

UD-100

<div style="display: flex; justify-content: space-between;"><div>ATTORNEY OR PARTY WITHOUT ATTORNEY</div><div>STATE BAR NUMBER: 311340</div></div> <p>NAME: James M Blucker, Esq. FIRM NAME: The Law Office of James M. Blucker STREET ADDRESS: 3800 Concourses St, Suite 300 CITY: Ontario STATE: CA ZIP CODE: 91764 TELEPHONE NO.: 909-684-5454 FAX NO.: EMAIL ADDRESS: james@bluckerlaw.com ATTORNEY FOR (name): MGR OC 1, LLC - Plaintiff</p> <p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> Orange STREET ADDRESS: 700 Civic Center Drive West MAILING ADDRESS: SAME CITY AND ZIP CODE: Santa Ana 92701 BRANCH NAME: Central Justice Center Courthouse</p> <p>PLAINTIFF: MGR OC 1, LLC DEFENDANT: Loansnap, Inc., a California Corporation <input checked="" type="checkbox"/> DOES 1 TO 10</p>	<b>FOR COURT USE ONLY</b>
<p style="text-align: center;"><b>COMPLAINT—UNLAWFUL DETAINER*</b></p> <p><input checked="" type="checkbox"/> COMPLAINT    <input type="checkbox"/> AMENDED COMPLAINT    (Amendment Number):</p>	<p>CASE NUMBER:</p> <p style="text-align: center; font-weight: bold;">30-2024-01381553-CU-UD-CJC</p>

**Jurisdiction (check all that apply):**

☐ ACTION IS A LIMITED CIVIL CASE (amount demanded does not exceed \$35,000)  
Amount demanded    ☐ does not exceed \$10,000  
                                  ☐ exceeds \$10,000

☒ ACTION IS AN UNLIMITED CIVIL CASE (amount demanded exceeds \$35,000)

☐ ACTION IS RECLASSIFIED by this amended complaint or cross-complaint (check all that apply):

<input type="checkbox"/> from unlawful detainer to general unlimited civil (possession not in issue).	<input type="checkbox"/> from limited to unlimited.
<input type="checkbox"/> from unlawful detainer to general limited civil (possession not in issue).	<input type="checkbox"/> from unlimited to limited.

1. PLAINTIFF (name each):

MGR OC 1, LLC

alleges causes of action against DEFENDANT (name each):

Loansnap, Inc., a California Corporation

2. a. Plaintiff is (1) ☐ an individual over the age of 18 years. (4) ☐ a partnership.  
(2) ☐ a public agency. (5) ☐ a corporation.  
(3) ☒ other (specify): Limited Liability Company
- b. ☐ Plaintiff has complied with the fictitious business name laws and is doing business under the fictitious name of (specify):
3. a. The venue is the court named above because defendant named above is in possession of the premises located at (street address, apt. no., city, zip code, and county):  
3070 Bristol St, Suite 200, Costa Mesa, CA, 92626 - Orange County
- b. The premises in 3a are (check one)  
(1) ☒ within the city limits of (name of city): Costa Mesa  
(2) ☐ within the unincorporated area of (name of county):
- c. The premises in 3a were constructed in (approximate year): 1987
4. Plaintiff's interest in the premises is ☒ as owner ☐ other (specify):
5. The true names and capacities of defendants sued as Does are unknown to plaintiff.

\* NOTE: Do not use this form for evictions after sale (Code Civ. Proc., § 1161a).

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6. a. On or about (date): 04/01/2016  
defendant (name each):  
Loansnap, Inc., a California Corporation
- (1) agreed to rent the premises as a ☐ month-to-month tenancy ☒ other tenancy (specify): 6 year fixed term  
(2) agreed to pay rent of \$ 37,523.25 payable ☒ monthly ☐ other (specify frequency):  
(3) agreed to pay rent on the ☒ first of the month ☐ other day (specify):
- b. This ☒ written ☐ oral agreement was made with  
(1) ☐ plaintiff. (3) ☒ plaintiff's predecessor in interest.  
(2) ☐ plaintiff's agent. (4) ☐ Other (specify):
- c. ☒ The defendants not named in item 6a are  
(1) ☐ subtenants.  
(2) ☐ assignees.  
(3) ☒ Other (specify): All Unknown Occupants
- d. ☒ The agreement was later changed as follows (specify):  
After lease term expired, lease term was extended. Rent increased multiple times in accordance with the rent schedule stated in the lease agreement and first amendment. Current rent amount is \$55,056.
- e. ☒ A copy of the written agreement, including any addenda or attachments that form the basis of this complaint, is attached and labeled Exhibit 1. (Required for residential property, unless item 6f is checked. See Code Civ. Proc., § 1166.)
- f. ☐ (For residential property) A copy of the written agreement is **not** attached because (specify reason):  
(1) ☐ the written agreement is not in the possession of the landlord or the landlord's employees or agents.  
(2) ☐ this action is solely for nonpayment of rent (Code Civ. Proc., § 1161(2)).
7. The tenancy described in 6 (complete (a) or (b))  
a. ☒ is **not** subject to the Tenant Protection Act of 2019 (Civil Code, § 1946.2). The specific subpart supporting why tenancy is exempt is (specify): Commercial Property  
b. ☐ is subject to the Tenant Protection Act of 2019.
8. (Complete only if item 7b is checked. Check all applicable boxes.)  
a. ☐ The tenancy was terminated for at-fault just cause (Civil Code, § 1946.2(b)(1)).  
b. ☐ The tenancy was terminated for no-fault just cause (Civil Code, § 1946.2(b)(2)) and the plaintiff (check one)  
(1) ☐ waived the payment of rent for the final month of the tenancy, before the rent came due, under section 1946.2(d)(2), in the amount of \$  
(2) ☐ provided a direct payment of one month's rent under section 1946.2(d)(3), equaling \$  
to (name each defendant and amount given to each):
- c. ☐ Because defendant failed to vacate, plaintiff is seeking to recover the total amount in 8b as damages in this action.
9. a. ☒ Defendant (name each):  
Loansnap, Inc., a California Corporation  
was served the following notice on the same date and in the same manner:  
(1) ☐ 3-day notice to pay rent or quit (5) ☐ 3-day notice to perform covenants or quit  
(2) ☐ 30-day notice to quit (not applicable if item 7b checked)  
(3) ☐ 60-day notice to quit (6) ☐ 3-day notice to quit under Civil Code, § 1946.2(c)  
(4) ☐ 3-day notice to quit Prior required notice to perform covenants served (date):  
(7) ☒ Other (specify): 5-day notice to pay rent or quit

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9. b. (1) On (date): 02/13/2024 the period stated in the notice checked in 9a expired at the end of the day.  
 (2) Defendants failed to comply with the requirements of the notice by that date.
- c. All facts stated in the notice are true.
- d. ☒ The notice included an election of forfeiture.
- e. ☒ A copy of the notice is attached and labeled Exhibit 2. (Required for residential property. See Code Civ. Proc., § 1166. When Civil Code, § 1946.2(c), applies and two notices are required, provide copies of both.)
- f. ☐ One or more defendants were served (1) with the prior required notice under Civil Code, § 1946.2(c), (2) with a different notice, (3) on a different date, or (4) in a different manner, as stated in Attachment 10c. (Check item 10c and attach a statement providing the information required by items 9a–e and 10 for each defendant and notice.)
10. a. ☒ The notice in item 9a was served on the defendant named in item 9a as follows:
- (1) ☐ By personally handing a copy to defendant on (date):
- (2) ☐ By leaving a copy with (name or description):  
 a person of suitable age and discretion, on (date): at defendant's  
☐ residence ☐ business AND mailing a copy to defendant at defendant's place of residence  
 on (date): because defendant cannot be found at defendant's residence or usual place of business.
- (3) ☒ By posting a copy on the premises on (date): 02/07/2024  
☐ AND giving a copy to a person found residing at the premises AND mailing a copy to defendant at the premises  
 on (date): 02/07/2024  
 (a) ☐ because defendant's residence and usual place of business cannot be ascertained OR  
 (b) ☒ because no person of suitable age or discretion can be found there.
- (4) ☐ (Not for 3-day notice; see Civil Code, § 1946, before using) By sending a copy by certified or registered mail  
 addressed to defendant on (date):
- (5) ☐ (Not for residential tenancies; see Civil Code, § 1953, before using) In the manner specified in a written  
 commercial lease between the parties
- b. ☐ (Name):  
 was served on behalf of all defendants who signed a joint written rental agreement.
- c. ☐ Information about service of notice on the defendants alleged in item 9f is stated in Attachment 10c.
- d. ☒ Proof of service of the notice in item 9a is attached and labeled Exhibit 3.
11. ☐ Plaintiff demands possession from each defendant because of expiration of a fixed-term lease.
12. ☒ At the time the 3-day notice to pay rent or quit was served, the amount of **rent due** was \$ 404,667.13
13. ☒ The fair rental value of the premises is \$ 1835.23 per day.
14. ☐ Defendant's continued possession is malicious, and plaintiff is entitled to statutory damages under Code of Civil Procedure  
 section 1174(b). (State specific facts supporting a claim up to \$600 in Attachment 14.)
15. ☒ A written agreement between the parties provides for attorney fees.
16. ☐ Defendant's tenancy is subject to the local rent control or eviction control ordinance of (city or county, title of ordinance, and  
 date of passage):

Plaintiff has met all applicable requirements of the ordinances.

17. ☐ Other allegations are stated in Attachment 17.
18. Plaintiff accepts the jurisdictional limit, if any, of the court.

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DEFENDANT: Loansnap, Inc., a California Corporation

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19. PLAINTIFF REQUESTS

- a. possession of the premises.  
b. costs incurred in this proceeding:  
c. ☒ past-due rent of \$ 404,667.13  
d. ☒ reasonable attorney fees.  
e. ☒ forfeiture of the agreement.  
f. ☐ damages in the amount of waived rent or relocation assistance as stated in item 8: \$  
g. ☒ damages at the rate stated in item 13 from date: 03/01/2024 for each day that defendants remain in possession through entry of judgment.  
h. ☐ statutory damages up to \$600 for the conduct alleged in item 14.  
i. ☐ other (specify):

20. ☒ Number of pages attached (specify): 70

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400–6415)

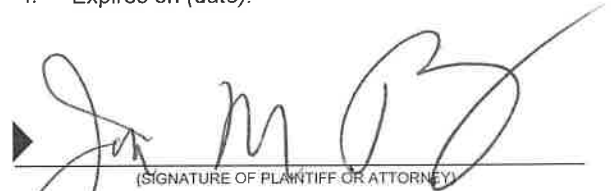
21. ☒ (Complete in all cases.) An unlawful detainer assistant ☒ did not ☐ did for compensation give advice or assistance with this form. (If declarant has received **any** help or advice for pay from an unlawful detainer assistant, complete a–f.)

- a. Assistant's name:  
b. Street address, city, and zip code:  
c. Telephone no.:  
d. County of registration:  
e. Registration no.:  
f. Expires on (date):

Date: 02/22/2024

James M. Blucker, Esq.

(TYPE OR PRINT NAME)

  
(SIGNATURE OF PLAINTIFF OR ATTORNEY)

VERIFICATION

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the plaintiff in this proceeding and have read this complaint. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 02/22/2024

SEE ATTACHED

(TYPE OR PRINT NAME)

  
(SIGNATURE OF PLAINTIFF)

## VERIFICATION

STATE OF CALIFORNIA, COUNTY OF ORANGE

I have read the foregoing complaint and know its contents.

### CHECK APPLICABLE PARAGRAPHS

- ☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.
- ☒ I am ☐ an officer ☐ a partner or a ☒ Representative \_\_\_\_\_ of \_\_\_\_\_ MGR OC 1, LLC \_\_\_\_\_, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.
- ☒ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.
- ☒ The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.
- ☐ I am the attorney for MGR OC 1, LLC, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on February 22, 2024, at Ontario, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

 \_\_\_\_\_ Date:  2-22-2024

Michael G. Rademaker  
Representative of  
MGR OC 1, LLC

# **Exhibit 1**

## OFFICE LEASE

This Office Lease (this "Lease"), dated as of the date set forth in Section 1.1, is made by and between BRE/OC SCCC L.L.C., a Delaware limited liability company ("Landlord"), and DLJ FINANCIAL, INC., a California corporation ("Tenant"). The following exhibits are incorporated herein and made a part hereof: Exhibit A (Outline of Premises); Exhibit B (Work Letter); Exhibit C (Form of Confirmation Letter); Exhibit D (Rules and Regulations); Exhibit E (Judicial Reference); Exhibit F (Additional Provisions); Exhibit F-1 (Outline of Potential Offering Space); Exhibit F-2 (Eyebrow Signage); Exhibit F-3 (Form of Letter of Credit); and Exhibit G ([Intentionally Omitted]).

