. The third arbitrator shall have no right to propose a middle ground or any modification of either of the two proposed determinations. The determination chosen by the third arbitrator as most closely approximating his own determination shall constitute the collective decision of the arbitrators and be final and binding upon the parties.

- (1) In the event of a failure, refusal or inability of any arbitrator to act, his successor shall be appointed by him, but in the case of the third arbitrator, his 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) 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 fee and expenses of its respective arbitrator and both parties shall share equally the fee and expenses of the third arbitrator, if any. The attorneys' fees and expenses of counsel for the respective parties and of witnesses shall be paid by the respective party engaging such counsel or calling such witness.
- (2) The arbitrators shall have the right to consult experts and competent authorities with factual information or evidence pertaining to a determination of the Fair Market Rental Rate, 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 determination in writing and deliver a counterpart copy thereof to each party. The arbitrators shall have no power to modify the provisions of this Lease.

5. Tenant's Share of Building Operating Costs and Real Property Taxes.

- A. Amount. Before the commencement of the second and each succeeding Expense Year, Landlord will notify Tenant of Landlord's estimate of Tenant's Share of estimated Building Operating Costs and Real Property Taxes for the ensuing Expense Year to the extent such Operating Costs and Real Property Taxes exceed Operating Costs and Real Property Taxes for the Base Year. "Tenant's Share" is defined in Subsection 5.B(3). Tenant shall pay as an Additional Charge one-twelfth (1/12th) of Tenant's Share of such excess in advance on the first day of each month of the second and each succeeding Expense Year. Following the end of each Expense Year, Landlord will compute Tenant's Share due under this section for such Expense Year based on actual costs and, if Tenant's Share for such Expense Year is greater than the amount already paid by Tenant for such Expense Year, Tenant shall pay Landlord the deficiency within ten (10) days after Tenant's receipt of an invoice therefor. If the total amount paid by Tenant under Subsection 5.A as Building Operating Costs and Real Property Taxes for an Expense Year exceeds Tenant's Share, then Landlord shall credit such excess to the payment of Additional Charges thereafter coming due; provided, however, upon the expiration or sooner termination of the Lease Term, if Tenant has otherwise complied with all other terms and conditions of this Lease, Landlord shall refund such excess to Tenant. If during an Expense Year Landlord obtains information regarding Operating Costs or Real Property Taxes that alters its prior estimates, Landlord may adjust the amount due from Tenant under this section

during the balance of that Expense Year to reflect such new information by giving Tenant notice thereof. In the event the average occupancy level of the Building for the Base Year or any subsequent year is less than ninety five percent (95%), the actual Building Operating Costs for such year shall be proportionately adjusted to reflect those costs that Landlord estimates would have been incurred, had the Building been ninety five percent (95%) occupied during such year. Notwithstanding this Section 5, in no event shall the Base Rent payable by Tenant be less than the Base Rent specified in Subsection 1.E.

B. Definitions. For purposes of this Section 5, the following definitions shall apply:

- (1) "Operating Costs" shall mean all expenses paid or incurred by Landlord in connection with maintaining, operating, repairing and administering the Building (including Common Areas) and the personal property used in conjunction therewith, together with a sum equal to five percent (5%) of the cost thereof as an administrative fee, including, without limitation, the costs of refuse collection, water, sewer, electricity, heat, air conditioning, fuel, light, fire protection and other utilities and services; supplies and tools; equipment rental charges; janitorial and cleaning services; window washing; snow, garbage and refuse removal; security services and systems; landscape and garage maintenance; services of independent contractors; compensation (including employment taxes, insurance and fringe benefits) of all persons who perform duties in connection with the operation, maintenance, repair and administration, of the Building, its equipment and facilities; Landlord's overhead costs, to the extent attributable to the Building; insurance premiums for all insurance carried by Landlord with respect to the Building and the personal property used in connection therewith and the amount of any deductible, to the extent such deductible is absorbed by Landlord; licenses, permits and inspection fees; subsidies and other payments required by public bodies and costs incurred in connection with compliance with governmental requirements including, but not limited to, public transportation and parking; costs and expenses incurred in connection with the ground lease with respect to the Building other than ground rents; amounts amortized by Landlord during the Expense Year to cover the cost of replacements of Building systems and equipment and capital improvements designed to improve the operating efficiency of the Building, with such amortization to be based on the estimated useful lives of such items and annualized on a straight line basis, over such useful lives together with a management and administrative service fee related to such replacements and equipment and capital improvements; legal and accounting expenses and all other expenses or charges whether or not hereinabove described which, in accordance with generally accepted accounting and management practices, would be considered an expense of maintaining, operating, repairing and administering the Building excluding: (a) costs of any special services

rendered to individual tenants (including Tenant) for which a special charge is made; (b) attorneys fees and costs related to defaults by other tenants in the Building; (c) Real Property Taxes; and (d) depreciation or amortization of the original cost of the Building.

(2) "Real Property Taxes" shall mean all taxes of every kind and nature on the Building and the real property on which the Building is located (the "Land") and on personal property used by Landlord in conjunction therewith; surcharges and all local improvement and other assessments levied with respect to the Building, the Land, and all other property of Landlord used in connection with the operation of the Building; and any taxes levied or assessed in lieu of, in whole or in part, such real or personal property taxes; and any taxes in addition to such real and personal property taxes or in substitute therefor, including, but not limited to, leasehold in lieu taxes and taxes or license fees upon or measured by the leasing of the Building or the rents or other income collected therefrom, other than any federal or state income or inheritance tax; and all costs and expenses incurred by Landlord in efforts to reduce or minimize such taxes. In calculating the Operating Costs, Landlord shall not include any item of cost more than once.

(3) "Tenant's Share" shall mean the percentage determined by dividing the Rentable Area of the Premises by ninety-five percent (95%) of the Rentable Area of the Building, exclusive of parking garage. The Rentable Area of the Building, for purposes of this Lease, shall be assumed to be and remain 990,547 square feet.

6. **Late Charge; Interest.** If Tenant fails to pay any Base Rent or Additional Charge due hereunder within ten (10) days after the due date, a late charge equal to five percent (5%) of the unpaid amount shall be assessed and be immediately due and payable. In addition, interest shall accrue at the rate of eighteen percent (18%) per annum on any Base Rent or Additional Charge that is not paid when due. If Tenant defaults in making any payment of Base Rent or Additional Charges, Landlord shall have the right to require that subsequent Base Rent or Additional Charges payments be made by cashier's or certified check.

7. **Security Deposit.** Tenant shall, within two (2) business days after receiving a fully executed copy of this Lease, deposit with Landlord the sum specified in Subsection 1.F of this Lease. This sum shall belong to Landlord and shall constitute partial consideration for the execution of this Lease, subject only to repayment when required in this section. Landlord shall pay Tenant the remaining balance thereof, without any liability for interest thereon, within thirty (30) days after the expiration or prior termination of the Lease Term, or any extension thereof, if and only if Tenant has fully performed all of its obligations under the terms of this Lease. Landlord shall be entitled to withdraw from the deposit the amount of any unpaid Base Rent or Additional Charges or other amounts not

paid to Landlord when due, and Tenant shall immediately redeposit an amount equal to that so withdrawn within ten (10) days after the Landlord's demand therefor.

8. Tenant's Operations.

- A. Use of Premises. Tenant shall use the Premises only for the Section I Permitted Use. As Landlord's willingness to enter into this Lease with Tenant was predicated, in part, on the nature of Tenant's business, and the compatibility of such business with other tenants in the Building, Tenant shall not use or permit the use of the Premises for any other business, or purpose, or under any other name, without Landlord's prior written consent. Tenant shall promptly comply, at its sole cost and expense, with the Exhibit C rules and regulations and other such rules and regulations relating to the use of the Premises, Building and Common Areas as Landlord, from time to time, may promulgate. Tenant shall maintain the Premises in a clean, orderly and neat fashion to conform with the high standards of the Building, permitting no objectionable odors to be emitted from the Premises and shall neither commit waste nor permit any waste to be committed thereon. Tenant shall not permit any accumulation of trash on or about the Premises. Tenant shall not create or contribute to the creation of a nuisance in either the Premises or the Building, and Tenant shall not engage in or permit any action that will disturb the quiet enjoyment of any other tenant in the Building.
- B. Unlawful Use. Tenant shall not use or permit the Premises or any part thereof to be used for any purpose in violation of any municipal, county, state or federal law, ordinance or regulation, or for any purpose offensive to the standards of the community of which the Building is a part. Tenant shall promptly comply, at its sole cost and expense, with all laws, ordinances and regulations now in force or hereafter adopted relating to or affecting the condition, use or occupancy of the Premises including but not limited to all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington and The City of Seattle, including the Seattle Municipal Code ("SMC"), notably SMC Ch. 20.44, and rules, regulations, orders, and directives of the associated administrative agencies and their officers. SMC 20.44.040 is incorporated into this Lease by reference.
- C. Liens and Encumbrances. Tenant shall keep the Premises and Building free and clear of, and shall indemnify, defend and hold Landlord harmless from, any and all, liens and encumbrances arising or growing out of any act or omission, or breach of this Lease or its use, improvement or occupancy of the Premises by Tenant or any of its principals, officers, employees or agents. If any lien is so filed against the Premises or Building, Tenant shall either cause the same to be fully discharged and released of record within ten (10) days after Landlord's demand therefor or within such period, provide Landlord with cash or other security acceptable to Landlord in an amount equal to one and one-half (1½) times

the amount of the claimed lien as security for its prompt removal. Landlord shall have the right to disburse such security to cause the removal of the lien if a judgment is entered against Tenant in the lien proceeding, if such lien causes difficulties for Landlord in connection with its financing of the Building, if Tenant is otherwise in default under this Lease or if Landlord otherwise deems such necessary, in Landlord's sole discretion.