### 1 BASIC LEASE INFORMATION.

- 1.1 Date: February 17, 2016
- 1.2 Premises.
- 1.2.1 "Building": 3070 Bristol Street, Costa Mesa, California 92626, commonly known as South Coast Corporate Center
- 1.2.2 "Premises": Subject to Section 2.1.1, 16,677 rentable square feet of space located on the 2<sup>nd</sup> floor of the Building and commonly known as Suite 200, the outline and location of which is set forth in Exhibit A. If the Premises include any floor in its entirety, all corridors and restroom facilities located on such floor shall be considered part of the Premises
- 1.2.3 "Property": The Building, the parcel(s) of land upon which it is located, and, at Landlord's discretion, any parking facilities and other improvements serving the Building and the parcel(s) of land upon which such parking facilities and other improvements are located.
- 1.2.4 "Project": The Property or, at Landlord's discretion, any project containing the Property and any other land, buildings or other improvements.
- 1.3 Term
- 1.3.1 Term: The term of this Lease (the "Term") shall begin on the Commencement Date and expire on the Expiration Date (or any earlier date on which this Lease is terminated as provided herein).
- 1.3.2 "Commencement Date": The earlier of (i) the first date on which Tenant conducts business in the Premises, or (ii) the date on which the Tenant Improvement Work (defined in Exhibit B) is Substantially Complete (defined in Exhibit E), which is anticipated to be April 1, 2016.
- 1.3.3 "Expiration Date": The last day of the 72<sup>nd</sup> full calendar month beginning on or after the Commencement Date.
- 1.4 "Base Rent":

Period During Term	Annual Base Rent Per Rentable Square Foot (rounded to the nearest 100th of a dollar)	Monthly Base Rent Per Rentable Square Foot (rounded to the nearest 100th of a dollar)	Monthly Installment of Base Rent
Commencement Date through last day of 12 <sup>th</sup> full calendar month of Term	\$27.00	\$2.25	\$37,523.25

13 <sup>th</sup> through 24 <sup>th</sup> full calendar months of Term	\$28.08	\$2.34	\$39,024.18
25 <sup>th</sup> through 36 <sup>th</sup> full calendar months of Term	\$29.20	\$2.43	\$40,580.70
37 <sup>th</sup> through 48 <sup>th</sup> full calendar months of Term	\$30.37	\$2.53	\$42,206.71
49 <sup>th</sup> through 60 <sup>th</sup> full calendar months of Term	\$31.59	\$2.63	\$43,902.20
61 <sup>st</sup> full calendar month of Term through Expiration Date	\$32.85	\$2.74	\$45,653.29

Notwithstanding the foregoing, Base Rent shall be abated, (i) in the amount of \$37,523.25 per month, for the second (2<sup>nd</sup>) and third (3<sup>rd</sup>) full calendar months of the Term, (ii) in the amount of \$40,580.70 per month, for the 25<sup>th</sup> full calendar month of the Term, and (iii) in the amount of \$42,206.71 per month, for the 37<sup>th</sup> full calendar month of the Term; provided, however, that (a) Tenant, by notifying Landlord not later than April 1, 2016, may convert any (but not more than two (2)) of the foregoing monthly amounts from abatement of Base Rent for the applicable month to an increase in the Allowance (defined in Section 1.1 of Exhibit B), in which event Base Rent for such month shall not be abated and, in lieu thereof, the Allowance shall be increased by such amount; (b) if a Default (defined in Section 19.1) exists when any such abatement would otherwise apply, such abatement shall be deferred until the date, if any, on which such Default is cured; and (c) Landlord, at its option, may cancel all or any portion of any such abatement of Base Rent that has not yet been applied, by notifying Tenant of such cancellation and paying Tenant the amount of such unapplied abatement, in which event the parties, at Landlord's option, shall execute a commercially reasonable amendment to this Lease prepared by Landlord memorializing such cancellation.

- 1.5 "Base Year" for Expenses: Calendar year 2016.
- "Base Year" for Taxes: Calendar year 2016.
- 1.6 "Tenant's Share": 13.0403% (based upon a total of 127,888 rentable square feet in the Building), subject to Section 2.1 f.
- Notwithstanding any contrary provision hereof, Tenant shall not be required to pay Tenant's Share of any Expense Excess (defined in Section 4.1) or Tax Excess (defined in Section 4.1) with respect to any period occurring before the first anniversary of the Commencement Date.
- 1.7 "Permitted Use": General office use consistent with a first-class office building. Notwithstanding anything else herein to the contrary, the Permitted Use shall exclude any operation of educational or classroom facilities for college level instruction.
- 1.8. [Intentionally Omitted]
- Prepaid Base Rent: \$37,523.25, to be applied to the first full calendar month for which Base Rent is payable hereunder, as more particularly described in Section 3.



1.9 Parking:

54 unreserved parking spaces located in the parking structure included in the Parking Facility (defined in Section 24), at the Unreserved Rate (defined below). As used herein, "Unreserved Standard Rate" means the rate of (i) \$0.00 per space per month during the portion of the Term beginning on the Commencement Date and ending on the last day of the 15<sup>th</sup> full calendar month of the Term, (ii) \$40.00 per space per month for the balance of the initial Term, and (iii) Landlord's prevailing rate during any extension or renewal Term.

The Unreserved Over-Standard Number (defined below) of unreserved parking spaces located on the top level of the parking structure included in the Parking Facility, at the Unreserved Standard Rate. As used herein, "Unreserved Over-Standard Number" means zero (0); provided, however, that Tenant, upon 30 days' notice to Landlord from time to time, may change the Unreserved Over-Standard Number to any whole number from zero (0) to 29. Notwithstanding any contrary provision hereof, Landlord, in its sole and absolute discretion, and upon 30 days' notice to Tenant from time to time, may relocate any or all of the Unreserved Over-Standard Number of unreserved parking spaces to a portion of the surface parking facility designated by Landlord and located at 3100-3150 Bristol Street, Costa Mesa, CA 92626 and commonly known as South Coast Executive Center (the "Adjacent Surface Lot"), in which event, with respect to such unreserved parking spaces, the Adjacent Surface Lot shall be deemed to be part of the Parking Facility for purposes of Section 24.

The Unreserved Additional Number (defined below) of unreserved parking spaces in the Parking Facility, at the rate of (i) \$0.00 per space per month during the portion of the Term beginning on the Commencement Date and ending on the last day of the 15<sup>th</sup> full calendar month of the Term, (ii) \$30.00 per space per month for the balance of the initial Term, and (iii) Landlord's prevailing rate during any extension or renewal Term. As used herein, "Unreserved Additional Number" means zero (0); provided, however, that Tenant, upon 30 days' notice to Landlord from time to time, may change the Unreserved Additional Number to any whole number from zero (0) to 14; provided further, however, that the Unreserved Additional Number shall be zero (0) unless the Unreserved Over-Standard Number is 29. Notwithstanding any contrary provision hereof, Landlord, in its sole and absolute discretion, and upon 30 days' notice to Tenant from time to time, may relocate any or all of the Unreserved Additional Number of unreserved parking spaces to the Adjacent Surface Lot, in which event, with respect to such unreserved parking spaces, the Adjacent Surface Lot shall be deemed to be part of the Parking Facility for purposes of Section 24.

Three (3) reserved parking spaces, at the rate of \$85.00 per space per month, as such rate may be adjusted from time to time to reflect Landlord's then current rates. For the avoidance of doubt, such reserved parking spaces are in addition to the unreserved parking spaces described above in this Section 1.9.

1.10 Address of Tenant:

Before the Commencement Date:

DLJ Financial, Inc.  
19500 Jamboree Blvd.  
Irvine, CA 92612

From and after the Commencement Date: the Premises

1.11 Address of Landlord: BRE/OC SCCC L.L.C.  
c/o Equity Office  
970 W. 190th Street, Suite 110  
Torrance, CA 90502  
Attn: Regional Finance Group - MLA

with copies to:

BRE/OC SCCC L.L.C.  
c/o Equity Office  
1810 Gateway Drive, Suite 230  
San Mateo, CA 94404  
Attn: Managing Counsel

and

BRE/OC SCCC L.L.C.  
c/o Equity Office  
222 S. Riverside Plaza, Suite 2000  
Chicago, IL 60606  
Attn: Lease Administration

1.12 Broker(s): Madison Street Partners, Inc., a California corporation ("Tenant's Broker"), representing Tenant, and Orion Property Partners, Inc., a California corporation ("Landlord's Broker"), representing Landlord.

1.13 Building HVAC Hours and Holidays: "Building HVAC Hours" means 8:00 a.m. to 6:00 p.m., Monday through Friday and 9:00 a.m. to 1:00 p.m. on Saturday, excluding the day of observation of New Year's Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and, at Landlord's discretion, any other locally or nationally recognized holiday that is observed by other Comparable Buildings (defined in Section 2.5.10) (collectively, "Holidays").

1.14 "Transfer Radius": None.

1.15 "Tenant Improvements": Defined in Exhibit B, if any.

1.16 "Guarantor": As of the date hereof, there is no Guarantor.

1.17 "Letter of Credit": Defined in Exhibit E.

## 2. PREMISES AND COMMON AREAS.

### 2.1 The Premises.

2.1.1 Subject to the terms hereof, Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord. Landlord and Tenant acknowledge that the rentable square footage of the Premises is as set forth in Section 1.2.2 and the rentable square footage of the Building is as set forth in Section 1.6; provided, however, that Landlord may from time to time re-measure the Premises and/or the Building in accordance with any generally accepted measurement standards selected by Landlord and adjust Tenant's Share based on such re-measurement; provided further, however, that any such re-measurement shall not affect the amount of Base Rent payable for, or the amount of any tenant allowance applicable to, the initial Term. At any time Landlord may deliver to Tenant a notice substantially in the form of Exhibit C, as a confirmation of the information set forth therein. Tenant shall execute and return (or, by notice to Landlord, reasonably object to) such notice within five (5) days after receiving it, and if Tenant fails to do so, Tenant shall be deemed to have executed and returned it without exception.

2.1.2 Except as expressly provided herein, the Premises are accepted by Tenant in their configuration and condition existing on the date hereof (or in such other configuration and condition as any existing tenant of the Premises may cause to exist in accordance with its lease), without any obligation of Landlord to perform or pay for any alterations to the Premises, and without any representation or warranty regarding the configuration or condition of the Premises, the Building or the

Project or their suitability for Tenant's business

2.2 Common Areas. Tenant may use, in common with Landlord and other parties and subject to the Rules and Regulations (defined in Exhibit D), any portions of the Property that are designated from time to time by Landlord for such use (the "Common Areas")

3. RENT. Tenant shall pay all Base Rent and Additional Rent (defined below) (collectively, "Rent") to Landlord or Landlord's agent, without prior notice or demand or any setoff or deduction, at the place Landlord may designate from time to time, in money of the United States of America that, at the time of payment, is legal tender for the payment of all obligations. As used herein, "Additional Rent" means all amounts, other than Base Rent, that Tenant is required to pay Landlord hereunder. Monthly payments of Base Rent and monthly payments of Additional Rent for Expenses (defined in Section 4.2.2), Taxes (defined in Section 4.2.3) and parking (collectively, "Monthly Rent") shall be paid in advance on or before the first day of each calendar month during the Term; provided, however, that the installment of Base Rent for the first full calendar month for which Base Rent is payable hereunder shall be paid upon Tenant's execution and delivery hereof. Except as otherwise provided herein, all other items of Additional Rent shall be paid within 30 days after Landlord's request for payment. Rent for any partial calendar month shall be prorated based on the actual number of days in such month. Without limiting Landlord's other rights or remedies, (a) if any installment of Rent is not received by Landlord or its designee within five (5) business days after its due date, Tenant shall pay Landlord a late charge equal to 5% of the overdue amount; and (b) any Rent that is not paid within 10 business days after its due date shall bear interest, from its due date until paid, at the lesser of 18% per annum or the highest rate permitted by Law (defined in Section 5). Tenant's covenant to pay Rent is independent of every other covenant herein

#### 4. EXPENSES AND TAXES.

4.1 General Terms. In addition to Base Rent, Tenant shall pay, in accordance with Section 4.1, for each Expense Year (defined in Section 4.2.1), an amount equal to the sum of (a) Tenant's Share of any amount (the "Expense Excess") by which Expenses for such Expense Year exceed Expenses for the Base Year, plus (b) Tenant's Share of any amount (the "Tax Excess") by which Taxes for such Expense Year exceed Taxes for the Base Year. No decrease in Expenses or Taxes for any Expense Year below the corresponding amount for the Base Year shall entitle Tenant to any decrease in Base Rent or any credit against amounts due hereunder. Tenant's Share of the Expense Excess and Tenant's Share of the Tax Excess for any partial Expense Year shall be prorated based on the number of days in such Expense Year.

4.2 Definitions. As used herein, the following terms have the following meanings:

4.2.1 "Expense Year" means each calendar year (other than the Base Year and any preceding calendar year) in which any portion of the Term occurs

4.2.2 "Expenses" means all expenses, costs and amounts that Landlord pays or accrues during the Base Year or any Expense Year because of or in connection with the management, maintenance, security, repair, replacement, restoration or operation of the Property. Landlord shall act in a reasonable manner in incurring Expenses. Expenses shall include (i) the cost of supplying all utilities, the cost of operating, repairing and maintaining the utility, telephone, mechanical, sanitary, storm-drainage, and elevator systems, and the cost of maintenance and service contracts in connection therewith; (ii) the cost of licenses, certificates, permits and inspections, the cost of contesting any Laws that may affect Expenses, and the costs of complying with any governmentally-mandated transportation-management or similar program; (iii) the cost of all insurance premiums and deductibles; (iv) the cost of landscaping and relandscaping; (v) the cost of parking-area operation, repair, restoration, and maintenance; (vi) a management fee in the amount (which is hereby acknowledged to be reasonable) of 3% of gross annual receipts from the Building (excluding the management fee), together with other fees and costs, including consulting fees, legal fees and accounting fees, of all contractors and consultants in connection with the management, operation, maintenance and repair of the Property; (vii) the fair rental value of any management office space; (viii) wages, salaries and other compensation, expenses and benefits, including taxes levied thereon, of all persons engaged in the operation, maintenance and security of the Property, and costs of training, uniforms, and employee enrichment for such persons; (ix) the costs of operation, repair, maintenance and replacement of all systems and equipment (and components thereof) of the Property (provided, however, that if any such cost would be deemed a capital expenditure under generally accepted accounting principles, then the determination of whether it may be included in Expenses shall be governed by clause (xii) below unless the item rented or acquired is not affixed to the Building and is used in performing normal repairs and maintenance of permanent systems or in providing janitorial or similar services); (x) the cost of janitorial, alarm, security and other services, replacement of wall and floor coverings, ceiling tiles and fixtures in Common Areas, maintenance and replacement of curbs and walkways, repair to roofs and re-roofing; (xi) rental or acquisition costs of supplies, tools, equipment, materials and personal property used in the maintenance, operation and repair of the Property; (xii) the cost of capital improvements or any other items that are (A) intended to reduce current or future Expenses, enhance the safety or security of the Property or its occupants, or (B) required under any Law

(except to the extent that such Law was in effect and required the installation of such capital improvements or other items before the date hereof), (xiii) [Intentionally Omitted]; and (xiv) payments under any existing or future reciprocal easement agreement, transportation management agreement, cost sharing agreement or other covenant, condition, restriction or similar instrument affecting the Property.

Notwithstanding the foregoing, Expenses shall not include:

(a) capital expenditures not described in clauses (xi) or (xii) above (in addition, any capital expenditure, as determined in accordance with GAAP, shall be included in Expenses only if paid or accrued after the Base Year and shall be amortized (including actual or imputed interest (but if imputed, then not exceeding 8.0% per annum) on the amortized cost) the lesser of (i) the useful life of the item purchased through such capital expenditure, as reasonably determined by Landlord, or (ii) the period of time that Landlord reasonably estimates will be required for any Expense savings resulting from such capital expenditure to equal such capital expenditure; provided, however, that any capital expenditure that is included in Expenses solely on the grounds that it is intended to reduce current or future Expenses shall be so amortized over the period of time described in the preceding clause (ii));

(b) depreciation;

(c) principal and interest payments of mortgage or other non-operating debts of Landlord;

(d) costs of repairs to the extent Landlord is reimbursed by insurance or condemnation proceeds;

(e) costs of leasing space in the Building, including costs of marketing and public relations, advertising and promotional expenses, attorney's fees, brokerage commissions, lease concessions, rental abatements and construction allowances granted to specific tenants, and costs (including permit, license and inspection costs) of renovating or otherwise improving, decorating, painting or redecorating (as distinguished from repairing) vacant space for tenants or other occupants of the Building (excluding Common Areas);

(f) costs of selling, financing or refinancing the Building;

(g) fines, penalties or interest resulting from late payment of Taxes or Expenses;

(h) organizational expenses of creating or operating the entity that constitutes Landlord;

(i) damages paid to Tenant hereunder or to other tenants of the Building under their respective leases;

(j) wages, salaries, fees or fringe benefits ("Labor Costs") paid to Landlord personnel above the level of general manager or property manager (provided, however, that if such individuals provide services directly related to the operation, maintenance or ownership of the Property that, if provided directly by a general manager or property manager or his or her general support staff, would normally be chargeable as an operating expense of a comparable office building, then the Labor Costs of such individuals may be included in Expenses to the extent of the percentage of their time that is spent providing such services to the Property);

(k) any management fee exceeding the amount described in clause (vi) above (it being agreed that, as used herein, "management fee" does not include any costs - such as salaries, hourly labor costs, and telephone bills - that would customarily be reimbursed to the manager under a third-party management agreement);

(l) amounts (other than management fees) paid to Landlord's affiliates for services, but only to the extent such amounts exceed the prices charged for such services by parties unaffiliated with Landlord having similar skill and experience;

(m) ground lease rental;

(n) rent for office space occupied by Building management personnel to the extent that (i) such rent exceeds the fair rental value of such office space, (ii) the size of such office space exceeds 2,000 rentable square feet, or (iii) such rent is otherwise not reasonably allocable to the Premises;

(o) costs of curing defects in design or original construction of the Property;

(p) costs of cleaning up Hazardous Materials, except for routine cleanup performed as part of the ordinary operation and maintenance of the Property (as used herein, "Hazardous Materials" means any material now or hereafter defined or regulated by any Law or governmental authority as radioactive, toxic, hazardous, or waste, or a chemical known to the state of California to cause cancer or reproductive toxicity, including (1) petroleum and any of its constituents or byproducts, (2) radioactive materials, (3) asbestos in any form or condition, and (4) materials regulated by any of the following, as amended from

time to time, and any rules promulgated thereunder: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §§6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. §§2601, et seq.; the Clean Water Act, 33 U.S.C. §§1251 et seq.; the Clean Air Act, 42 U.S.C. §§7401 et seq.; The California Health and Safety Code; The California Water Code; The California Labor Code; or The California Public Resources Code; and The California Fish and Game Code ).

(q) any expense for which Landlord is entitled to receive reimbursement from a third party (other than from a tenant of the Building pursuant to its lease), except to the extent it would not be fiscally prudent to pursue legal action to recover such expense;

(r) any expense for which Landlord is entitled to be reimbursed by another tenant of the Building pursuant to its lease (other than through payment of operating costs or expenses);

(s) costs of services or benefits, or of levels of services or benefits, made available to other tenants of the Building but not to Tenant without charge other than pursuant to this Section 4;

(t) Parking Expenses (defined below), except to the extent Parking Expenses exceed parking revenues on an annual basis (as used herein, "Parking Expenses" means costs of operating, maintaining and repairing the Parking Facility, including costs of parking equipment, tickets, supplies, signs, cleaning, resurfacing, restriping, parking-garage management fees, and the wages, salaries, employee benefits and taxes for individuals working exclusively in the Parking Facility; provided, however, that Parking Expenses shall exclude (i) capital expenses, and (ii) costs of electricity, janitorial service, elevator maintenance and insurance);

(u) advertising and promotional expenses;

(v) fines, penalties or other costs (other than insurance deductibles) resulting from any violations of Law, negligence or willful misconduct of Landlord or any of its employees, agents or contractors;

(w) Landlord's charitable and political contributions;

(x) costs of purchasing or leasing major sculptures, paintings or other artwork (as opposed to decorations purchased or leased by Landlord for display in the Common Areas of the Building);

(y) expenses (other than Parking Expenses) of operating any commercial concession at the Project;

(z) insurance deductibles other than (i) earthquake insurance deductibles up to the amount (the "Annual Limit") of 0.5% of the total insurable value of the Property per occurrence (provided, however, that, notwithstanding any contrary provision hereof, if, for any occurrence, the earthquake insurance deductible exceeds the Annual Limit, then, after such deductible is included (up to the Annual Limit) in Expenses for the applicable Expense Year, such excess may be included (up to the Annual Limit) in Expenses for the immediately succeeding Expense Year, and any portion of such excess that is not so included in Expenses for such immediately succeeding Expense Year may be included (up to the Annual Limit) in Expenses for the next succeeding Expense Year, and so on with respect to each Expense Year; provided further, however, that in no event shall the portions of such deductible that are included in Expenses for any one or more Expense Years exceed, in the aggregate, 5.0% of the total insurable value of the Property), and (ii) any other insurance deductibles up to \$100,000.00 per occurrence; or

(aa) reserves.

If, during any portion of the Base Year or any Expense Year, the Building is less than 95% occupied (or a service provided by Landlord to Tenant is not provided by Landlord to a tenant that provides such service itself, or any tenant of the Building is entitled to free rent, rent abatement or the like), Expenses for such year shall be determined as if the Building had been 95% occupied (and all services provided by Landlord to Tenant had been provided by Landlord to all tenants, and no tenant of the Building had been entitled to free rent, rent abatement or the like) during such portion of such year. If a tenant of the Building reimburses Landlord on a separately measured basis, and not through payment of operating costs or expenses, for a service that is provided by Landlord to Tenant without reimbursement outside of Expenses, then, for purposes of the preceding sentence, such service shall be deemed to be provided to such tenant by such tenant itself and not by Landlord. Notwithstanding any contrary provision hereof, Expenses for the Base Year shall exclude (a) any market-wide cost increases resulting from extraordinary circumstances, including Force Majeure (defined in Section 25.2), boycotts, strikes, conservation surcharges, embargoes or shortages, and (b) at Landlord's option, the cost of any repair or replacement that Landlord reasonably expects will not recur on an annual or more frequent basis.

If, in any Expense Year, Landlord provides a type of service (or incurs premiums for a type of insurance, such as earthquake insurance) for a period of time that is longer or shorter than that, if any, for

which Landlord provided substantially the same type of service (or incurred premiums for substantially the same type of insurance) during the Base Year, then, for purposes of determining the Expense Excess for such Expense Year, Expenses for the Base Year shall be increased or decreased, as appropriate, so that the total amount of Expenses for the Base Year is equal to what it would have been if Landlord had provided substantially the same type of service (or incurred premiums for substantially the same type of insurance) for the same period of time during the Base Year as that for which Landlord provided such type of service (or incurred premiums for such type of insurance) during such Expense Year (and all other components of Expenses for the Base Year had remained the same); provided, however, that to the extent that such type of service (or such type of insurance) is required by Law during such Expense Year but was not required by Law during the Base Year, Expenses for the Base Year shall not be increased to include the cost of such type of service (or such type of insurance). For purposes of the preceding sentence, time periods shall be measured in days in a 365-day year, and the shortest possible "period of time" shall be zero (0) days. This paragraph shall not apply to any insurance deductible.