- D. Hazardous Substances. Tenant shall not, without Landlord's prior written consent, keep on or about the Premises or Building any substance designated as, or containing any component now or hereafter designated as hazardous, dangerous, toxic or harmful and/or subject to regulation under any federal, state or local law, regulation or ordinance ("Hazardous Substances"), except customary office supplies in normal quantities handled in compliance with applicable laws. With respect to any Hazardous Substances stored with Landlord's consent, Tenant shall promptly, timely and completely comply with all governmental requirements for reporting and record keeping; submit to Landlord true and correct copies of all reports, manifests and identification numbers at the same time as they are required to be and/or are submitted to the appropriate governmental authorities; within five (5) days after Landlord's request therefor, provide evidence satisfactory to Landlord of Tenant's compliance with all applicable governmental rules, regulations and requirements; and comply with all governmental rules, regulations and requirements regarding the proper and lawful use, sale, transportation, generation, treatment and disposal of Hazardous Substances. Any and all costs incurred by Landlord and associated with Landlord's inspections of the Premises and Landlord's monitoring of Tenant's compliance with this Subsection 8.D, including Landlord's attorneys' fees and costs, shall be Additional Charges and shall be due and payable to Landlord within ten (10) days after Landlord's demand therefor. Tenant shall be fully and completely liable to Landlord for any and all cleanup costs and expenses and any and all other charges, expenses, fees, fines, penalties (both, civil and criminal) and costs imposed with respect to Tenant's use, disposal, transportation, generation and/or sale of Hazardous Substances in or about the Premises or Building. Tenant shall indemnify, defend and hold Landlord and lenders to Landlord ("Lender") harmless from any and all of the costs, fees, penalties, charges and expenses assessed against, or imposed, upon Landlord, and Lender (as well as Landlord's and Lender's attorneys' fees and costs) as a result of Tenant's use, disposal, transportation, generation and/or sale of Hazardous Substances.

9. Utilities and Services.

- A. Tenant's Responsibility. Tenant shall be solely responsible for and shall promptly pay when due all charges for telephone and all other utilities that are separately metered and supplied to the Premises.

- B. Services. As long as Tenant is not in default under this Lease, Landlord shall cause the Common Areas of the Building to be maintained in reasonably good order and condition, except for damage occasioned by any act or omission of Tenant or any of Tenant's officers, contractors, agents, invitees, licensees or employees, the repair of which shall be paid for by Tenant. Landlord shall furnish the Premises with electricity for office use, including lighting and low power usage (110 volt) office machines, water and elevator services. Landlord shall also provide customary building janitorial service on weekdays, other than holidays. From 7:00 a.m. to 6:00 p.m. on weekdays and 8:00 a.m. to 12:00 a.m. on Saturday, excluding legal holidays ("Normal Business Hours"), Landlord shall furnish the Premises with heat and air conditioning services. If requested by Tenant, Landlord shall furnish heat and air conditioning services at times other than Normal Business Hours, and janitorial services on other days, and Tenant shall pay for the cost of such services at rates established by Landlord as Additional Charges.
- (1) Janitorial. If Tenant requires janitorial services of a different kind or a more intense level than Landlord customarily provides for the Building, Tenant shall promptly pay Landlord, as Additional Charges, for the additional costs and expenses incurred by Landlord in providing such services.
 - (2) Additional Service. The Building standard mechanical system is designed to accommodate heating loads generated by lights and equipment using up to 4.2 watts per square foot. Tenant shall obtain Landlord's prior written consent before installing lights and equipment in the Premises that, in the aggregate, exceed such amount. Landlord may refuse to grant such consent unless Tenant agrees to pay (1) the costs incurred by Landlord for installation of supplementary air conditioning capacity or electrical systems as necessitated by such equipment or lights and (2) in advance, on the first day of each month during the Lease Term, the amount estimated by Landlord as the excess cost of furnishing electricity for the operation of such equipment or lights above normal Building levels and the amount estimated by Landlord as the cost of operation and maintenance of supplementary air conditioning units as necessitated by Tenant's use of such equipment or lights. Landlord shall be entitled to install, operate and maintain at Tenant's sole cost a monitoring/metering system in the Premises to measure the added demands on electricity, heating, ventilation and air conditioning systems, resulting from such equipment and lights and from Tenant's after-hours requirements, and Tenant shall pay Landlord the cost thereof in advance on the first day of each month.
 - (3) Interruption. Landlord shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption or failure of services due to any cause whatsoever, including, but not

limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements or due to accident, strike or conditions or events beyond Landlord's reasonable control shall be deemed an eviction of Tenant or to relieve Tenant from any of Tenant's obligations hereunder or to give Tenant a right of action against Landlord for damages. Tenant acknowledges its understanding that there will be Landlord-planned utility outages affecting the Building and that such outages may interfere, from time to time, with Tenant's use of the Premises. Landlord shall endeavor to provide Tenant with 48 hours prior notice of any Landlord-planned electricity outage in the Building but shall not be liable to Tenant for Landlord's failure to provide such notice. Landlord has no obligation to provide emergency or backup power to Tenant. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of Tenant.

10. **Licenses and Taxes.** Tenant shall be liable for, and shall pay prior to delinquency, all license and excise fees and occupation taxes covering the business conducted on the Premises and all personal property taxes and other impositions levied with respect to all personal property located at the Premises.
11. **Delivery of Premises.** Landlord shall deliver the Premises to Tenant in an "AS IS" condition.
12. **Alterations by Tenant.**

Tenant covenants that it will cause all alterations, additions and improvements to the Premises to be completed by Cushman & Wakefield of Washington's property management division, the contractor approved by Landlord. Tenant covenants that it shall be solely responsible for the cost and expense of all alterations, additions and improvements to the Premises; however, Landlord shall provide a Tenant Improvement Allowance not to exceed \$5.00 per rentable square foot, and not to be paid until after work has been performed. The Tenant Improvement Allowance shall only be used for improvements to the Premises, including construction costs, cabling and architectural costs. Landlord, through Cushman & Wakefield of Washington's property management division, shall pay the Tenant Improvement Allowance as Landlord is presented with invoices and any other appropriate documentation, but in no case shall Landlord pay the Tenant Improvement Allowance prior to March 15, 2004.

Tenant shall commence construction of any work to be performed by Tenant under terms of Exhibit B promptly following receipt of a notice to proceed from Landlord and shall diligently prosecute such work to its completion. Tenant shall not make any alterations, additions or improvements in or to the Premises without first submitting to Landlord

professionally-prepared plans and specifications for such work and obtaining Landlord's prior written approval thereof as provided in Exhibit B. Tenant covenants that it will cause all alterations, additions and improvements to the Premises to be completed in a manner that (a) is consistent with the Landlord-approved plans and specifications and any conditions imposed by Landlord in connection therewith; (b) is in conformity with first-class, commercial standards; (c) includes acceptable insurance coverage for Landlord's benefit; (d) does not affect the structural integrity of the Building or any of the Building's systems; (e) does not disrupt the business or operations of any adjoining tenant; and (f) does not invalidate or otherwise affect the construction or any system warranty then in effect with respect to the Building. Tenant shall secure all governmental permits and approvals and comply with all other applicable governmental requirements and restrictions; and reimburse Landlord for all expenses incurred in connection therewith. Except as provided in Section 15 with regard to concurrent negligence, Tenant shall indemnify, defend and hold Landlord harmless from and against all losses, liabilities, damages, liens, costs, penalties and expenses (including attorneys' fees, but without waiver of the duty to hold harmless) arising from or out of the performance of such alterations, additions and improvements, including, but not limited to, all which arise from or out of Tenant's breach of its obligations under terms of this Section 12. All alterations, additions and improvements (expressly including all light fixtures; heating, ventilation and air conditioning units; floor, window and wall coverings; and electrical wiring), except Tenant's moveable trade fixtures and appliances and equipment not affixed to the Premises and cabling and wiring for computers, telephones and other electronic equipment, shall immediately become the property of Landlord without any obligation on its part to pay for any of the same. These improvements remain Landlord's and Tenant shall not remove all or any portion thereof on the termination of this Lease except as specifically directed by Landlord in writing. Within ninety (90) days after the completion of any alteration, addition or improvement to the Premises, Tenant shall deliver to Landlord a full set of "as-built" plans of the Premises showing the details of all alterations, additions and improvements made to the Premises.

12. **Care of Premises.**

- A. **General Obligation.** Tenant shall take good care of the Premises and shall reimburse Landlord for all damage done to the Building or Premises that results from any act or omission of Tenant or any of Tenant's officers, contractors, agents, invitees, licensees or employees, including, but not limited to, cracking or breaking of glass. If Tenant fails to take good care of the Premises, Landlord, at its option, may do so, and in such event, upon receipt of written statements from Landlord, Tenant shall promptly pay the entire cost thereof as an Additional Charge. Landlord shall have the right to enter the Premises for such purposes. Landlord shall not be liable for interference with light, air or view. All normal repairs necessary to maintain the Building in a reasonable condition, as determined by Landlord, shall be performed under Landlord's direction and at its expense, except as otherwise provided herein. Except as provided in Section 19,

there shall be no abatement or reduction of rent arising by reason of Landlord's making of repairs, alterations or improvements.

- B. Prohibition Against Installation or Integration of Any Work of Visual Art on Premises Without Landlord's Consent. Landlord reserves to and for itself the right to approve or disapprove of the installation or integration on or in the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended, and to approve or disapprove of each and every agreement regarding any such installation or integration. Tenant shall not install on or integrate into, or permit any other person or entity to install on or integrate into, the Premises any such work of visual art without the prior, express, written consent of Landlord. Landlord's consent to the installation of any such art work may be granted, granted upon one or more conditions, or withheld in Landlord's discretion; Provided, however, that Landlord's consent to the installation by or for Tenant of any such art work shall not be required under the following three (3) circumstances:

- (1) If such art work (a) weighs less than fifty (50) pounds; and (b) is of a size and has such dimensions and material composition that makes its passage through an open 32" x 78" or larger doorway a simple and easy maneuver; and (c) is to be installed on the floor, a piece of furniture, or similar surface without further anchoring of any kind or nature, or on a wall using no more than two (2) simple picture hooks and wire; all so that the easy removability from the Premises of such art work without its destruction, distortion, mutilation or other modification by reason of such removal is undeniable; or
- (2) If Tenant delivers to Landlord a waiver appropriately executed by the art work creator, for the benefit of Landlord and its successors and assigns as the owner of the Premises, of the creator's right of integrity regarding such art work, in a form of waiver that satisfies both Landlord and the requirements of 17 U.S.C. §106A(e), as the same now exists or is hereafter modified; or
- (3) If Landlord executes with the creator of a work of visual art to be installed in the Premises a consent agreement of the type contemplated by 17 U.S.C. §113(d)(1), as the same now exists or is hereafter amended, and in the form and manner specified by Landlord.