4.2.3 "Taxes" means all federal, state, county or local governmental or municipal taxes, fees, charges, assessments, levies, licenses or other impositions, whether general, special, ordinary or extraordinary, that are paid or accrued during the Base Year or any Expense Year (without regard to any different fiscal year used by such governmental or municipal authority) because of or in connection with the ownership, leasing or operation of the Property. Taxes shall include (a) real estate taxes; (b) general and special assessments; (c) transit taxes; (d) leasehold taxes; (e) personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, systems, appurtenances, furniture and other personal property used in connection with the Property; (f) any tax on the rent, right to rent or other income from any portion of the Property or as against the business of leasing any portion of the Property; (g) any assessment, tax, fee, levy or charge imposed by any governmental agency, or by any non-governmental entity pursuant to any private cost-sharing agreement, in order to fund the provision or enhancement of any fire-protection, street-, sidewalk- or road-maintenance, refuse-removal or other service that is (or, before the enactment of Proposition 13, was) normally provided by governmental agencies to property owners or occupants without charge (other than through real property taxes); and (h) payments in lieu of taxes under any tax increment financing agreement, abatement agreement, agreement to construct improvements, or other agreement with any governmental body or agency or taxing authority. Any costs and expenses (including reasonable attorneys' and consultants' fees) incurred in attempting to protest, reduce or minimize Taxes shall be included in Taxes for the year in which they are incurred. Notwithstanding any contrary provision hereof, Taxes shall be determined without regard to any "green building" credit and shall exclude (i) all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, transfer taxes, estate taxes, federal and state income taxes, and other taxes to the extent (x) applicable to Landlord's general or net income (as opposed to rents, receipts or income attributable to operations at the Property), or (y) measured solely by the square footage, rent, fees, services, tenant allowances or similar amounts, rights or obligations described or provided in or under any particular lease, license or similar agreement or transaction at the Building; (ii) any Expenses, and (iii) any items required to be paid or reimbursed by Tenant under Section 4.5. Notwithstanding any contrary provision hereof, Taxes shall be calculated without taking into account any reduction achieved under California Revenue and Taxation Code § 51.

4.3 Allocation. Landlord, in its reasonable discretion, may equitably allocate Expenses among office, retail or other portions or occupants of the Property. If Landlord incurs Expenses or Taxes for the Property together with another property, Landlord, in its reasonable discretion, shall equitably allocate such shared amounts between the Property and such other property.

#### 4.4 Calculation and Payment of Expense Excess and Tax Excess

4.4.1 Statement of Actual Expenses and Taxes; Payment by Tenant. Landlord shall give to Tenant, after the end of each Expense Year, a statement (the "Statement") setting forth the actual Expenses, Taxes, Expense Excess and Tax Excess for such Expense Year. If the amount paid by Tenant for such Expense Year pursuant to Section 4.4.2 is less or more than the sum of Tenant's Share of the actual Expense Excess plus Tenant's Share of the actual Tax Excess (as such amounts are set forth in such Statement), Tenant shall pay Landlord the amount of such underpayment, or receive a credit in the amount of such overpayment, with or against the Rent then or next due hereunder; provided, however, that if this Lease has expired or terminated and Tenant has vacated the Premises, Tenant shall pay Landlord the amount of such underpayment, or Landlord shall pay Tenant the amount of such overpayment (less any Rent due), within 30 days after delivery of such Statement. Any failure of Landlord to timely deliver the Statement for any Expense Year shall not diminish either party's rights under this Section 4.

4.4.2 Statement of Estimated Expenses and Taxes. Landlord shall give to Tenant, for each Expense Year, a statement (the "Estimate Statement") setting forth Landlord's reasonable estimates of the Expenses, Taxes, Expense Excess (the "Estimated Expense Excess") and Tax Excess (the "Estimated Tax Excess") for such Expense Year. Upon receiving an Estimate Statement, Tenant shall pay, with its next installment of Base Rent, an amount equal to the excess of (a) the amount obtained by multiplying (i) the sum of Tenant's Share of the Estimated Expense Excess plus Tenant's Share of

the Estimated Tax Excess (as such amounts are set forth in such Estimate Statement), by (ii) a fraction, the numerator of which is the number of months that have elapsed in the applicable Expense Year (including the month of such payment) and the denominator of which is 12, over (b) any amount previously paid by Tenant for such Expense Year pursuant to this Section 4.3. Until Landlord delivers a new Estimate Statement (which Landlord may do at any time), Tenant shall pay monthly, with the monthly Base Rent installments, an amount equal to one-twelfth (1/12) of the sum of Tenant's Share of the Estimated Expense Excess plus Tenant's Share of the Estimated Tax Excess, as such amounts are set forth in the previous Estimate Statement. Any failure of Landlord to timely deliver any Estimate Statement shall not diminish Landlord's rights to receive payments and revise any previous Estimate Statement under this Section 4.

4.4.3 **Retraactive Adjustment of Taxes.** Notwithstanding any contrary provision hereof, but subject to the last sentence of Section 4.2.3, if, after Landlord's delivery of any Statement, an increase or decrease in Taxes occurs for the applicable Expense Year or for the Base Year (whether by reason of reassessment, error, or otherwise), Taxes for such Expense Year or the Base Year, as the case may be, and the Tax Excess for such Expense Year shall be retroactively adjusted. If, as a result of such adjustment, it is determined that Tenant has under- or overpaid Tenant's Share of such Tax Excess, Tenant shall pay Landlord the amount of such underpayment, or receive a credit in the amount of such overpayment, with or against the Rent then or next due hereunder; provided, however, that if this Lease has expired or terminated and Tenant has vacated the Premises, Tenant shall pay Landlord the amount of such underpayment, or Landlord shall pay Tenant the amount of such overpayment (less any Rent due), within 30 days after such adjustment is made.

4.5 **Charges for Which Tenant Is Directly Responsible.** Notwithstanding any contrary provision hereof, Tenant, promptly upon demand, shall pay (or if paid by Landlord, reimburse Landlord for) each of the following to the extent levied against Landlord or Landlord's property: (a) any tax based upon or measured by (i) the cost or value of Tenant's trade fixtures, equipment, furniture or other personal property, or (ii) the cost or value of the Leasehold Improvements (defined in Section 7.1) to the extent such cost or value exceeds that of a Building-standard build-out, as determined by Landlord; (b) any rent tax, sales tax, service tax, transfer tax, value added tax, use tax, business tax, gross income tax, gross receipts tax, or other tax, assessment, fee, levy or charge measured solely by the square footage, Rent, services, tenant allowances or similar amounts, rights or obligations described or provided in or under this Lease; (c) any tax assessed upon the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of any portion of the Property; and (d) any tax assessed on this transaction or on any document to which Tenant is a party that creates an interest or estate in the Premises.

4.6 **Books and Records.** Within 120 days after receiving any Statement (the "Review Notice Period"), Tenant may give Landlord notice ("Review Notice") stating that Tenant elects to review Landlord's calculation of the Expense Excess and/or Tax Excess for the Expense Year to which such Statement applies and identifying with reasonable specificity the records of Landlord reasonably relating to such matters that Tenant desires to review. Within a reasonable time after receiving a timely Review Notice (and, at Landlord's option, an executed confidentiality agreement as described below), Landlord shall deliver to Tenant, or make available for inspection at a location reasonably designated by Landlord, copies of such records. Within 60 days after such records are made available to Tenant (the "Objection Period"), Tenant may deliver to Landlord notice (an "Objection Notice") stating with reasonable specificity any objections to the Statement, in which event Landlord and Tenant shall work together in good faith to resolve Tenant's objections. Tenant may not deliver more than one Review Notice or more than one Objection Notice with respect to any Statement, except to the extent such Statement may be updated or revised by Landlord. If Tenant fails to give Landlord a Review Notice before the expiration of the Review Notice Period or fails to give Landlord an Objection Notice before the expiration of the Objection Period, Tenant shall be deemed to have approved the Statement. Notwithstanding any contrary provision hereof, Landlord shall not be required to deliver or make available to Tenant records relating to the Base Year more than one (1) time or in connection with any review performed by Tenant with respect to any Expense Year following the Last Eligible Expense Year (defined below). As used herein, "Last Eligible Expense Year" means the fourth (4th) Expense Year following the Base Year; provided, however, that if Expenses or Taxes for the Base Year are adjusted after Tenant receives the Statement for the first (1st) Expense Year following the Base Year, then, solely with respect to Landlord's records relating to such adjustment, the Last Eligible Expense Year shall be the fourth (4th) Expense Year beginning after Tenant receives notice of such adjustment. If Tenant retains an agent to review Landlord's records, the agent must be with a CPA licensed to do business in the State of California and at least a material portion of his or her fees shall not be contingent upon the outcome of the review. Tenant shall be responsible for all costs of such review. The records and any related information obtained from Landlord shall be treated as confidential and as applicable only to the Premises by Tenant, its auditors, consultants, and any other parties reviewing the same on behalf of Tenant (collectively, "Tenant's Auditors"). Before making any records available for review, Landlord may require Tenant and Tenant's Auditors to execute a commercially reasonable confidentiality agreement, in which event Tenant shall cause the same to be executed and delivered to Landlord within 30 days after receiving it from Landlord, and if Tenant fails to do so, the Objection Period shall be reduced by one day for each day by which

such execution and delivery follows the expiration of such 30-day period. Notwithstanding any contrary provision hereof, Tenant may not examine Landlord's records or dispute any Statement if any Rent remains unpaid past its due date. If, for any Expense Year, Landlord and Tenant determine that the sum of Tenant's Share of the actual Expense Excess plus Tenant's Share of the actual Tax Excess is less or more than the amount reported, Tenant shall receive a credit in the amount of its overpayment, or pay Landlord the amount of its underpayment, against or with the Rent next due hereunder; provided, however, that if this Lease has expired or terminated and Tenant has vacated the Premises, Landlord shall pay Tenant the amount of its overpayment (less any Rent due), or Tenant shall pay Landlord the amount of its underpayment, within 30 days after such determination.

**5 USE; COMPLIANCE WITH LAWS.** Tenant shall not (a) use the Premises for any purpose other than the Permitted Use, or (b) do anything in or about the Premises that violates any of the Rules and Regulations, damages the reputation of the Project, interferes with, injures or annoys other occupants of the Project, or constitutes a nuisance. Tenant, at its expense, shall comply with all Laws relating to (i) the operation of its business at the Project, (ii) the use, condition, configuration or occupancy of the Premises, (iii) any Supplemental Systems (defined below) serving the Premises, whether located inside or outside of the Premises, or (iv) the portions of Base Building Systems (defined below) located in the Premises. If, in order to comply with any such Law, Tenant must obtain or deliver any permit, certificate or other document evidencing such compliance, Tenant shall provide a copy of such document to Landlord promptly after obtaining or delivering it. If a change to any Common Area or the Base Building (other than any portion of a Base Building System located in the Premises) becomes required under Law (or if any such requirement is enforced) as a result of any Tenant-Insured Improvement (defined in Section 10.2.2), the installation of any trade fixture, or any particular use of the Premises (as distinguished from general office use), then Tenant, upon demand, shall (x) at Landlord's option, either make such change at Tenant's cost or pay Landlord the cost of making such change, and (y) pay Landlord a coordination fee equal to 5% of the cost of such change. As used herein, "Law" means any existing or future law, ordinance, regulation or requirement of any governmental authority having jurisdiction over the Project or the parties. As used herein, "Supplemental System" means any Unit (defined in Section 25.3), supplemental fire-suppression system, kitchen (including any hot water heater, dishwasher, garbage disposal, insta-hot dispenser, or plumbing), shower or similar facility, or any other system that would not customarily be considered part of the base building of a first-class multi-tenant office building. As used herein, "Base Building System" means any mechanical (including HVAC), electrical, plumbing or fire/life-safety system serving the Building, other than a Supplemental System. As used herein, "Base Building" means the structural portions of the Building, together with the Base Building Systems.

## **6 SERVICES.**

**6.1 Standard Services.** Landlord shall provide the following services on all days (unless otherwise stated below): (a) subject to limitations imposed by Law, customary heating, ventilation and air conditioning ("HVAC") in season during Building HVAC Hours, stubbed to the Premises; (b) electricity supplied by the applicable public utility, stubbed to the Premises; (c) water supplied by the applicable public utility (i) for use in lavatories and any drinking facilities located in Common Areas within the Building, and (ii) stubbed to the Building core for use in any plumbing fixtures located in the Premises; (d) janitorial services to the Premises, except on weekends and Holidays; and (e) elevator service (subject to scheduling by Landlord, and payment of Landlord's standard usage fee, for any freight service).

**6.2 Above-Standard Use.** Landlord shall provide HVAC service outside Building HVAC Hours if Tenant gives Landlord such prior notice and pays Landlord such hourly cost per zone as Landlord may require. The parties acknowledge that, as of the date hereof, Landlord's charge for HVAC service outside Building HVAC Hours is \$65.00 per hour per zone with a two (2) hour minimum, subject to increase from time to time to reflect any increase in Landlord's actual cost of providing such excess service, excluding any profit or overhead but including any increased cost of wear and tear on Landlord's equipment. Tenant shall not, without Landlord's prior consent, use equipment that may affect the temperature maintained by the air conditioning system or consume above-Building-standard amounts of any water furnished for the Premises by Landlord pursuant to Section 6.1. If Tenant's consumption of electricity or water exceeds the rate Landlord reasonably deems to be standard for the Building, Tenant shall pay Landlord, upon billing, the cost of such excess consumption, including any costs of installing, operating and maintaining any equipment that is installed in order to supply or measure such excess electricity or water. For purposes of the preceding sentence, any consumption of electricity in a computer server room shall be deemed to exceed the standard rate for the Building. The connected electrical load of Tenant's incidental-use equipment shall not exceed the Building-standard electrical design load, and Tenant's electrical usage shall not exceed the capacity of the feeders to the Project or the risers or wiring installation.

**6.3 Interruption.** Subject to Section 11, any failure to furnish, delay in furnishing, or diminution in the quality or quantity of any service resulting from any application of Law, failure of equipment, performance of maintenance, repairs, improvements or alterations, utility interruption, or event of Force Majeure (each, a "Service Interruption") shall not render Landlord liable to



Tenant, constitute a constructive eviction, or excuse Tenant from any obligation hereunder. Notwithstanding the foregoing, if all or a material portion of the Premises is made untenable or inaccessible for more than five (5) consecutive business days after notice from Tenant to Landlord by a Service Interruption that (a) does not result from a Casualty (defined in Section 11), a Taking (defined in Section 13) or an Act of Tenant (defined in Section 10 J), and (b) can be corrected through Landlord's reasonable efforts, then, as Tenant's sole remedy, Monthly Rent shall abate for the period beginning on the day immediately following such 5-business-day period and ending on the day such Service Interruption ends, but only in proportion to the percentage of the rentable square footage of the Premises made untenable or inaccessible and not occupied by Tenant.

## **7 REPAIRS AND ALTERATIONS.**

**7.1 Repairs.** Subject to Section 14, Tenant, at its expense, shall perform all maintenance and repairs (including replacements) to the Premises, and keep the Premises in as good condition and repair as existed when Tenant took possession and as thereafter improved, except for reasonable wear and tear and repairs that are Landlord's express responsibility hereunder. Tenant's maintenance and repair obligations shall include (a) all leasehold improvements in the Premises, including any Tenant Improvements, any Alterations (defined in Section 7.2), and any leasehold improvements installed pursuant to any prior lease (the "Leasehold Improvements"), but excluding the Base Building; (b) any Supplemental Systems serving the Premises, whether located inside or outside of the Premises; and (c) all Lines (defined in Section 2.3) and trade fixtures. Notwithstanding the foregoing, if a Default (defined in Section 19.1) or an emergency exists, Landlord may, at its option, perform such maintenance and repairs on Tenant's behalf, in which case Tenant shall pay Landlord, upon demand, the cost of such work plus a coordination fee equal to 5% of such cost. Landlord shall perform all maintenance and repairs to (i) the roof and exterior walls and windows of the Building, (ii) the Base Building, and (iii) the Common Areas.

**7.2 Alterations.** Tenant may not make any improvement, alteration, addition or change to the Premises or to any mechanical, plumbing or HVAC facility or other system serving the Premises (an "Alteration") without Landlord's prior consent, which consent shall be requested by Tenant not less than 30 days before commencement of work and shall not be unreasonably withheld by Landlord. Notwithstanding the foregoing, Landlord's prior consent shall not be required for any Alteration that is decorative only (e.g., carpet installation or painting) and not visible from outside the Premises, provided that Landlord receives 10 business days' prior notice. For any Alteration, (a) Tenant, before beginning work, shall deliver to Landlord, and obtain Landlord's approval of, plans and specifications; (b) Landlord, in its discretion, may require Tenant to obtain security for performance satisfactory to Landlord; (c) Tenant shall deliver to Landlord "as built" drawings (in CAD format, if requested by Landlord), completion affidavits, full and final lien waivers, and all governmental approvals; and (d) Tenant shall pay Landlord upon demand (i) Landlord's reasonable out-of-pocket expenses incurred in reviewing the work, and (ii) a coordination fee equal to 10% of the cost of the work; provided, however, that this clause (d) shall not apply to any Tenant Improvements.

**7.3 Tenant Work.** Before beginning any repair or Alteration or any work affecting Lines (collectively, "Tenant Work"), Tenant shall deliver to Landlord, and obtain Landlord's approval of, (a) names of contractors, subcontractors, mechanics, laborers and materialmen; (b) evidence of contractors' and subcontractors' insurance; and (c) any required governmental permits. Tenant shall perform all Tenant Work (i) in a good and workmanlike manner using materials of a quality reasonably approved by Landlord; (ii) in compliance with any approved plans and specifications, all Laws, the National Electric Code, and Landlord's construction rules and regulations; and (iii) in a manner that does not impair the Base Building. If, as a result of any Tenant Work, Landlord becomes required under Law to perform any inspection, give any notice, or cause such Tenant Work to be performed in any particular manner, Tenant shall comply with such requirement and promptly provide Landlord with reasonable documentation of such compliance. Landlord's approval of Tenant's plans and specifications shall not relieve Tenant from any obligation under this Section 7.3. In performing any Tenant Work, Tenant shall not use contractors, services, labor, materials or equipment that, in Landlord's reasonable judgment, would disturb labor harmony with any workforce or trades engaged in performing other work or services at the Project.

**8 LANDLORD'S PROPERTY.** All Leasehold Improvements shall become Landlord's property upon installation and without compensation to Tenant. Notwithstanding the foregoing, if any Tenant-Insured Improvements (other than any Unit, which shall be governed by Section 25.5, and other than any Excluded Items (defined below)) are not, in Landlord's reasonable judgment, Building-standard, then before the expiration or earlier termination hereof, Tenant shall, at Landlord's election, either (a) at Tenant's expense, and except as otherwise notified by Landlord, remove such Tenant-Insured Improvements, repair any resulting damage to the Premises or Building, and restore the affected portion of the Premises to its configuration and condition existing before the installation of such Tenant-Insured Improvements (or, at Landlord's election, to a Building-standard tenant-improved configuration and condition as determined by Landlord), or (b) pay Landlord an amount equal to the estimated cost of such work, as reasonably determined by Landlord. If Tenant fails to timely perform any work required under clause (a) of the preceding sentence, Landlord may perform such work at Tenant's expense. If Tenant

provides Landlord with a reasonably specific description of any proposed Tenant Improvements or Alterations, together with a specific request that Landlord identify any such Tenant Improvements or Alterations that, in Landlord's judgment, are not Building-standard. Landlord, within 15 business days after receiving such description and request (or, if Tenant, when providing such description and request, also requests Landlord's consent to such Tenant Improvements or Alterations and if earlier than not later than when providing such consent), shall provide such identification to Tenant. As used herein, "Excluded Items" means the Tenant Improvements shown with reasonable specificity in the Approved Space Plan (defined in Section 2.3 of Exhibit B) existing on the date hereof.

9. **LIENS.** Tenant shall keep the Project free from any lien arising out of any work performed, material furnished or obligation incurred by or on behalf of Tenant. Tenant shall remove any such lien within 10 business days after notice from Landlord, and if Tenant fails to do so, Landlord, without limiting its remedies, may pay the amount necessary to cause such removal, whether or not such lien is valid. The amount so paid, together with reasonable attorneys' fees and expenses, shall be reimbursed by Tenant upon demand.

#### 10. INDEMNIFICATION; INSURANCE.

10.1 **Waiver and Indemnification.** Tenant waives all claims against Landlord, its Security Holders (defined in Section 1.7), Landlord's managing agent(s), their (direct or indirect) owners, and the beneficiaries, trustees, officers, directors, employees and agents of each of the foregoing (including Landlord, the "Landlord Parties") for (i) any damage to person or property (or resulting from the loss of use thereof), except to the extent such damage is caused by any gross negligence, willful misconduct or breach of this Lease of or by any Landlord Party, or (ii) any failure to prevent or control any criminal or otherwise wrongful conduct by any third party or to apprehend any third party who has engaged in such conduct. Tenant shall indemnify, defend, protect, and hold the Landlord Parties harmless from any obligation, loss, claim, action, liability, penalty, damage, cost or expense (including reasonable attorneys' and consultants' fees and expenses) (each, a "Claim") that is imposed or assessed by any third party and arises from (a) any cause in, on or about the Premises, or (b) any negligence, willful misconduct or breach of this Lease of or by Tenant, any party claiming by, through or under Tenant, their (direct or indirect) owners, or any of their respective beneficiaries, trustees, officers, directors, employees, agents, contractors, licensees or invitees (each, an "Act of Tenant"), except to the extent such Claim arises from any gross negligence, willful misconduct or breach of this Lease of or by any Landlord Party.

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

10.2.1 Commercial General Liability Insurance covering claims of bodily injury, personal injury and property damage arising out of Tenant's operations and contractual liabilities, including coverage formerly known as broad form, on an occurrence basis, with combined primary and excess/umbrella limits of at least \$3,000,000 each occurrence and \$4,000,000 annual aggregate.

10.2.2 Property Insurance covering (i) all office furniture, trade fixtures, office equipment, free-standing cabinet work, movable partitions, merchandise and all other items of Tenant's property in the Premises installed by, for, or at the expense of Tenant, and (ii) any Leasehold Improvements installed by or for the benefit of Tenant, whether pursuant to this Lease or pursuant to any prior lease or other agreement to which Tenant was a party ("Tenant-Insured Improvements"). Such insurance shall be written on a special cause of loss or all risk form for physical loss or damage, for the full replacement cost value (subject to reasonable deductible amounts) new without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance, and shall include coverage for damage or other loss caused by fire or other peril, including vandalism and malicious mischief, theft, water damage of any type, including sprinkler leakage, bursting or stoppage of pipes, and explosion, and providing business interruption coverage for a period of one year.

10.2.3 Workers' Compensation statutory limits and Employers' Liability limits of \$1,000,000.

10.3 **Form of Policies.** The minimum limits of insurance required to be carried by Tenant shall not limit Tenant's liability. Such insurance shall be issued by an insurance company that has an A.M. Best rating of not less than A-VIII. Tenant's Commercial General Liability Insurance shall (a) name the Landlord Parties and any other party designated by Landlord ("Additional Insured Parties") as additional insureds; and (b) be primary insurance as to all claims thereunder and provide that any insurance carried by Landlord is excess and non-contributing with Tenant's insurance. Landlord shall be designated as a loss payee with respect to Tenant's Property Insurance on any Tenant-Insured Improvements. Tenant shall deliver to Landlord, on or before the Commencement Date and at least 15 days before the expiration dates thereof, certificates from Tenant's insurance company on the forms currently designated "ACORD 25" (Certificate of Liability Insurance) and "ACORD 28" (Evidence of Commercial Property Insurance) or the equivalent. Attached to the ACORD 25 (or equivalent) there shall be an endorsement (or an excerpt from the policy) naming the Additional Insured Parties as additional

insureds, and attached to the ACORD 28 (or equivalent) there shall be an endorsement (or an excerpt from the policy) designating Landlord as a loss payee with respect to Tenant's Property Insurance on any Tenant-Insured Improvements, and each such endorsement (or policy excerpt) shall be binding on Tenant's insurance company.

**10.4 Subrogation.** Each party waives, and shall cause its insurance carrier to waive, any right of recovery against the other party, any of its (direct or indirect) owners, or any of their respective beneficiaries, trustees, officers, directors, employees or agents for any loss of or damage to property which loss or damage is not, if the insurance required hereunder had been carried, would have been covered by the waiving party's property insurance. For purposes of this Section 10.4 only, (a) any deductible with respect to a party's insurance shall be deemed covered by, and recoverable by such party under, valid and collectable policies of insurance, and (b) any contractor retained by Landlord to install, maintain or monitor a fire or security alarm for the Building shall be deemed an agent of Landlord.

**10.5 Additional Insurance Obligations.** Tenant shall maintain such increased amounts of the insurance required to be carried by Tenant under this Section 10, and such other types and amounts of insurance covering the Premises and Tenant's operations therein, as may be reasonably requested by Landlord, but not in excess of the amounts and types of insurance then being required by landlords of Comparable Buildings.