In the event the creator of any work of visual art installed in the Premises by or for Tenant has not executed a waiver, or such creator and Landlord have not executed a consent agreement, each as described herein, Tenant shall ensure that, prior to removing or allowing the removal from the Premises of any such art work, such creator is given both notice, as contemplated in 17 U.S.C. §113(d)(2), of the intended removal of such art work, and the time required by that statutory provision to respond to such notice, and that Tenant takes whatever other action(s)

may be required by such legislation to ensure that no claim, action or suit alleging a violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended, and arising out of any act or omission of or for Tenant or any of its officers, employees, or agents, is filed or lodged against Landlord in its capacity as the Premises owner.

- C. Tenant's Indemnification of Landlord Against Liability under Visual Artists Rights Act of 1990. Tenant shall protect, defend, and hold Landlord harmless from and against any and all claims, suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of (a) the installation or integration of any work of visual art on or into the Premises; (b) the destruction, distortion, mutilation or other modification of the art work that results by reason of its removal; or (c) any breach of Subsection 13.B of this Lease; or (d) any violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended; by Tenant or any of its officers, employees or agents. This indemnification obligation shall exist regardless of whether Landlord or any other person employed by Landlord City has knowledge of such installation, integration, or removal or has consented to any such action or is not required to give prior consent to any such action. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

13. Surrender of Premises.

- A. General Matters. At the expiration or sooner termination of the Lease Term, Tenant shall return the Premises to Landlord in the same condition in which received (or, if altered, then the Premises shall be returned in such altered condition unless otherwise directed by Landlord pursuant to Section 12), reasonable wear and tear excepted. Prior to such return, Tenant shall remove its moveable trade fixtures and appliances and equipment that have not been attached to the Premises, and shall repair any damage resulting from their removal. In no event shall Tenant remove floor coverings; heating, ventilating and air conditioning equipment; lighting equipment or fixtures; or floor, window or wall coverings unless otherwise specifically directed by Landlord in writing. Tenant's obligations under this Section 14 shall survive the expiration or termination of this Lease. Tenant shall indemnify Landlord for all damages and losses suffered as a result of Tenant's failure to remove voice and data cables, wiring and communication lines and moveable trade fixtures and appliances and to redeliver the Premises on a timely basis.
- B. Cable and Wiring. Notwithstanding any provision to the contrary in this Lease, on or by the respective Expiration Date for each portion of the Premises leased by Tenant, or if this Lease is terminated before the Expiration Date, within fifteen (15) days after the effective termination date, whichever is earlier, Tenant shall remove all voice and data communication and transmission cables and wiring installed by or for Tenant to serve any telephone, computer or other equipment

located in that portion of the Premises, which wiring and cabling shall include all of the same located within the interior and exterior walls and through or above the ceiling or through or below the floor of such portion of the Premises or located in any Building equipment room, vertical or horizontal riser, raceway, conduit, channel, or opening connecting to the portion of the Premises to be vacated and surrendered to Landlord as of such Expiration Date or earlier termination date. Tenant shall leave the mud rings, face plates and floor boxes in place.

14. **Waiver; Indemnification.**

- A. **Tenant's Indemnification.** Except as otherwise provided in this section, Tenant shall indemnify, defend (using legal counsel acceptable to Landlord) and save Landlord, officers, agents, employees and contractors, Lenders and other tenants and occupants of the Building harmless from all claims, suits, losses, damages, fines, penalties, liabilities and expenses (including Landlord's personnel and overhead costs and attorneys' fees and other costs incurred in connection with claims, regardless of whether such claims involve litigation) resulting from any actual or alleged injury (including death) of any person or from any actual or alleged loss of or damage to, any property arising out of or in connection with (i) Tenant's occupation, use or improvement of the Premises, or that of any of its employees, agents or contractors, (ii) Tenant's breach of its obligations hereunder, or (iii) any act or omission of Tenant or any subtenant, licensee, assignee or concessionaire of Tenant, or of any officer, agent, employee, guest or invitee of any of the same in or about the Building. Tenant agrees that the foregoing indemnity specifically covers actions brought by its own employees. This indemnity with respect to acts or omissions during the Lease Term shall survive termination or expiration of this Lease. The foregoing indemnity is specifically and expressly intended to, constitute a waiver of Tenant's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the extent necessary to provide Landlord with a full and complete indemnity from claims made by Tenant and its employees, to the extent of their negligence. Tenant shall promptly notify Landlord of casualties or accidents occurring in or about the Premises.

LANDLORD AND TENANT ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISIONS OF SECTION 12 AND THIS SECTION 15 WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

- B. **Release of Claims.** Tenant hereby fully and completely waives and releases all claims against Landlord for any losses or other damages sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or upon the Premises, including but not limited to any defect in or failure of Building equipment; any failure to make repairs; any defect, failure, surge in, or interruption of Building facilities or services; any defect in or failure of Common Areas; broken glass; water leakage; the collapse of any Building component; or

any act, omission or negligence of co-tenants, licensees or any other persons or occupants of the Building.

- C. Limitation of Tenant's Indemnification. In compliance with RCW 4.24.115 as in effect on the date of this Lease, all provisions of this Lease pursuant to which Landlord or Tenant (the "Indemnitor") agrees to indemnify the other (the "Indemnitee") against liability for damages arising out of bodily injury to Persons or damage to property relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, road, or other structure, project, development, or improvement attached to real estate, including the Building, (i) shall not apply to damages caused by or resulting from the sole negligence of the Indemnitee, its agents or employees, and (ii) to the extent caused by or resulting from the concurrent negligence of (a) the Indemnitee or the Indemnitee's agents or employees, and (b) the Indemnitor or the Indemnitor's agents or employees, shall apply only to the extent of the Indemnitor's negligence; PROVIDED, HOWEVER, the limitations on indemnity set forth in this section shall automatically and without further act by either Landlord or Tenant be deemed amended so as to remove any of the restrictions contained in this section no longer required by then applicable law.

15. Insurance.

A. Minimum Insurance to be Secured and Maintained.

- (1) Prior to the commencement of any Premises use under this Lease, Tenant shall secure and shall thereafter maintain, in full force and effect, at no expense to Landlord, and throughout the entire Lease Term, insurance as specified below:

- (a) A policy of **Commercial General Liability Insurance**, written on an insurance industry standard occurrence form (ISO form CG 0001 or equivalent), including all the usual coverages known as of the Commencement Date as:

Premises/Operations Liability
 Products/Completed Operations
 Personal/Advertising Injury including copyright and trademark/name infringement
 Contractual Liability
 Stop Gap or Employers Contingent Liability
 Independent Contractors Liability
 Explosion, Collapse and Underground Property Damage ("XCU")
 Liquor Liability/Host Liquor Liability
 Fire Damage Legal

Such policy(ies) must be endorsed as provided in Subsection 16.B(1) hereof and provide the following minimum limits:

Bodily Injury and Property Damage:

\$2,000,000 General Aggregate
 \$2,000,000 Products /Completed Operations Aggregate
 \$2,000,000 Personal & Advertising injury
 \$2,000,000 Each Occurrence
 \$ 100,000 Fire Damage Legal

Stop Gap Employers Liability:

\$1,000,000 Each Accident
 \$1,000,000 Disease - Policy Limit
 \$1,000,000 Disease - Each Employee

- (b) A policy of **Business Automobile Liability** including coverage for owned, non-owned, leased or hired vehicles that is written on an insurance industry standard form (ISO form CA 0001 or equivalent), is endorsed as provided in Subsection 16.B(1) hereof, and provides the following minimum limits:

Bodily Injury and Property Damage:

\$1,000,000 per accident

- (c) A policy for **Workers' Compensation** securing Tenant's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington; Provided, that if Tenant is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, Tenant shall certify that qualification by a letter that is signed by a corporate officer of Tenant and delivered to the Landlord that sets forth the limits of any policy of excess insurance covering its employees; and
- (d) A policy of **Property Insurance** under which the Tenant's furniture, fixtures, equipment and inventory and all alterations, additions and improvements that Tenant makes to the Premises are insured throughout the Lease Term in an amount equal to the replacement cost thereof, against the following hazards: (i) loss from the perils of fire and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (ISO form CP 1030 or equivalent);

(ii) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; (iii) loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus now or hereafter installed on the Premises; (iv) loss from business interruption or extra expense, with sufficient coverage to provide for the payment of rent and other fixed costs during any interruption of Tenant's business. Landlord shall be named as an additional insured under such policy.

B. General Requirements Regarding Tenant's Insurance; Adjustments.

- (1) The insurance required by Subsections 16.A(1)(a) and -(b) shall be endorsed to include Landlord, its officers, elected officials, employees, agents and volunteers as additional insured. The insurance required by Subsections 16.A(1)(a) and -(b) shall be primary as respects Landlord; shall provide that any other insurance maintained by Landlord shall be excess and not contributing insurance with Tenant's insurance; and shall provide that such coverage shall not be reduced or canceled without forty-five (45) days' prior written notice to Landlord at its address as specified in or pursuant to Subsection 1.K hereof.
- (2) All insurance policies required hereunder shall be subject to approval by the Landlord's Risk Manager as to company, form and coverage. All policies shall be issued by a company rated A-;VII or higher in the then-current A. M. Best's Key Rating Guide and licensed to do business in the State of Washington or issued as a surplus line by a Washington surplus lines broker, and shall be primary to any other applicable insurance.
- (3) Any deductible or self-insured retention must be disclosed to, and shall be subject to approval by, the Landlord's Risk Manager. The cost of any claim payments falling within the deductible shall be the responsibility of Tenant.
- (4) Coverage and/or limits may be altered or increased as necessary to reflect type of or exposure to risk. Landlord shall have the right to periodically review the appropriateness of such coverage and limits in view of inflation and/or changing industry conditions and to require an increase in such coverage or limits upon ninety (90) days' prior written notice.

C. Evidence of Insurance. The following documents must be delivered to the Landlord at its address as specified in or pursuant to Subsection 1.K hereof, as evidence of the insurance coverage secured and maintained by Tenant:

- (1) On or before the Commencement Date, and thereafter, not later than five (5) days prior to the expiration or renewal date of each such policy:
 - (a) A copy of the policy's declarations pages, showing the insuring company, policy effective dates, limits of liability and the Schedule of Forms and Endorsements specifying all endorsements listed on the policy including any company-specific or manuscript endorsements;
 - (b) A copy of the endorsement naming The City of Seattle and its officers, elected officials, employees, agents and volunteers as an Additional Insured (whether on ISO Form CG 2026 or an equivalent), showing the policy number, and the original signature and printed name of the representative of the insurance company authorized to sign such endorsement;
 - (c) A copy of an endorsement stating that the coverages provided by such policy to Landlord or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least forty-five (45) days prior written notice to the Landlord at its address as specified in or provided pursuant to Subsection 1.K hereof; and
 - (d) For the Commercial General liability and Business Automobile insurance to be secured and maintained pursuant to Subsection 16.A(1)(a) and -(b) hereof, a copy of the "Separation of Insureds" or "Severability of Interests" clause in such policy or an endorsement thereto indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned to the first named insured, such insurance applies as if each named insured were the only named insured, and separately to each insured against whom any claim is made or suit is brought.
- (2) Pending receipt of the documentation specified in Subsection 16.C(1) hereof, a copy of each such policy's binder.
- (3) Within thirty (30) Days after Tenant's receipt of a written request therefor, a complete copy of the requested policy with all endorsements thereto.

D. Reconstruction Following Loss. Tenant shall proceed with reasonable diligence as soon as sufficient funds are available therefor, to prepare plans and specifications for, and thereafter to carry out, all work necessary (a) to repair and restore the Premises and all improvements made thereto that have been damaged by any insured casualty to their former condition, or (b) to replace the Premises and all improvements made thereto with a facility of a quality and usefulness for

the activities contemplated in this Lease that is at least equivalent to, or more suitable than, the Premises and improvements that were damaged or destroyed.

- E. Waiver of Subrogation. Landlord and Tenant waive all subrogation rights against each other, any contractors, architect, architects' consultants, service providers, and all of their respective subcontractors, for damages caused by fire or other perils to the extent such damages are covered by property insurance secured and maintained in accordance with this Section 16 or other property insurance applicable to the Premises, except such rights as they have to proceeds of such insurance held by Landlord and Tenant as fiduciaries. Tenant shall require a similar waiver from every contractor performing any work on the Premises. This waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, whether or not the person or entity paid the insurance premium directly or indirectly, and whether or not the person or entity has an insurable interest in the property damaged unless such waiver would invalidate such property insurance.
- F. Assumption of Risk. The placement and storage of its personal property in the Premises shall be the responsibility, and at the sole risk, of Tenant.
16. Assignment or Sublease. Tenant shall not sublet or encumber the whole or any part of the Premises, 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. The granting of consent to a given transfer shall not constitute a waiver of the consent requirement as to future transfers. In lieu of giving its consent, Landlord shall have the right to terminate the Lease as to the portion of the Premises affected by the action for which Landlord's consent is requested and recover possession thereof from Tenant within twenty (20) days following written notice thereof to Tenant. All costs incurred by Landlord in separating the remainder of the Premises from the area so retaken shall be paid by Tenant as an Additional Charge. Any assignment or sublease, without Landlord's prior written consent, at Landlord's option, shall be void. No assignment or sublease shall release Tenant from primary liability hereunder. Each assignment and sublease shall be by an instrument in writing in form satisfactory to Landlord. If Tenant assigns its interest in this Lease, or sublets the Premises, then the Base Rent shall be increased, effective as of the date of such assignment or subletting, to the higher of (i) the rentals payable by the assignee or sublessee pursuant to such assignment or sublease, or (ii) the Base Rent then being charged by Landlord for comparable space in the Building; provided, however, in no event shall the base monthly rent, after such assignment or subletting, be less than the Base Rent specified in Section 1. If Tenant assigns its interest in this Lease or sublets the Premises, Tenant shall pay to Landlord any and all consideration received by Tenant for such assignment or sublease. If Tenant is a corporation, then any transfer of this Lease by merger, consolidation or liquidation, or any direct or indirect change, in the ownership of, or power to vote the majority of, Tenant's outstanding voting stock, shall constitute an

assignment for the purposes of this Lease. If Tenant is a partnership, then a change in general partners in or voting or decision-making control of the partnership shall also constitute an assignment. Tenant shall also pay all legal fees and other costs incurred by Landlord in connection with Landlord's consideration of Tenant's request for approval of assignments or subleases, including assignments for security purposes.

17. **Assignment by Landlord.** 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 or a transfer in foreclosure or a deed in lieu of foreclosure, such purchaser, transferee, or assignee thereof shall be deemed to have assumed Landlord's obligations under this Lease arising after the date of such transfer, and Landlord shall thereupon be relieved of all liabilities under this Lease arising thereafter, but this Lease shall otherwise remain in full force and effect. Tenant shall attorn to Landlord's successor.
18. **Destruction.** If the Premises are rendered partially or totally untenantable by fire or other casualty, and if the damage is repairable within six (6) months from the date of the occurrence, then if insurance proceeds are available to pay the full cost of the repairs Landlord shall repair the Premises with due diligence; otherwise Landlord may elect to terminate this Lease. Base Rent shall be abated in the proportion that the untenantable portion of the Premises bears to the whole thereof, as determined by Landlord, for the period from the date of the casualty to the completion of the repairs, unless the casualty results from or is contributed to by the negligence of Tenant or any of its officers, contractors, agents, invitees, guests or employees or Tenant's breach of this Lease. If thirty percent (30%) or more of the Building Rentable Area is destroyed or damaged, then regardless of whether the Premises are damaged or not, Landlord may elect to terminate this Lease. Landlord shall advise Tenant of Landlord's election to repair or terminate by giving notice to Tenant thereof within thirty (30) days after the occurrence. In the event of damage by casualty, Tenant shall, at its sole cost and expense, repair all damage to its own personal property and to all improvements that Tenant has made to the Premises. Landlord shall not be liable to Tenant for damages, compensation or other sums for inconvenience, loss of business or disruption arising from any repairs to or restoration of any portion of the Building or Premises.
19. **Eminent Domain.**
- A. **Taking.** If all of the Premises are taken by Eminent Domain, this Lease shall terminate as of the date Tenant is required to vacate the Premises and all Base Rent and Additional Charges shall be paid to that date. The term "Eminent Domain" shall include the taking or damaging of property by, through or under any governmental or statutory authority, and any purchase or acquisition in lieu thereof, whether the damaging or taking is by government or any other person. If a taking of any part of the Premises by Eminent Domain renders the remainder thereof unusable for the business of Tenant, in the reasonable judgment of Landlord, the Lease may, at the option of either party, be terminated by written notice given to the other party not more than thirty (30) days after Landlord gives

Tenant written notice of the taking, and such termination shall be effective as of the date when Tenant is required to vacate the portion of the Premises so taken. If this Lease is so terminated, all Base Rent and Additional Charges shall be paid to the date of termination. Whenever any portion of the Premises is taken by Eminent Domain and this Lease is not terminated, Landlord, at its expense, shall proceed with all reasonable dispatch to restore, to the extent of available proceeds and to the extent it is reasonably prudent to do so, the remainder of the Premises to the condition they were in immediately prior to such taking, and Tenant, at its expense, shall proceed with all reasonable dispatch to restore its personal property and all improvements made by it to the Premises to the same condition they were in immediately prior to such taking. The Base Rent and Additional Charges payable hereunder shall be reduced from the date Tenant is required to partially vacate the Premises in the same proportion that the Rentable Area taken bears to the total Rentable Area of the Premises prior to taking.

- B. Award. Landlord reserves all right to the entire damage award or payment for any taking by Eminent Domain, and Tenant waives all claim whatsoever against Landlord for damages for termination of its leasehold interest in the Premises or for interference with its business. Tenant hereby grants and assigns to Landlord any right Tenant may now have or hereafter acquire to such damages and agrees to execute and deliver such further instruments of assignment as Landlord, from time to time, may request. Tenant, however, shall have the right to claim from the condemning authority all compensation that may be recoverable by Tenant on account of any loss incurred by Tenant in moving Tenant's merchandise, furniture, trade fixtures and equipment, provided, however, that Tenant may claim such damages only if they are awarded separately in the eminent domain proceeding and not out of or as part of Landlord's damages.

20. **Default by Tenant.**

- A. Definition. If Tenant violates or breaches or fails to keep or perform any covenant, term or condition of this Lease, or if Tenant or any guarantor of Tenant's obligations under this Lease ("Guarantor") files or is the subject of a petition in bankruptcy, or if a trustee or receiver is appointed for Tenant's or Guarantor's assets or if Tenant or Guarantor makes an assignment for the benefit of creditors, or if Tenant or Guarantor is adjudicated insolvent, Tenant shall be deemed in default hereunder (a "Default"). If a Default continues for or is not remedied within three (3) days (or, if no default in the rent is involved, within ten (10) days) after written notice thereof has been given by Landlord to Tenant specifying the Default, then Landlord shall have the following nonexclusive rights and remedies, at its option: (i) to declare the Lease Term hereof ended and to reenter the Premises, take possession thereof, and remove all persons therefrom, for which actions Tenant shall have no claim thereon or hereunder; (ii) to cure such default on Tenant's behalf and at Tenant's sole expense and to charge Tenant for all costs and expenses incurred by Landlord in effecting such cure as an

Additional Charge; (iii) without declaring this Lease terminated, to reenter the Premises and to occupy the whole or any part thereof for and on account of Tenant and to collect any unpaid Base Rent and Additional Charges that have become payable or that may thereafter become payable; or (iv) even though it may have reentered the Premises, to elect at any time thereafter to terminate this Lease and all of the rights of Tenant in or to the Premises.