**11 CASUALTY DAMAGE.** With reasonable promptness after discovering any damage to the Premises (other than trade fixtures), or to any Common Area or portion of the Base Building necessary for access to or tenability of the Premises, resulting from any fire or other casualty (a "Casualty"), Landlord shall notify Tenant of Landlord's reasonable estimate of the time required to substantially complete repair of such damage (the "Landlord Repairs"). If, according to such estimate, the Landlord Repairs cannot be substantially completed within 210 days after they are commenced, either party may terminate this Lease upon 45 days' notice to the other party delivered within 10 days after Landlord's delivery of such estimate. Within 90 days after discovering any damage to the Project resulting from any Casualty, Landlord may, whether or not the Premises are affected, terminate this Lease by notifying Tenant if (i) any Security Holder terminates any ground lease or requires that any insurance proceeds be used to pay any mortgage debt; (ii) any damage to Landlord's property is not fully covered by Landlord's insurance policies plus any applicable deductibles (other than deductibles with respect to earthquake damage); (iii) Landlord decides to rebuild the Building or Common Areas so that it or they will be substantially different structurally or architecturally; or (iv) the damage occurs during the last 12 months of the Term and Landlord's estimate indicates that the Landlord Repairs cannot be substantially completed within the period beginning on the date of the Casualty and having a duration equal to 25% of the balance of the Term remaining on such date; provided, however, that Landlord may not terminate this Lease pursuant to the preceding clauses (i), (ii) or (iii) unless the Premises have been materially damaged or Landlord also exercises all rights it may have acquired as a result of the Casualty to terminate any other leases of space in the Building. If this Lease is not terminated pursuant to this Section 11, Landlord shall promptly and diligently perform the Landlord Repairs, subject to reasonable delays for insurance adjustment and other events of Force Majeure. The Landlord Repairs shall restore the Premises (other than trade fixtures) and any Common Area or portion of the Base Building necessary for access to or tenability of the Premises to substantially the same condition that existed when the Casualty occurred, except for (a) any modifications required by Law or any Security Holder, and (b) any modifications to the Common Areas that are deemed desirable by Landlord, are consistent with the character of the Project, and do not materially impair access to or tenability of the Premises. Notwithstanding Section 10.4, Tenant shall assign to Landlord (or its designee) all insurance proceeds payable to Tenant under Tenant's insurance required under Section 10.2 with respect to any Tenant-Insured Improvements, and if the estimated or actual cost of restoring any Tenant-Insured Improvements exceeds the insurance proceeds received by Landlord from Tenant's insurance carrier, Tenant shall pay such excess to Landlord within 15 days after Landlord's demand. No Casualty and no restoration performed as required hereunder shall render Landlord liable to Tenant, constitute a constructive eviction, or excuse Tenant from any obligation hereunder; provided, however, that if the Premises (other than trade fixtures) or any Common Area or portion of the Base Building necessary for access to or tenability of the Premises is damaged by a Casualty, then, during any time that, as a result of such damage, any portion of the Premises is inaccessible or untenable and is not occupied by Tenant, Monthly Rent shall be abated in proportion to the rentable square footage of such portion of the Premises. If Landlord does not substantially complete the Landlord Repairs by the Outside Restoration Date (defined below), Tenant may terminate this Lease by notifying Landlord within 15 days after the Outside Restoration Date and before the substantial completion of the Landlord Repairs. As used herein, "Outside Restoration Date" means the date occurring two (2) months after the later of (a) the expiration of the time set forth in Landlord's estimate described in the first sentence of this Section 11, or (b) the date occurring 210 days after the commencement of the Landlord Repairs; provided, however, that the Outside Restoration Date shall be extended to the extent of (i) any delay caused by the insurance adjustment process, (ii) any delay caused by Tenant or any party claiming by, through or under Tenant, and (iii) any other delay caused by events of Force Majeure. Notwithstanding the foregoing, if Landlord determines in good faith that it will be unable to substantially complete the Landlord Repairs by the Outside Restoration Date, Landlord may cease its performance of the Landlord Repairs and provide Tenant with notice (the "Restoration Date

Extension Notice") stating such inability and identifying the date on which Landlord reasonably believes such substantial completion will occur, in which event Tenant may terminate this Lease by notifying Landlord within five (5) business days after receiving the Restoration Date Extension Notice. If Tenant does not terminate this Lease within such 5-business day period, the Outside Restoration Date shall be automatically amended to be the date identified in the Restoration Date Extension Notice.

**12 NONWAIVER.** No provision hereof shall be deemed waived by either party unless it is waived by such party expressly and in writing, and no waiver of any breach of any provision hereof shall be deemed a waiver of any subsequent breach of such provision or any other provision hereof. Landlord's acceptance of Rent shall not be deemed a waiver of any preceding breach of any provision hereof, other than Tenant's failure to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of such acceptance. No acceptance of payment of an amount less than the Rent due hereunder shall be deemed a waiver of Landlord's right to receive the full amount of Rent due, whether or not any endorsement or statement accompanying such payment purports to effect an accord and satisfaction. No receipt of monies by Landlord from Tenant after the giving of any notice, the commencement of any suit, the issuance of any final judgment, or the termination hereof shall affect such notice, suit or judgment, or reinstate or extend the Term or Tenant's right of possession hereunder.

**13 CONDEMNATION.** If any part of the Premises, Building or Project is taken for any public or quasi-public use by power of eminent domain or by private purchase in lieu thereof (a "Taking") for more than 120 consecutive days, Landlord may terminate this Lease. If more than 25% of the rentable square footage of the Premises, or any Common Area or portion of the Base Building necessary for access to or tenability of the Premises, is Taken for more than 120 consecutive days, Tenant may terminate this Lease. Any such termination shall be effective as of the date possession must be surrendered to the authority, and the terminating party shall provide termination notice to the other party within 45 days after receiving written notice of such surrender date. Except as provided above in this Section 13, neither party may terminate this Lease as a result of a Taking. Tenant shall not assert, and hereby assigns to Landlord, any claim it may have for compensation because of any Taking; provided, however, that Tenant may file a separate claim for any Taking of Tenant's personal property or any trade fixtures that Tenant is entitled to remove upon the expiration hereof, and for moving expenses, so long as such claim does not diminish the award available to Landlord or any Security Holder and is payable separately to Tenant. If this Lease is terminated pursuant to this Section 13, all Rent shall be apportioned as of the date of such termination. If a Taking occurs and this Lease is not so terminated, Monthly Rent shall be abated for the period of such Taking in proportion to the percentage of the rentable square footage of the Premises, if any, that is subject to, or rendered inaccessible or untenable by, such Taking and not occupied by Tenant.

#### **14 ASSIGNMENT AND SUBLETTING.**

**14.1 Transfers.** Tenant shall not, without Landlord's prior consent, assign, mortgage, pledge, hypothecate, encumber, permit any lien to attach to, or otherwise transfer this Lease or any interest hereunder, permit any assignment or other transfer hereof or any interest hereunder by operation of law, enter into any sublease or license agreement, otherwise permit the occupancy or use of any part of the Premises by any persons other than Tenant and its employees and contractors, or permit a Change of Control (defined in Section 14.6) to occur (each, a "Transfer"). If Tenant desires Landlord's consent to any Transfer, Tenant shall provide Landlord with (i) notice of the terms of the proposed Transfer, including its proposed effective date (the "Contemplated Effective Date"), a description of the portion of the Premises to be transferred (the "Contemplated Transfer Space"), a calculation of the Transfer Premium (defined in Section 14.3), and a copy of all existing executed and/or proposed documentation pertaining to the proposed Transfer, and (ii) current financial statements of the proposed transferee (or, in the case of a Change of Control, of the proposed new controlling party(ies)) certified by an officer or owner thereof and any other information reasonably required by Landlord in order to evaluate the proposed Transfer (collectively, the "Transfer Notice"). Within 30 days after receiving the Transfer Notice, Landlord shall notify Tenant of (a) its consent to the proposed Transfer, (b) its refusal to consent to the proposed Transfer, or (c) its exercise of its rights under Section 14.4. Any Transfer made without Landlord's prior consent shall, at Landlord's option, be void and shall, at Landlord's option, constitute a Default. Tenant shall pay Landlord a fee of \$1,000.00 for Landlord's review of any proposed Transfer, whether or not Landlord consents to it.

**14.2 Landlord's Consent.** Subject to Section 14.4, Landlord shall not unreasonably withhold its consent to any proposed Transfer. Without limiting other reasonable grounds for withholding consent, it shall be deemed reasonable for Landlord to withhold its consent to a proposed Transfer if:

**14.2.1** The proposed transferee is not a party of reasonable financial strength in light of the responsibilities to be undertaken in connection with the Transfer on the date the Transfer Notice is received; or

**14.2.2** The proposed transferee has a character or reputation or is engaged in a business that is not consistent with the quality of the Building or the Project; or

14.2.3 The proposed transferee is a governmental entity or a nonprofit organization; or

14.2.4 [Intentionally Omitted]; or

14.2.5 The proposed transferee or any of its Affiliates, on the date the Transfer Notice is received, leases or occupies (or, at any time during the 6-month period ending on the date the Transfer Notice is received, has negotiated with Landlord to lease) space in the Project

Notwithstanding any contrary provision hereof, (a) if Landlord consents to any Transfer pursuant to this Section 14.2 but Tenant does not enter into such Transfer within six (6) months thereafter, such consent shall no longer apply and such Transfer shall not be permitted unless Tenant again obtains Landlord's consent thereto pursuant and subject to the terms of this Section 14; and (b) if Landlord withholds its consent in breach of this Section 14.2, Tenant's sole remedies shall be contract damages (subject to Section 20) or specific performance, and Tenant waives all other remedies, including any right to terminate this Lease

14.3 Transfer Premium. If Landlord consents to a Transfer (other than a Change of Control), Tenant shall pay Landlord an amount equal to 75% of any Transfer Premium (defined below). As used herein, "Transfer Premium" means (a) in the case of an assignment, any consideration (including payment for Leasehold Improvements) paid by the assignee for such assignment, and (b) in the case of a sublease, license or other occupancy agreement, for each month of the term of such agreement, the amount by which all rent and other consideration paid by the transferee to Tenant pursuant to such agreement exceeds the Monthly Rent payable by Tenant hereunder with respect to the Contemplated Transfer Space. Payment of Landlord's share of the Transfer Premium shall be made (x) in the case of an assignment, within 10 days after Tenant receives the consideration described above, and (y) in the case of a sublease, license or other occupancy agreement, for each month of the term of such agreement, within five (5) business days after Tenant receives the rent and other consideration described above

14.4 Landlord's Right to Recapture. Notwithstanding any contrary provision hereof, except in the case of a Permitted Transfer (defined in Section 14.8), Landlord, by notifying Tenant within 30 days after receiving the Transfer Notice, may terminate this Lease with respect to the Contemplated Transfer Space as of the Contemplated Effective Date. If the Contemplated Transfer Space is less than the entire Premises, then Base Rent, Tenant's Share, and the number of parking spaces to which Tenant is entitled under Section 1.9 shall be deemed adjusted on the basis of the percentage of the rentable square footage of the portion of the Premises retained by Tenant. Upon request of either party, the parties shall execute a written agreement prepared by Landlord memorializing such termination

14.5 Effect of Consent. If Landlord consents to a Transfer, (i) such consent shall not be deemed a consent to any further Transfer, (ii) Tenant shall deliver to Landlord, promptly after execution, an executed copy of all documentation pertaining to the Transfer in form reasonably acceptable to Landlord, and (iii) Tenant shall deliver to Landlord, upon Landlord's request, a complete statement, certified by an independent CPA or Tenant's chief financial officer, setting forth in detail the computation of any Transfer Premium. In the case of an assignment, the assignee shall assume in writing, for Landlord's benefit, all of Tenant's obligations hereunder. No Transfer, with or without Landlord's consent, shall relieve Tenant or any guarantor hereof from any liability hereunder. Notwithstanding any contrary provision hereof, Tenant, with or without Landlord's consent, shall not enter into, or permit any party claiming by, through or under Tenant to enter into, any sublease, license or other occupancy agreement that provides for payment based in whole or in part on the net income or profit of the subtenant, licensee or other occupant thereunder.

14.6 Change of Control. As used herein, "Change of Control" means (a) if Tenant is a closely held professional service firm, the withdrawal or change (whether voluntary, involuntary or by operation of law) of more than 50% of its equity owners within a 12-month period, and (b) in all other cases, any transaction(s) resulting in the acquisition of a Controlling Interest (defined below) in Tenant by one or more parties that neither owned, nor are Affiliates (defined below) of one or more parties that owned, a Controlling Interest in Tenant immediately before such transaction(s). As used herein, "Controlling Interest" means control over an entity, other than control arising from the ownership of voting securities listed on a recognized securities exchange. As used herein, "control" means the direct or indirect power to direct the ordinary management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise. As used herein, "Affiliate" means, with respect to any party, a person or entity that controls, is under common control with, or is controlled by such party.