- B. Reentry. If Landlord reenters the Premises under option (iii) of Subsection 21.A, Landlord shall not be deemed to have terminated this Lease or the liability of Tenant to pay any Rent thereafter accruing as it becomes due, or to have terminated Tenant's liability for damages under any of the provisions hereof, by any such reentry or by any action, in unlawful detainer or otherwise, to obtain possession of the Premises, unless Landlord shall have notified Tenant in writing that it has so elected to terminate this Lease; and Tenant shall be liable for and shall reimburse Landlord upon demand for all costs and expenses of every kind and nature incurred in retaking possession of the Premises and all other losses suffered by Landlord as a consequence of Tenant's default. In the event of any entry or taking possession of the Premises, Landlord shall have the right, but not the obligation, to remove therefrom all or any part of the personal property located therein and may place the same in storage at a public warehouse at the expense and risk of Tenant.
- C. Termination. If Landlord elects to terminate this Lease pursuant to the provisions of options (i) or (iv) of Subsection 21.A, Landlord may recover from Tenant as damages, the following: (i) the worth, at the time of award, of any unpaid Rent that had been earned at the time of such termination; plus (ii) the worth, at the time of award, of the amount by which the unpaid Rent that would have been earned after termination until the time of award exceeds the amount of the Rent loss Tenant proves could have been reasonably avoided; plus (iii) the worth, at the time of award, of the amount by which the unpaid Rent for the balance of the Lease Term after the time of award exceeds the amount of the Rent loss that Tenant proves could be reasonably avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or that in the ordinary course of things would be likely to result therefrom, including but not limited to, any costs or expenses incurred by Landlord in retaking possession of the Premises, including reasonable attorneys' fees therefor; maintaining or preserving the Premises after such default; preparing the Premises for reletting to a new tenant, including repairs or alterations to the Premises for such reletting; leasing commissions; and any other costs necessary or appropriate to relet the Premises; and (v) such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of Washington. As used in items (i) and (ii) of this Subsection 21.C, the "worth, at the time of award" shall be computed by allowing interest at the interest rate specified in Section 6 of this Lease. As used in item (iii) above, the "worth, at the time of award" shall be

computed by using the then-applicable discount rate quoted by the Federal Reserve Bank of San Francisco or its successor. For purposes of this Section 21 only, the term "Rent" shall be deemed to be the Base Rent required to be paid by Tenant pursuant to the terms of this Lease.

- D. Vacation or Abandonment. Not applicable.
- E. Adequate Security. If a petition is filed by or against Tenant or Guarantor under any provision of the Bankruptcy Code or successor act, Tenant shall post a cash bond with Landlord equal to six (6) months' Base Rent and Additional Charges to provide Landlord with adequate security for Tenant's performance of its obligations under this Lease.
21. **Landlord's Remedies Cumulative; Waiver.** Landlord's rights and remedies hereunder are not exclusive, but cumulative, and Landlord's exercise of any right or remedy due to a default or breach by Tenant shall not be deemed a waiver of, or alter, affect or prejudice any other right or remedy that Landlord may have under this Lease or by law or in equity. Neither the acceptance of rent nor any other act or omission of Landlord at any time or times after the happening of any event authorizing the cancellation or forfeiture of this Lease shall operate as a waiver of any past or future violation, breach or failure to keep or perform any covenant, agreement, term or condition hereof or to deprive Landlord of its right to cancel or forfeit this Lease, upon the written notice provided for herein, at any time that cause for cancellation or forfeiture may exist, or be construed so as to estop Landlord at any future time from promptly exercising any other option, right or remedy that it may have under any term or provision of this Lease.
22. **Default by Landlord; Lender Protection.**
- A. Landlord's Cure Period. Landlord shall be in default if Landlord fails to perform its obligations under this Lease within sixty (60) days after its receipt of notice of nonperformance from Tenant; provided, that if the default cannot reasonably be cured within the sixty (60) day period, Landlord shall not be in default if Landlord commences the cure within the sixty (60) day period and thereafter diligently pursues such cure to completion.
- B. Notice to Lender and Lender's Cure Period. In the event of any uncured default by Landlord that would entitle Tenant to terminate this Lease, Tenant shall not terminate this Lease or pursue any other remedy unless Tenant has notified Lender of the nature and extent of the default, at least sixty (60) days in advance of the proposed effective date of such termination. During said sixty (60) day period Lender shall be entitled to commence to cure the default. If the default is not susceptible of cure with due diligence within said sixty (60) day period, the Lease shall not be terminated if the Lender shall have commenced to cure the default within said sixty (60) day period and pursues the cure with due diligence thereafter. If the default is one that is not susceptible to cure by the Lender within

said sixty (60) day period because the Lender is not in possession of the Building, such sixty (60) day period shall be extended to include time needed to obtain possession thereof by the Lender by power of sale, judicial foreclosure or such other legal action required to recover possession provided that such avenues are pursued with due diligence.

23. **Attorneys' Fees.** If either party retains the services of an attorney in connection with enforcing the terms of this Lease, or if suit is brought for the recovery of Base Rent or Additional Charges due under this Lease or for the breach of any covenant or condition of this Lease or for the restitution of the Premises to Landlord and/or eviction of Tenant during the Lease Term or after the expiration thereof, the substantially prevailing party therein will be entitled to recover from the other party the substantially prevailing party's reasonable attorneys' fees, witness fees and other court costs incurred in connection therewith. If Landlord prevails and has been represented by the Seattle City Attorney, its attorneys' fees shall be computed on the basis of those of a private attorney in downtown Seattle who practices in a firm having at least as many attorneys as are employed in the Seattle City Attorney's Office, and who has experience comparable to the Landlord's attorney.
24. **Access by Landlord.** Landlord and its agents shall have the right to enter the Premises at any time to examine the same, and to show them to prospective purchasers, lenders or tenants, and to make such repairs, alterations, improvements, additions or improvements to the Premises or Building as Landlord may deem necessary or desirable. If Tenant is not personally present to permit entry and an entry is necessary in an emergency, Landlord may enter the same by master key or may forcibly enter the same, without rendering Landlord liable therefor. Nothing contained herein shall be construed to impose upon Landlord any duty of repair or other obligation not specifically stated in this Lease. Tenant shall change the locks to the Premises only through Landlord and upon paying Landlord for all costs related thereto.
25. **Holding Over.** Unless otherwise agreed in writing by the parties hereto, any holding over by Tenant after the expiration of the Lease Term, whether or not consented to by Landlord, shall be construed as a tenancy from month-to-month on the terms and conditions set forth herein, except for Base Rent, which shall be increased to one and one-half (1½) times the Base Rent in effect during the last month of the Lease Term immediately preceding the holdover period. Any holdover tenancy may be terminated by either party by written notice delivered to the other party not later than twenty (20) days prior to the end of month. If Tenant fails to surrender the Premises upon the expiration or termination of this Lease, Tenant shall indemnify, defend and hold harmless Landlord from all losses, damages, liabilities and expenses resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant arising out of such failure.
26. **Lease Subordinate to Mortgages.** This Lease shall be automatically subordinate to all of Landlord's mortgages or deeds of trust that heretofore and hereafter affect the Premises

or Building; to any sale and leaseback; to any and all advances made or to be made thereunder; to the interest on the obligations secured thereby; and to all renewals, modifications, consolidations, replacements or extensions thereof; all provided that for so long as Tenant is not in default hereunder beyond the applicable Section 21 cure period, Tenant shall have continued enjoyment of the Premises and the rights provided under this Lease, free from any disturbance or interruption by reason of any exercise of remedies by Lender under or in connection with its deed of trust or mortgage. This subordination shall be self operative, and no further instrument of subordination shall be necessary to effect such subordination. Tenant, nevertheless, shall execute such instrument of subordination as may be required by any Lender if such instrument of subordination carries out the terms of this Section 27. In the event of sale or foreclosure of any such mortgage or deed of trust, or exercise of the power of sale thereunder, or in the event of a transfer in lieu of foreclosure, Tenant shall attorn to the purchaser (or transferee) of the Building at such foreclosure or sale and recognize such purchaser (or transferee) as Landlord under this Lease if so requested by such purchaser (or transferee). Such attornment shall be self operative and no further instrument need be executed to effect such attornment. If any Lender elects to have this Lease superior to its mortgage or deed of trust and gives notice of its election to Tenant, then this Lease shall thereupon become superior to the lien of such mortgage or deed of trust, whether this Lease is dated or recorded before or after the mortgage or deed of trust.

27. **Estoppel and Other Certificates.** As a material inducement to Landlord to enter into this Lease, Tenant covenants that it shall, within ten (10) days of the receipt thereof, acknowledge and deliver to Landlord (a) any subordination or non-disturbance or attornment agreement or other instrument that Landlord may require to carry out the provisions of Section 27, and (b) any estoppel certificate requested by Landlord from time to time in the commercially reasonable standard form of Landlord or any mortgagee or beneficiary of such deed of trust certifying, to the extent such be true that (i) Tenant shall be in occupancy, (ii) this Lease is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as modified and stating the modification(s), (iii) Base Rent and Additional Charges have been paid only through a certain specified date, (iv) Tenant has no offset, defense or claim against Landlord and (v) such other matters as Landlord may reasonably request. Tenant's failure to deliver an estoppel certificate within the ten (10) day period shall be deemed its confirmation of the accuracy of the information supplied by Landlord to the prospective lender or purchaser. Tenant acknowledges and agrees that Landlord and others will be relying and are entitled to rely on the statements contained in such estoppel certificates.
28. **Quiet Enjoyment.** If Tenant fully complies with and promptly performs all of the terms, covenants and conditions of this Lease on its part to be performed, it shall have quiet enjoyment of the Premises throughout the Lease Term, subject, however, to matters of record on the day hereof and to those matters to which this Lease may be subsequently subordinated.

29. **Notices.** Any notice, demand or request required hereunder shall be given in writing to the party's address set forth in Subsection 1.K hereof by any of the following means: (a) personal service; (b) commercial or legal courier; or (c) registered or certified, first class mail, postage prepaid, return receipt requested. Such addresses may be changed by notice to the other parties given in the same manner as above provided. Notices shall be deemed to have been given upon the earlier of actual receipt, as evidenced by the deliverer's affidavit, the recipient's acknowledgment of receipt, or the courier's receipt, except in the event of attempted delivery during the recipient's normal business hours at the proper address by an agent of a party or by commercial or legal courier or the U.S. Postal Service but refused acceptance, in which case notice shall be deemed to have been given upon the earlier of the day of attempted delivery, as evidenced by the messenger's affidavit of inability to deliver stating the time, date, place and manner in which such delivery was attempted and the manner in which such delivery was refused, or on the day immediately following deposit with such courier or, if sent pursuant to subsection (c), forty-eight (48) hours following deposit in the U.S. mail.
30. **Successors or Assigns.** All of the terms, conditions, covenants and agreements of this Lease shall extend to and be binding upon Landlord, Tenant and, subject to the terms of Section 17, their respective heirs, administrators, executors, successors and permitted assigns, and upon any person or persons coming into ownership or possession of any interest in the Premises by operation of law or otherwise.
31. **Tenant Authority and Liability.** Tenant warrants that this Lease has been duly authorized, executed and delivered by Tenant, and that Tenant has the requisite power and authority to enter into this Lease and perform its obligations hereunder. Tenant covenants to provide Landlord with evidence of its authority and the authorization of this Lease upon request. All persons and entities named as Tenant herein shall be jointly and severally liable for Tenant's liabilities, covenants and agreements under this Lease.
32. **Brokers' Commission.** Landlord represents that Cushman & Wakefield of Washington, Inc. has represented it in connection with this Agreement. Tenant represents that only Kinzer Real Estate Services ("Outside Broker") represents Tenant for purposes of this Agreement. Cushman & Wakefield shall be paid per previous agreement by Landlord upon full execution of this Lease document. Additionally, on or after March 15, 2004, Landlord shall deliver to Cushman & Wakefield of Washington a fee of \$5.00 per rentable square foot of the actual Rentable Area of the Premises once determined; Cushman & Wakefield of Washington shall immediately deliver said fee to the Outside Broker. There are no other fee arrangements with brokers. Landlord and Tenant each agree to indemnify and hold each other harmless from claims made by any other brokers on this transaction.
33. **Partial Invalidity.** If any court determines that any provision of this Lease or the application hereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Lease, or application of such provision to persons or

circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

34. **Recording.** Tenant shall not record this Lease without the prior written consent of Landlord. However, upon Landlord's request, both parties shall execute a memorandum of this Lease, in a form customarily used for such purpose of recordation. The memorandum shall describe the parties, the Premises and the Lease Term and shall incorporate the other terms of this Lease by reference.
35. **Financial Statements.** Within ten (10) days after Landlord's request therefor, Tenant shall deliver to Landlord a financial statement for Tenant's prior quarter and fiscal year. Tenant shall certify the accuracy of such statements. Landlord may make these financial statements available to potential lenders or purchasers, but shall otherwise preserve their confidentiality except in connection with legal proceedings between the parties or as otherwise directed by court rule or order.
36. **Parking.** Tenant shall have a license to use up to the number of parking spaces specified in Subsection 1.I on an unassigned basis at the prevailing monthly rates established by the Building garage, subject to such reasonable rules and regulations as may be established from time to time by Landlord or its parking operator. Monthly parking charges shall be payable in advance on the first day of each month as Additional Charges. Tenant may reduce the number of parking spaces licensed to it after giving Landlord thirty (30) days prior written notice of the reduction; provided that no such reduction shall be effective until Tenant surrenders to Landlord the key cards, stickers or other identification materials used to provide garage access for the parking spaces surrendered.
37. **Relocation.** Not applicable.
38. **Liability of Landlord.** Tenant shall look solely to rents, issues and profits from the Building for the satisfaction of any judgment or decree against Landlord, whether for breach of the terms hereof or arising from a right created by statute or under common law. Tenant agrees that no other property or assets of the Landlord or any partner in or of Landlord shall be subject to levy, execution or other enforcement procedures for satisfaction of any such judgment or decree; no partner in or of Landlord shall be sued or named as a party in any suit or action (except as may be necessary to secure jurisdiction over the partnership); no service of process shall be made against any partner in or of Landlord (except as may be necessary to secure jurisdiction over the partnership); no judgment will be taken against partner in or of Landlord; no writ of execution will ever be levied against the assets of any partner in or of Landlord; and these covenants, limitations and agreements are enforceable both by Landlord and by any partner in or of Landlord. References in this Section 39 to a partner in or of Landlord shall mean and include all past, present and future partners of The City of Seattle and any subsequent owner of the Building.

39. **Force Majeure.** Landlord shall not be deemed in default hereof nor liable for damages arising from its failure to perform its duties or obligations hereunder if such is due to any cause beyond its reasonable control, including, but not limited to an act of Nature, act of civil or military authority, fire, flood, windstorm, earthquake, strike or labor disturbance, civil commotion, delay in transportation, governmental delay, or war.
40. **Counterparts.** This Lease may be executed by the parties in counterparts, which, taken together, constitute the entire Lease.
41. **Name of Building.** Landlord reserves the right to change the name of the Building. Tenant agrees that such change shall not require amendment of this Lease or affect in any way its obligations under this Lease, and that, except for the name change, all terms and conditions of this Lease shall remain in full force and effect.
42. **Headings.** The section headings used in this Lease are used for purposes of convenience and do not alter in any manner the content of the sections.
43. **Context.** Whenever appropriate from the context, the use of any gender shall include any other or all genders, and the singular shall include the plural, and the plural shall include the singular.
44. **Execution by Landlord and Tenant; Approval of Lender.** 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, if Landlord so directs, until it has been approved by Lender and fully executed copies have been delivered to Landlord and Tenant. Within ten (10) days after a request from Landlord therefor, Tenant shall consent to the making of such reasonable changes herein as may be requested by Lender, so long as such changes do not increase Base Rent and Additional Charges due from Tenant hereunder or otherwise materially alter Tenant's rights hereunder.
45. **Time of Essence; Time Calculation Method.** Time is of the essence with respect to this Lease. Except as otherwise specifically provided, any reference in this Lease to the word "day" means a "calendar day;" Provided, that if the final day for any action required hereunder is a Saturday, Sunday or City holiday, such action shall not be required until the next succeeding day that is not a Saturday, Sunday or City holiday. Any reference in this Lease to the word "month" means "calendar month."
46. **Entire Agreement; Applicable Law.** This Lease and the Exhibits attached hereto, and by this reference incorporated herein, set forth the entire agreement of Landlord and Tenant concerning the Premises and Building, and there are no other agreements or understanding, oral or written, between Landlord and Tenant concerning the Premises and Building. Any subsequent modification or amendment of this Lease shall be binding upon Landlord and Tenant only if reduced to writing and signed by them. This Lease

On this _____ day of _____, _____, before me, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of _____, the entity that executed the foregoing Lease as Tenant; and acknowledged to me that _____ signed the same as the free and voluntary act and deed of said entity for the uses and purposes therein mentioned and that _____ was authorized to execute said Lease for said entity.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

WITNESS my hand and official seal the day and year in this certificate above written.

[Signature]

[Printed Name]

NOTARY PUBLIC in and for the State of _____ residing at _____
My commission expires _____.

EXHIBIT B
TO
KEY TOWER LEASE

(TENANT IMPROVEMENTS)

A. BASIC BUILDING IMPROVEMENTS.

Landlord is making the Premises available to Tenant in an "AS IS" condition. Landlord will, however, install Tenant's name and suite number in the Building directory on the main floor of the Building and in any directory on the floor on which the Premises are located, all in the style and manner of other Building lessees.

B. TENANT WORK.

If Tenant elects to upgrade surface finishes from the condition they are in when made available to Tenant, as described in Section A hereof or from the Building Standard, or to make any other departure from Building Standard with respect to any portion of the walls; ceiling; floor; electrical distribution equipment; heating and air conditioning equipment and ducting, including but not limited to standard size variable air volume air terminal units; restrooms; drinking fountains; fire and life safety equipment; telephone service to the telephone closet located within the core area of the Building; and the basic sprinkler distribution grid; then such upgrade or other departure from Building Standard shall be subject to Landlord's and Landlord's Architect's approval and Tenant shall pay the cost thereof pursuant to the terms of Section C.2 of this Exhibit. (Non-Building Standard items are sometimes referred to herein as "special" items.)

Improvements to the Premises that are in addition to those to be provided by Landlord in Section A of this Exhibit are sometimes referred to herein as Tenant Work. Tenant, rather than Landlord, shall be responsible for all Tenant Work, which includes the following items:

1. All partitioning (solid, glazed or otherwise), including walls separating the Premises from the space to be occupied by other tenants in the Building, all partitioning within the Premises, and the walls separating the Premises from the public corridor.

2. Paint or other wall coverings, all of which shall be subject to Landlord's approval prior to application or installation. Painted walls shall receive at least one prime coat and one finish coat. The brand of paint shall be Building Standard or an equivalent brand subject to Landlord's prior approval.

3. Doors, door frames, relite frames and door hardware.

4. Ceiling, including suspension system, hangers and finish materials.

5. Cabinetry and millwork.
6. Carpeting, pad or other floor covering.
7. Window coverings for exterior windows as designated by Landlord.
8. Light fixtures, including Building Standard fixtures and switching, all in accordance with applicable Seattle codes and the Energy Edge Program.
9. Electrical receptacles, wiring and conduit from electrical panels to electrical receptacles and light fixtures, and other electrical items.
10. Mudrings and pullstrings for telephone and computer receptacles. Tenant is responsible for Tenant's telephone and computer equipment, service and cabling. Tenant shall select a telephone system and coordinate its installation with Landlord.
11. Air terminal units including related ducting, round low pressure run out ducting, flexible ducting, diffusers and any other items for heating and air conditioning.
12. Modifications to the sprinkler distribution system and installation of sprinkler heads, emergency speakers, exit signs and fire extinguishers and cabinets within the Premises.
13. All removal of debris for any item of work installed pursuant to Section B of this Exhibit.
14. The fees due for any architectural or interior design services provided with respect to the Premises including but not limited to the furnishings, furniture, art work, fixtures, equipment, and other personal property therein.
15. All Washington State sales tax applicable to Tenant improvements made to the Premises.
16. The fee charged by Landlord's architect for the reviewing on Landlord's behalf, Tenant's proposed plans and specifications for the improvement of the Premises by Tenant.
17. All signage in excess of that provided by Landlord under the Building Rules & Regulations.

C. DESIGN OF TENANT IMPROVEMENTS.

1. Plans for Tenant Work.

a. Responsibility of Tenant's Architect for Final Contract Documents.