14.7 Effect of Default. If Tenant is in Default, Landlord is irrevocably authorized, as Tenant's agent and attorney-in-fact, to direct any transferee under any sublease, license or other occupancy agreement to make all payments under such agreement directly to Landlord (which Landlord shall apply towards Tenant's obligations hereunder) until such Default is cured. Such transferee shall rely upon any representation by Landlord that Tenant is in Default, whether or not confirmed by Tenant.

14.8 Permitted Transfers. Notwithstanding any contrary provision hereof, if Tenant is not in

Default, Tenant may, without Landlord's consent pursuant to Section 14.1, assign this Lease to (a) an Affiliate of Tenant (other than pursuant to a merger or consolidation), (b) a successor to Tenant by merger or consolidation, or (c) a successor to Tenant by purchase of all or substantially all of Tenant's assets, or permit a Change of Control to occur (a "Permitted Transfer"), provided that (i) at least 10 business days before the Transfer, Tenant notifies Landlord of the Transfer and delivers to Landlord any documents or information reasonably requested by Landlord relating thereto, including reasonable documentation that the Transfer satisfies the requirements of this Section 14.3; (ii) in the case of an assignment pursuant to clause (a) or (c) above, the assignee executes and delivers to Landlord, at least 10 business days before the assignment, a commercially reasonable instrument pursuant to which the assignee assumes, for Landlord's benefit, all of Tenant's obligations hereunder; (iii) in the case of an assignment pursuant to clause (b) above, (A) the successor entity has a net worth (as determined in accordance with GAAP, but excluding intellectual property and any other intangible assets ("Net Worth")) immediately after the Transfer that is not less than Tenant's Net Worth immediately before the Transfer, and (B) if Tenant is a closely held professional service firm, at least 50% of its equity owners existing 12 months before the Transfer are also equity owners of the successor entity; (iv) except in the case of a Change of Control, the transferee is qualified to conduct business in the State of California; (v) in the case of a Change of Control, (A) Tenant is not a closely held professional service firm, and (B) Tenant's Net Worth immediately after the Change of Control is not less than its Net Worth immediately before the Change of Control, and (vi) the Transfer is made for a good faith operating business purpose and not in order to evade the requirements of this Section 14.

**15 SURRENDER.** Upon the expiration or earlier termination hereof, and subject to Sections 8 and 11 and this Section 15, Tenant shall surrender possession of the Premises to Landlord in as good condition and repair as existed when Tenant took possession and as thereafter improved, except for reasonable wear and tear and repairs that are Landlord's express responsibility hereunder. Before such expiration or termination, Tenant, without expense to Landlord, shall (a) remove from the Premises all debris and rubbish and all furniture, equipment, trade fixtures, Lines, free-standing cabinet work, movable partitions and other articles of personal property that are owned or placed in the Premises by Tenant or any party claiming by, through or under Tenant (except for any Lines not required to be removed under Section 23), and (b) repair all damage to the Premises and Building resulting from such removal. If Tenant fails to timely perform such removal and repair, Landlord may do so at Tenant's expense (including storage costs). If Tenant fails to remove such property from the Premises, or from storage, within 30 days after notice from Landlord, any part of such property shall be deemed, at Landlord's option, either (x) conveyed to Landlord without compensation, or (y) abandoned.

**16 HOLDOVER.** If Tenant fails to surrender the Premises upon the expiration or earlier termination hereof, Tenant's tenancy shall be subject to the terms and conditions hereof, provided, however, that such tenancy shall be a tenancy at sufferance only, for the entire Premises, and Tenant shall pay Monthly Rent (on a per-month basis without reduction for any partial month) at a rate equal to the Applicable Percentage (defined below) of the Monthly Rent applicable during the last calendar month of the Term. As used herein, "Applicable Percentage" means, for any holdover, (a) 150% during the first 30 days of such holdover, and (b) 200% during the balance of such holdover. Nothing in this Section 16 shall limit Landlord's rights or remedies or be deemed a consent to any holdover. If Landlord is unable to deliver possession of the Premises to, or perform improvements for, a new tenant as a result of Tenant's holdover, Tenant shall be liable for all resulting damages, including lost profits, incurred by Landlord.

**17 SUBORDINATION; ESTOPPEL CERTIFICATES.** This Lease shall be subject and subordinate to all existing and future ground or underlying leases, mortgages, trust deeds and other encumbrances against the Building or Project, all renewals, extensions, modifications, consolidations and replacements thereof (each, a "Security Agreement"), and all advances made upon the security of such mortgages or trust deeds, unless in each case the holder of such Security Agreement (each, a "Security Holder") requires in writing that this Lease be superior thereto. Upon any termination or foreclosure (or any delivery of a deed in lieu of foreclosure) of any Security Agreement, Tenant, upon request, shall attorn, without deduction or set-off, to the Security Holder or purchaser or any successor thereto and shall recognize such party as the lessor hereunder provided that such party agrees not to disturb Tenant's occupancy so long as Tenant timely pays the Rent and otherwise performs its obligations hereunder. Within 10 business days after Landlord's request, Tenant shall execute such further instruments as Landlord may reasonably deem necessary to evidence the subordination or superiority of this Lease to any Security Agreement. Tenant waives any right it may have under Law to terminate or otherwise adversely affect this Lease or Tenant's obligations hereunder upon a foreclosure. Within 10 business days after Landlord's request, Tenant shall execute and deliver to Landlord a commercially reasonable estoppel certificate in favor of such parties as Landlord may reasonably designate, including current and prospective Security Holders and prospective purchasers.

**18 ENTRY BY LANDLORD.** At all reasonable times and upon reasonable notice to Tenant, or in an emergency, Landlord may enter the Premises to (i) inspect the Premises; (ii) show the Premises to prospective purchasers, current or prospective Security Holders or insurers, or during the last 12 months of the Term (or while an uncured Default exists), prospective tenants; (iii) post notices of non-responsibility; or (iv) perform maintenance, repairs or alterations. At any time and without notice to

Tenant. Landlord may enter the Premises to perform required services. If reasonably necessary, Landlord may temporarily close any portion of the Premises to perform maintenance, repairs or alterations. In an emergency, Landlord may use any means it deems proper to open doors to and in the Premises. No entry into or closure of any portion of the Premises pursuant to this Section 18 shall render Landlord liable to Tenant, constitute a constructive eviction, or excuse Tenant from any obligation hereunder.

#### 19. DEFAULTS; REMEDIES.

19.1 Events of Default. The occurrence of any of the following shall constitute a "Default":

19.1.1 Any failure by Tenant to pay any Rent (or deliver any security deposit, Letter of Credit, or similar credit enhancement required hereunder) when due unless such failure is cured within five (5) business days after notice; or

19.1.2 Except where a specific time period is otherwise set forth for Tenant's cure herein (in which event Tenant's failure to cure within such time period shall be a Default), and except as otherwise provided in this Section 19.1, any breach by Tenant of any other provision hereof where such breach continues for 30 days after notice from Landlord; provided that if such breach cannot reasonably be cured within such 30-day period, Tenant shall not be in Default as a result of such breach if Tenant diligently commences such cure within such period, thereafter diligently pursues such cure, and completes such cure within 60 days after Landlord's notice; or

19.1.3 Abandonment or vacation of all or a substantial portion of the Premises by Tenant; or

19.1.4 Any breach by Tenant of Section 17 or 18 where such breach continues for more than five (5) business days after notice from Landlord; or

19.1.5 Tenant becomes in breach of Section 25.3(c) or (d).

If Tenant breaches a particular provision hereof (other than a provision requiring payment of Rent) on three (3) separate occasions during any 12-month period, Tenant's subsequent breach of such provision shall be, at Landlord's option, an incurable Default. The notice periods provided herein are in lieu of, and not in addition to, any notice periods provided by Law, and Landlord shall not be required to give any additional notice in order to be entitled to commence an unlawful detainer proceeding.

19.2 Remedies Upon Default. Upon any Default, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity (which shall be cumulative and nonexclusive), the option to pursue any one or more of the following remedies (which shall be cumulative and nonexclusive) without any notice or demand:

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

(a) The worth at the time of award of the unpaid Rent which had been earned at the time of such termination; plus

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

(c) The worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such Rent loss that Tenant proves could be reasonably avoided; plus

(d) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations hereunder or which in the ordinary course of things would be likely to result therefrom, including brokerage commissions, advertising expenses, expenses of remodeling any portion of the Premises for a new tenant (whether for the same or a different use), and any special concessions made to obtain a new tenant; plus

(e) At Landlord's option, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by Law.

As used in Sections 19.2 (1a) and (b), the "worth at the time of award" shall be computed by allowing interest at a rate per annum equal to the lesser of (i) the annual "Bank Prime Loan" rate cited in the Federal Reserve Statistical Release Publication G.13(415), published on the first Tuesday of each

calendar month (or such other comparable index as Landlord shall reasonably designate if such rate ceases to be published) plus two (2) percentage points, or (ii) the highest rate permitted by Law. As used in Section 19.2.1(c), the "worth at the time of award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1%.

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

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

19.3 Efforts to Relet. Unless Landlord provides Tenant with express notice to the contrary, no re-entry, repossession, repair, maintenance, change, alteration, addition, reletting, appointment of a receiver or other action or omission by Landlord shall (a) be construed as an election by Landlord to terminate this Lease or Tenant's right to possession, or to accept a surrender of the Premises, or (b) operate to release Tenant from any of its obligations hereunder. Tenant waives, for Tenant and for all those claiming by, through or under Tenant, California Civil Code § 3275, California Code of Civil Procedure §§ 1174(c) and 1179, and any existing or future rights to redeem or reinstate, by order or judgment of any court or by any legal process or writ, this Lease or Tenant's right of occupancy of the Premises after any termination hereof.

19.4 Landlord Default. Landlord shall not be in default hereunder unless it fails to begin within 30 days after notice from Tenant, or fails to pursue with reasonable diligence thereafter, the cure of any breach by Landlord of its obligations hereunder. Before exercising any remedies for a default by Landlord, Tenant shall give notice and a reasonable time to cure to any Security Holder of which Tenant has been notified.

20 LANDLORD EXCULPATION. Notwithstanding any contrary provision hereof (a) the liability of the Landlord Parties to Tenant shall be limited to an amount equal to the lesser of (i) Landlord's interest in the Building, or (ii) the equity interest Landlord would have in the Building if the Building were encumbered by third-party debt in an amount equal to 80% of the value of the Building (as such value is determined by Landlord); (b) Tenant shall look solely to Landlord's interest in the Building for the recovery of any judgment or award against any Landlord Party; (c) no Landlord Party shall have any personal liability for any judgment or deficiency, and Tenant waives and releases such personal liability on behalf of itself and all parties claiming by, through or under Tenant; and (d) no Landlord Party shall be liable for any injury or damage to, or interference with, Tenant's business, including loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, or for any form of special or consequential damage.

21 [Intentionally Omitted]

22 RELOCATION. Landlord, after giving notice, may move Tenant to other space in the Project comparable in size and utility to the Premises. In such event, all terms hereof shall apply to the new space, except that Base Rent and (except to the extent of the percentage, if any, by which the rentable square footage of the building in which the new space is located is less than the rentable square footage of the Building) Tenant's Share shall not increase as a result of such relocation. Landlord, at its expense, shall provide Tenant with tenant improvements in the new space at least equal in quality to those in the Premises. Landlord shall reimburse Tenant for Tenant's reasonable moving, re-cabling and stationery-replacement costs. The parties shall execute a written agreement prepared by Landlord and reasonably approved by Tenant memorializing the relocation.