Based on Exhibits A and B and other information provided by Tenant and approved by Landlord, Tenant's Architect shall prepare the working drawings, specifications and engineering drawings representing the Final Contract Documents for Tenant Work.

b. Final Contract Documents. Tenant shall cause Tenant's Architect to submit two (2) blackline sets of Contract Documents to Landlord. Landlord shall have ten (10) days to review and return one (1) marked up set of Contract Documents to Tenant's Architect; Provided, that if structural or mechanical work is proposed to be undertaken for Tenant, and Landlord, in the exercise of its discretion, requires consultation with Landlord's structural engineer or mechanical engineer to evaluate the Contract Documents, Landlord shall give notice to Tenant's Architect of such need, and Landlord shall have up to an additional thirty (30) days for its review of the Contract Documents. Tenant's Architect shall incorporate Landlord's comments into the proposed Final Contract Documents and submit two (2) complete sets of the proposed Final Contract Documents, as modified, to Tenant. Tenant shall have ten (10) days to review and approve the modified Final Contract Documents. Tenant shall indicate its approval by signing the cover sheet of the modified Final Contract Documents and returning one (1) complete set to Landlord. The Final Contract Documents, as modified, shall be prepared in accordance with the standards developed by the Landlord including common symbols, legends and abbreviations together with information required to obtain a building permit. The Final Contract Documents, as approved and signed by Tenant, shall include:

(1) Architectural Floor Plan: A plan, fully dimensioned, showing partition layout and type identifying each room with a number and each door with a number and the extent of floor finishes, casework, relites, etc. Plumbing requirements must also be noted on this plan. This plan shall indicate HVAC zoning requirements.

(2) Reflected Ceiling Plan: A plan showing all Building Standard and special ceiling conditions and materials. This plan shall include the location and type of all Building Standard and special light fixtures including switching, together with a legend indicating fixture type, quantity of fixtures, and connected wattage of each fixture as necessary for compliance with The City of Seattle codes.

(3) Electrical, Telephone and Computer Receptacles Plan: A plan locating all power, telephone and computer requirements dimensioned to give exact location of receptacle, height above concrete slabs and position from a corner. This plan shall identify all dedicated circuits and identify all power receptacles greater than 120 volts. For equipment utilizing receptacles that require dedicated circuits and/or that require greater than 120 volts, Tenant shall specify the type of equipment, the manufacturer's name and model number. The plan must also identify the name of the manufacturer of the phone and computer system to be used and the power requirements, size and location of its primary equipment.

(4) Furniture Layout: Basic layout showing furniture location.

(5) Millwork/Casework Details: Complete elevations, sections and construction details of all special millwork including but not limited to cabinets, paneling, trim, bookcases, doors, door frames and relite frames.

(6) Hardware Specifications and Keying Schedule: Complete specifications for all special hardware. Key ways in special locks must be compatible with building master key system. The keying schedule must indicate which doors are locked and which keys open each lock, together with a symbol indicating which side of the door is to be locked to prohibit entry.

(7) Room Finish and Color Schedule; Signage: Complete information showing on the drawings the location and specifications for all finishes including wall, floor covering, wall base, ceiling and special conditions; as well as the size, design, method of installation, and desired location of all signage.

(8) Construction Notes and Specifications: Any special notes required and complete specifications for all special items including but not limited to instructions for bidders, special conditions incorporating the AIA standard form of general conditions and technical specifications for all special Building work.

(9) Structural Drawings: If required, Tenant shall engage the services of its structural engineer, a separate structural permit will be obtained, and the cost of those services and permits shall be included in the cost of Tenant Work. A drawing will be prepared for Landlord's review, indicating the extent of structural modifications proposed for the Premises.

(10) Mechanical Drawings: Tenant shall engage the services of its mechanical engineer, separate plumbing and HVAC permits will be obtained, and the cost of those services and permits shall be included in the cost of Tenant Work. Drawings shall be prepared for Landlord's review indicating plumbing and HVAC requirements as follows:

(a) Plumbing: Clearly indicating all waste, vent and water requirements, locations and connections to stub-outs located at the Building core.

(b) HVAC: Clearly indicating the basic system, modifications to the basic system if required, including any special cooling or stand-alone system, special ventilation system, and supply air diffusers, return air grilles and space temperature sensors.

2. Delays and Costs. Tenant shall be responsible for delays and additional costs in completion of the Tenant Work and any damages or other costs, including but not limited to the additional fees of Landlord's Architect, incurred by Landlord that are caused by (a) the failure to provide adequate information to Landlord's Architect, except that Tenant shall not be responsible for delays resulting from Landlord's failure to review and to approve or comment upon the proposed Final Contract Documents within a commercially reasonable time after their delivery by Tenant to Landlord, unless the delay is requested by or the fault of Tenant; (b) Tenant-requested changes in the Basic Building Improvements; (c) improvements to the Premises beyond those provided for in Sections A and B of this Exhibit; (d) delays in the delivery of special materials if Landlord has made reasonable efforts to secure said materials in a timely manner; or (e) delays requested by Tenant. Tenant shall reimburse Landlord for such costs upon the commencement of the Lease term. If, after the commencement or completion of Tenant

Work, Tenant wishes to make improvements to or changes in the Premises beyond those provided for in Sections A and B of this Exhibit, Tenant shall submit to Landlord a written request to make such changes, and the parties shall follow the same procedures and be subject to the same requirements as are specified herein for the initial Tenant Work.

D. CONSTRUCTION OF TENANT IMPROVEMENTS.

1. **Tenant's Entry into Premises.** Tenant's entry to the Premises for any purpose, including without limitation, inspection of the performance of Tenant's construction by Landlord's contractor prior to commencement of the initial term of this Lease, shall be scheduled in advance with Landlord and shall be subject to all the terms and conditions of the Lease, except the payment of Base Rent. Tenant's entry shall mean entry by Tenant, or any of its officers, contractors, office planner, licensees, agents, servants, employees, guests, invitees or visitors.

2. **Tenant's Telephone.** Tenant shall be solely responsible for its telephone system, including selection, installation and cost and for Tenant's telephone service. Information concerning telephone equipment size and any special requirements must be given to Landlord's Architect during the planning phase, and Tenant shall coordinate installation of the telephone system with Landlord's Tenant Improvement Coordinator during the construction phase.

3. **Cooperation; Responsibility.** Tenant shall cooperate fully with Landlord as necessary and appropriate with respect to construction of Tenant Work.

E. GENERAL CONDITIONS.

The following provisions shall be applicable to all Tenant Work.

1. Tenant shall have the right to control design of special improvements to the Premises, subject to Landlord's approval, which shall not be unreasonably withheld.

2. Tenant shall be responsible for the payment to Landlord, as an Additional Charge, of any increase in Building energy costs attributable to special lighting. Lighting not consistent with Seattle's Energy Code or the Energy Edge Program shall not be installed without the prior approval of Landlord and Landlord's Architect, which may be withheld in the sole discretion of Landlord.

3. If Tenant requests that Landlord install any fixtures in the Premises or perform any alterations, additions or improvements to the Premises that are in addition to or subsequent to the Tenant Work, and if Landlord consents to such request, such additional work shall be installed at Tenant's sole cost and expense and the terms and conditions of Section D of this Exhibit shall govern all such work.

F. SPECIAL PROVISIONS.

If a portion of the Tenant Work or any other installation within the Premises is to be performed by someone other than the Landlord's contractor or subcontractor, then the following terms and conditions shall apply:

1. Such work shall proceed upon Landlord's written approval of (i) Tenant's contractor; (ii) public liability and property damage insurance satisfactory to Landlord carried by Tenant's contractor; (iii) detailed plans and specifications for such work; and (iv) the amount of general conditions to be paid by Tenant to Landlord for the service(s) still provided by Landlord's contractor.
2. All work shall be done in conformity with a valid building permit, when required, a copy of which shall be delivered to Landlord before such work is commenced, and in any case, all such work shall be performed in accordance with all applicable governmental regulations. Notwithstanding any failure by Landlord to object to any such work, Landlord shall have no responsibility for Tenant's failure to meet all applicable regulations.
3. All work by Tenant or Tenant's contractor shall be scheduled through Landlord.
4. Tenant or Tenant's contractor shall arrange for necessary utility, hoisting and elevator service with Landlord's contractor and shall pay such reasonable charges for such services as may be charged by Landlord's contractor. These charges will be included in the general conditions of Section E.1 of this Exhibit.
5. Tenant shall promptly reimburse Landlord for costs incurred by Landlord due to faulty work done by Tenant or by any of its contractors, or by reason of any delay caused by such work, or by reason of inadequate clean-up.
6. Prior to commencement of any work on the Premises by Tenant or any contractor of Tenant, Tenant and Tenant's contractor shall enter into an indemnity agreement and a lien priority agreement satisfactory to Landlord indemnifying and holding harmless Landlord and Landlord's contractor for any liability, losses or damages directly or indirectly from lien claims affecting the land, the Building or the Premises arising out of Tenant's or Tenant's contractor's work or that of every subcontractor or supplier, and subordinating each such lien to the liens of construction and permanent financing for the Building.
7. Landlord shall have the right to post a notice or notices in conspicuous places in or about the Premises announcing its non-responsibility for the work being performed therein.

**EXHIBIT C
TO
KEY TOWER LEASE**

RULES AND REGULATIONS

1. Except as specifically provided in the Lease to which these Rules and Regulations are attached, no sign, placard, picture, advertisement, name or notice shall be installed or displayed on any part of the outside or inside of the Building without the prior written consent of Landlord. Landlord shall have the right to remove, at Tenant's expense and without notice, any sign installed or displayed in violation of this rule. All approved signs or lettering on doors and walls shall be printed, painted, affixed or inscribed at the expense of Tenant by a person approved by Landlord.
2. No curtains, draperies, blinds, shutters, shades, screens or other coverings, hangings or decorations shall be attached to, hung or placed in, or used in connection with any window of the Building without the prior written consent of the Landlord, which Landlord may withhold in its sole and absolute discretion. In any event, with the prior written consent of Landlord, such items shall be installed on the office side of Landlord's standard window covering and shall in no way be visible from the exterior of the Building. Tenant shall not alter or remove any exterior window glass of the Building for any reason.
3. Tenant shall not obstruct any sidewalks, halls, passages, exits, entrances, elevators or stairways of the Building. The halls, passages, exits, entrances, elevators, escalators and stairways are not open to the general public, but are open, subject to reasonable regulation, to Tenant's business invitees. Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of Landlord would be prejudicial to the safety, character, reputation and interest of the Building and its tenants; providing that nothing herein contained shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of this business, unless such persons are engaged in illegal or unlawful activities. No tenant and no employee or invitee of any tenant shall go upon the roof of the Building.
4. The directory of the Building will be provided for the display of the name and location of tenants and a reasonable number of the principal officers and employees of tenants, and Landlord reserves the right to exclude any other names therefrom. Any additional name that Tenant shall desire to place upon the directory must first be approved by Landlord and, if so approved, a charge will be made therefor.
5. All cleaning and janitorial services for the Building and the Premises shall be provided exclusively through Landlord, and except with the written consent of Landlord, no person or persons other than those approved by Landlord shall be employed by Tenant or permitted to enter the Building for the purpose of cleaning

- the same. Tenant shall not cause any unnecessary labor by carelessness or indifference to the good order and cleanliness of the Premises.
6. Landlord will furnish Tenant, free of charge, two (2) keys to each door lock in the Premises. Landlord will also provide for each person occupying an office in the Premises, one electronic Building security system access card that permits access to the Building and control of the elevator to the Premises during the evenings and over weekends when the Building is not normally open for business. Landlord may impose a reasonable charge for any additional key or Building security system access card requested by Tenant. Tenant shall not alter any lock or install a new additional lock or bolt on any door of its Premises. Tenant, upon the expiration or earlier termination of its tenancy, shall deliver to Landlord all Building keys that have been furnished to Tenant, and all Building security system access cards. In the event any keys or Building security system access cards so furnished is not returned as required hereunder, Tenant shall pay the then-current lost key or lost card charge as established by Landlord. Tenant may install its own security system with Landlord's prior consent, which shall not be unreasonably withheld, provided that Landlord shall have access to such security system and the Premises without charge.
 7. If Tenant requires telegraphic, telephonic, burglar alarm or similar services, it shall first obtain, and comply with, Landlord's instructions as to their installation.
 8. The Building freight elevator(s) shall be available for use by all tenants in the Building, subject to such reasonable scheduling as Landlord, in its discretion, shall deem appropriate. No equipment, materials, furniture, packages, supplies, merchandise or other property will be received in the Building or carried in the elevators except between such hours and in such elevators as may be designated by Landlord. Tenant's initial move in and subsequent deliveries and removals of heavy or bulky items, such as furniture, safes and similar items shall, unless otherwise agreed by Landlord, be made during the hours of 6 P.M. to 6 A.M. or on Saturday or Sunday and subject to such limitations as Landlord may impose. Deliveries during normal office hours shall be limited to normal office supplies and other small items. No delivery shall be made that impedes or interferes with any other tenant or the operation of the Building. In its use of the loading areas for the Building, Tenant shall not obstruct or permit the obstruction of said loading areas, and at no time shall Tenant park vehicles therein except for loading and unloading.
 9. Tenant shall not place a load upon any floor of the Premises that exceeds the load per square foot that such floor was designed to carry and that is allowed by law. Landlord shall have the right to prescribe the weight, size and position of all equipment, materials, furniture or other property brought into the Building. Heavy objects shall, if considered necessary by Landlord, stand on such platforms as determined by Landlord to be necessary to properly distribute the weight, which platforms shall be provided at Tenant's expense. Any business machine or mechanical equipment belonging to Tenant that causes noise or vibration that may be transmitted to the structure of the Building or to any space therein, to such a degree as to be objectionable to Landlord or to any tenant in the Building, shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or

other devices sufficient to eliminate noise or vibration. Every person employed to move such equipment in or out of the Building must be acceptable to Landlord. Landlord will not be responsible for loss of, or damage to, any such equipment or other property from any cause, and all damage done to the Building by maintaining or moving such equipment or other property shall be repaired at the expense of Tenant.

10. Tenant shall not use or keep in the Premises any kerosene, gasoline or flammable or combustible fluid or material other than those limited quantities necessary for the operation or maintenance of office equipment. Tenant shall not use or permit to be used in the Premises any foul or noxious gas or substance, or permit or allow the Premises to be occupied or used in a manner offensive or objectionable to Landlord or any other occupant of the building by reason of noise, odors or vibrations from the Premises, nor shall Tenant bring into or keep on or about the Premises any animal other than a hearing- or seeing-guide dog.
11. Tenant shall not use any method of heating or air conditioning other than that supplied and/or approved by Landlord.
12. Tenant shall not waste electricity, water or air conditioning and agrees to cooperate fully with Landlord to assure the most effective operation of the Building's heating and air conditioning and to comply with any governmental energy-saving rules, laws or regulations of which Tenant has actual notice, and shall refrain from attempting to adjust controls. Tenant shall keep corridor doors closed, and shall close window coverings at the end of each business day.
13. Landlord reserves the right to select the name of the Building and to make such change or changes of name as it may deem appropriate from time to time, and Tenant shall not refer to the Building by any name other than: (i) the names as selected by Landlord (as same may be changed from time to time), or (ii) the postal address, approved by the United States Post Office. Tenant shall not use the name of the Building in any respect other than as an address of its operation in the Building without the prior written consent of Landlord, which Landlord may withhold in its sole and absolute discretion. Landlord reserves the right, exercisable without notice and without liability to Tenant, to change the street address of the Building.
14. Landlord reserves the right to exclude from the Building between the hours of 6 P.M. and 7 A.M. the following day, or such other hours as may be established from time to time by Landlord, and on Sundays and legal holidays, any person unless that person is known to person or employee in charge of the Building and has a pass or is properly identified. Tenant shall be responsible for all persons for whom it requests passes and shall be liable to Landlord for all acts of such persons. Landlord shall not be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. Landlord reserves the right to prevent access to the Building in case of invasion, mob, riot, public excitement or other commotion by closing the doors or by other appropriate action.

15. Tenant shall close and lock the doors of its Premises and entirely shut off all water faucets or other water apparatus, and electricity, gas or air outlets before Tenant and its employees leave the Premises. Tenant shall be responsible for any damage or injuries sustained by other tenants or occupants of the Building or by Landlord for Tenant's noncompliance with this rule.
16. Tenant shall not obtain for use on the Premises ice, drinking water, food, beverage, towel or other similar services or accept barbering or bootblacking service upon the Premises, except at such hours and under such regulations as may be fixed by the Landlord.
17. The toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage or damage resulting from violation of this rule shall be borne by the Tenant who, or whose employee or invitee, shall have caused it.
18. Tenant shall not sell, or permit the sale at retail, of newspapers, magazines, periodicals, theatre tickets or any other goods or merchandise to the general public in or on the Premises. Tenant shall not make any room-to-room solicitation of business from other tenants in the building. Tenant shall not use the Premises for any business or activity other than that specifically provided in Tenant's Lease.
19. Except as permitted in the Lease, Tenant shall not install any radio or television antenna, loudspeaker or other devices on the roof or exterior walls of the Building. Tenant shall not interfere with radio or television broadcasting or reception from or in the Building or elsewhere.
20. Tenant shall not mark, drive nails, screw or drill into the partitions, woodwork or plaster, or in any way deface the Premises or any part thereof, except in accordance with the provisions of the Lease pertaining to alterations. Landlord reserves the right to direct electricians as to where and how telephone and telegraph wires are to be introduced to the Premises. Tenant shall not cut or bore holes for wires. Tenant shall not affix any floor covering to the floor of the Premises or any wall or ceiling coverings in any manner except as approved by Landlord. Tenant shall repair any damage resulting from noncompliance with this rule.
21. Tenant shall not install, maintain or operate upon the Premises any vending machine, video game or other coin-operated or coin-activated device without the written consent of Landlord.
22. Canvassing, soliciting and distribution of any handbill or any other written material, and peddling in the Building are prohibited, and Tenant shall cooperate to prevent such activities.
23. Landlord reserves the right to exclude or, expel from the Building any person who, in Landlord's judgment, is intoxicated or under the influence of any liquor or illegal drug or who is in violation of any of the Rules and Regulations of the Building.

24. Tenant shall store all its trash and garbage within its Premises or in other facilities provided by Landlord. Tenant shall not place in any trash box or receptacle any material that cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. All garbage and refuse disposal shall be made in accordance with directions issued, from time to time, by Landlord.
25. The Premises shall not be used for the storage of merchandise held for sale to the general public, or for lodging or for manufacturing of any kind, nor shall the Premises be used for any improper or immoral purpose. No cooking shall be done or permitted on the Premises without Landlord's consent, except that use by Tenant of Underwriters' Laboratory-approved equipment for brewing coffee, tea, hot chocolate and similar beverages, or use of a microwave oven for employee use shall be permitted, provided that such equipment and use is in accordance with all applicable federal, state, county and city laws, codes, ordinances, rules and regulations.
26. Tenant shall not use in any space or in any public hall of the Building, any hand truck except one equipped with rubber tires and side guards or such other material-handling equipment as Landlord may approve. Tenant shall not bring any other vehicle of any kind into the Building.
27. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency.
28. Tenant assumes any and all responsibility for protecting its Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Premises closed.
29. Tenant's requirement will be attended to only upon appropriate application to the Building management office by an authorized individual. No employee of Landlord shall perform any work or do anything outside of his/her regular duties unless under special instructions from Landlord, and no employee of Landlord shall admit any person (Tenant or otherwise) to any office outside of the Premises without specific instructions from Landlord.
30. Landlord may waive any one or more of these Rules and Regulations for the benefit of Tenant or any other tenant, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of Tenant or any other tenant, nor prevent Landlord from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Building.
31. These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the terms, covenants, agreements and conditions of Tenant's lease of its Premises in the Building.
32. Landlord reserves the right to make such other and reasonable Rules and Regulations as, in its judgment, may from time to time be needed for safety and security, for care and cleanliness of the Building and for the preservation of good order therein. Tenant agrees to abide by all such Rules and Regulations hereinabove stated and any additional rules and regulations that are adopted.

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33. Tenant shall be responsible for the observance of all of the foregoing rules by Tenant's employees, agents, clients, customers, invitees and guests.
34. No smoking is permitted in any public areas. Public areas include lobbies, restrooms, stairwells and garage. No smoking is permitted on any of the exterior plaza levels, except for an area designated by the Landlord.