23 COMMUNICATIONS AND COMPUTER LINES. All Lines installed pursuant to this Lease shall be (a) installed in accordance with Section 7; and (b) clearly marked with adhesive plastic labels (or plastic tags attached to such Lines with wire) to show Tenant's name, suite number, and the purpose of such Lines (i) every six (6) feet outside the Premises (including the electrical room risers and any Common Areas), and (ii) at their termination points. Landlord may designate specific contractors for work relating to vertical Lines. Sufficient space cables and space for additional cables shall be maintained for other occupants, as reasonably determined by Landlord. Unless otherwise notified by Landlord, Tenant, at its expense and before the expiration or earlier termination hereof, shall remove all Lines and repair any resulting damage. As used herein, "Lines" means all communications or computer wires and cables serving the Premises, whenever and by whomsoever installed or paid for, including any such wires or



cables installed pursuant to any prior lease

**24 PARKING.** Tenant may park in the Building's parking facilities (the "Parking Facility"), in common with other tenants of the Building, upon the following terms and conditions. Tenant shall not use more than the number of unreserved and/or reserved parking spaces set forth in Section 1.9. Tenant shall pay Landlord, in accordance with Section 2, any fees for the parking spaces described in Section 1.9. Tenant shall pay Landlord any fees, taxes or other charges imposed by any governmental or quasi-governmental agency in connection with the Parking Facility, to the extent such amounts are allocated to Tenant by Landlord based on the number and type of parking spaces Tenant is entitled to use. Tenant shall comply with all rules and regulations established by Landlord from time to time for the orderly operation and use of the Parking Facility, including any sticker or other identification system and the prohibition of vehicle repair and maintenance activities in the Parking Facility. Landlord may, in its discretion, allocate and assign parking passes among Tenant and the other tenants in the Building. Tenant's use of the Parking Facility shall be at Tenant's sole risk, and Landlord shall have no liability for any personal injury or damage to or theft of any vehicles or other property occurring in the Parking Facility or otherwise in connection with any use of the Parking Facility by Tenant or its employees or invitees. Landlord may alter the size, configuration, design, layout or any other aspect of the Parking Facility without abatement of Rent or liability to Tenant provided that such alteration does not materially impair Tenant's rights under this Section 2.4. In addition, for purposes of facilitating any such alteration, Landlord may temporarily deny or restrict access to the Parking Facility, without abatement of Rent or liability to Tenant, provided that Landlord makes reasonable substitute parking available to Tenant. Landlord may delegate its responsibilities hereunder to a parking operator, in which case (i) such parking operator shall have all the rights of control reserved herein by Landlord, (ii) Tenant shall enter into a parking agreement with such parking operator, (iii) Tenant shall pay such parking operator, rather than Landlord, any charge established hereunder for the parking spaces, and (iv) Landlord shall have no liability for claims arising through acts or omissions of such parking operator except to the extent caused by Landlord's gross negligence or willful misconduct. Tenant's parking rights under this Section 2.4 are solely for the benefit of Tenant's employees and invitees and such rights may not be transferred without Landlord's prior consent, except pursuant to a Transfer permitted under Section 1.4.

## **25 MISCELLANEOUS.**

**25.1 Notices.** No notice, demand, statement, designation, request, consent, approval, election or other communication given hereunder ("Notice") shall be binding upon either party unless (a) it is in writing; (b) it is (i) sent by certified or registered mail, postage prepaid, return receipt requested, (ii) delivered by a nationally recognized courier service, or (iii) delivered personally; and (c) it is sent or delivered to the address set forth in Section 1.10 or 1.11, as applicable, or to such other place (other than a P.O. box) as the recipient may from time to time designate in a Notice to the other party. Any Notice shall be deemed received on the earlier of the date of actual delivery or the date on which delivery is refused, or, if Tenant is the recipient and has vacated its notice address without providing a new notice address, three (3) days after the date the Notice is deposited in the U.S. mail or with a courier service as described above. No provision of this Lease requiring a particular Notice to be in writing shall limit the generality of clause (a) of the first sentence of this Section 25.1.

**25.2 Force Majeure.** If either party is prevented from performing any obligation hereunder by any strike, act of God, war, terrorist act, shortage of labor or materials, governmental action, civil commotion or other cause beyond such party's reasonable control ("Force Majeure"), such obligation shall be excused during (and any time period for the performance of such obligation shall be extended by) the period of such prevention; provided, however, that this Section 25.2 shall not (a) permit Tenant to hold over in the Premises after the expiration or earlier termination hereof, or (b) excuse (or extend any time period for the performance of) (i) any obligation to remit money or deliver credit enhancement, (ii) any obligation under Section 10 or 25.3, or (iii) any of Tenant's obligations whose breach would interfere with another occupant's use, occupancy or enjoyment of its premises or the Project or result in any liability on the part of any Landlord Party.

**25.3 Representations and Covenants.** Tenant represents, warrants and covenants that (a) Tenant is, and at all times during the Term will remain, duly organized, validly existing and in good standing under the Laws of the state of its formation and qualified to do business in the state of California, (b) neither Tenant's execution of nor its performance under this Lease will cause Tenant to be in violation of any agreement or Law; (c) Tenant (and any guarantor hereof) has not, and at no time during the Term will have, (i) made a general assignment for the benefit of creditors, (ii) filed a voluntary petition in bankruptcy, (iii) suffered (A) the filing by creditors of an involuntary petition in bankruptcy that is not dismissed within 30 days, (B) the appointment of a receiver to take possession of all or substantially all of its assets, or (C) the attachment or other judicial seizure of all or substantially all of its assets, (iv) admitted in writing its inability to pay its debts as they come due, or (v) made an offer of settlement, extension or composition to its creditors generally, and (d) no party that (other than through the passive ownership of interests traded on a recognized securities exchange) constitutes, owns, controls, or is owned or controlled by Tenant, any guarantor hereof or any subtenant of Tenant is, or at any time during the Term will be, (i) in violation of any Laws relating to terrorism or money laundering, or

(iii) among the parties identified on any list compiled pursuant to Executive Order 13224 for the purpose of identifying suspected terrorists or on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treas.gov/ofac/tldsda.pdf> or any replacement website or other replacement official publication of such list.

25.4 **Signs.** Landlord shall include Tenant's name in any tenant directory located in the lobby on the first floor of the Building. If any part of the Premises is located on a multi-tenant floor, Landlord, at Tenant's cost, shall provide identifying suite signage for Tenant comparable to that provided by Landlord on similar floors in the Building. Subject to Section 4 of Exhibit F, Tenant may not install (a) any signs outside the Premises, or (b) without Landlord's prior consent in its sole and absolute discretion, any signs, window coverings, blinds or similar items that are visible from outside the Premises.

25.5 **Supplemental HVAC.** If the Premises are served by any supplemental HVAC unit (a "Unit"), then (a) Tenant shall pay the costs of all electricity consumed in the Unit's operation, together with the cost of installing a meter to measure such consumption; (b) Tenant, at its expense, shall (i) operate and maintain the Unit in compliance with all applicable Laws and such reasonable rules and procedures as Landlord may impose; (ii) keep the Unit in as good working order and condition as existed upon installation (or, if later, when Tenant took possession of the Premises), subject to normal wear and tear and damage resulting from Casualty; (iii) maintain in effect, with a contractor reasonably approved by Landlord, a contract for the maintenance and repair of the Unit, which contract shall require the contractor, at least once every three (3) months, to inspect the Unit and provide to Tenant a report of any defective conditions, together with any recommendations for maintenance, repair or parts-replacement; (iv) follow all reasonable recommendations of such contractor; and (v) promptly provide to Landlord a copy of such contract and each report issued thereunder; (c) the Unit shall become Landlord's property upon installation and without compensation to Tenant; provided, however, that upon Landlord's request at the expiration or earlier termination hereof, Tenant, at its expense, shall remove the Unit and repair any resulting damage (and if Tenant fails to timely perform such work, Landlord may do so at Tenant's expense); (d) the Unit shall be deemed (i) a Leasehold Improvement (except for purposes of Section 8), and (ii) for purposes of Section 11, part of the Premises; (e) if the Unit exists on the date of mutual execution and delivery hereof, Tenant accepts the Unit in its "as is" condition, without representation or warranty as to quality, condition, fitness for use or any other matter; (f) if the Unit connects to the Building's condenser water loop (if any), then Tenant shall pay to Landlord, as Additional Rent, Landlord's standard one-time fee for such connection and Landlord's standard monthly per-ton usage fee; and (g) if any portion of the Unit is located on the roof, then (i) Tenant's access to the roof shall be subject to such reasonable rules and procedures as Landlord may impose; (ii) Tenant shall maintain the affected portion of the roof in a clean and orderly condition and shall not interfere with use of the roof by Landlord or any other tenants or licensees; and (iii) Landlord may relocate the Unit and/or temporarily interrupt its operation, without liability to Tenant, as reasonably necessary to maintain and repair the roof or otherwise operate the Building.

25.6 **Attorneys' Fees.** In any action or proceeding between the parties, including any appellate or alternative dispute resolution proceeding, the prevailing party may recover from the other party all of its costs and expenses in connection therewith, including reasonable attorneys' fees and costs. Tenant shall pay all reasonable attorneys' fees and other fees and costs that Landlord incurs in interpreting or enforcing this Lease or otherwise protecting its rights hereunder (a) where Tenant has failed to pay Rent when due, or (b) in any bankruptcy case, assignment for the benefit of creditors, or other insolvency, liquidation or reorganization proceeding involving Tenant or this Lease.

25.7 **Brokers.** Tenant represents to Landlord that it has dealt only with Tenant's Broker as its broker in connection with this Lease. Tenant shall indemnify, defend, and hold Landlord harmless from all claims of any brokers, other than Tenant's Broker, claiming to have represented Tenant in connection with this Lease. Landlord shall indemnify, defend and hold Tenant harmless from all claims of any brokers, including Landlord's Broker, claiming to have represented Landlord in connection with this Lease. Tenant acknowledges that any Affiliate of Landlord that is involved in the negotiation of this Lease is representing only Landlord, and that any assistance rendered by any agent or employee of such Affiliate in connection with this Lease or any subsequent amendment or other document related hereto has been or will be rendered as an accommodation to Tenant solely in furtherance of consummating the transaction on behalf of Landlord, and not as agent for Tenant.

25.8 **Governing Law; WAIVER OF TRIAL BY JURY.** This Lease shall be construed and enforced in accordance with the Laws of the State of California. THE PARTIES WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF OR RELATING TO THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND/OR ANY CLAIM FOR INJURY OR DAMAGE OR ANY EMERGENCY OR STATUTORY REMEDY.

25.9 **Waiver of Statutory Provisions.** Each party waives California Civil Code §§ 1932(2), 1933(4) and 1945. Tenant waives (a) any rights under (i) California Civil Code §§ 1932(1), 1941, 1942, 1950.7 or any similar Law, or (ii) California Code of Civil Procedure §§ 1263.260 or 1265.130; and

(b) any right to terminate this Lease under California Civil Code § 1995.310

**25.10 Interpretation.** As used herein, the capitalized term "Section" refers to a section hereof unless otherwise specifically provided herein. As used in this Lease, the terms "herein," "hereof," "hereto" and "hereunder" refer to this Lease and the term "include" and its derivatives are not limiting. Any reference herein to "any part" or "any portion" of the Premises, the Property or any other property shall be construed to refer to all or any part of such property. As used herein in connection with insurance, the term "deductible" includes self-insured retention. Wherever this Lease prohibits either party from engaging in any particular conduct, this Lease shall be deemed also to require such party to cause each of its employees and agents (and, in the case of Tenant, each of its licensees, invitees and subtenants, and any other party claiming by, through or under Tenant) to refrain from engaging in such conduct. Wherever this Lease requires Landlord to provide a customary service or to act in a reasonable manner (whether in incurring an expense, establishing a rule or regulation, providing an approval or consent, or performing any other act), this Lease shall be deemed also to provide that whether such service is customary or such conduct is reasonable shall be determined by reference to the practices of owners of buildings ("Comparable Buildings") that (i) are comparable to the Building in size, age, class, quality and location, and (ii) at Landlord's option, have been, or are being prepared to be, certified under the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system or a similar rating system. Tenant waives the benefit of any rule that a written agreement shall be construed against the drafting party.

**25.11 Entire Agreement.** This Lease sets forth the entire agreement between the parties relating to the subject matter hereof and supersedes any previous agreements (none of which shall be used to interpret this Lease). Tenant acknowledges that in entering into this Lease it has not relied upon any representation, warranty or statement, whether oral or written, not expressly set forth herein. This Lease can be modified only by a written agreement signed by both parties.

**25.12 Other.** Landlord, at its option, may cure any Default, without waiving any right or remedy or releasing Tenant from any obligation, in which event Tenant shall pay Landlord, upon demand, the cost of such cure. If any provision hereof is void or unenforceable, no other provision shall be affected. Submission of this instrument for examination or signature by Tenant does not constitute an option or offer to lease, and this instrument is not binding until it has been executed and delivered by both parties. If Tenant is comprised of two or more parties, their obligations shall be joint and several. Time is of the essence with respect to the performance of every provision hereof in which time of performance is a factor. So long as Tenant performs its obligations hereunder, Tenant shall have peaceful and quiet possession of the Premises against any party claiming by, through or under Landlord, subject to the terms hereof. Landlord may transfer its interest herein, in which event (a) to the extent the transferee assumes in writing Landlord's obligations arising hereunder after the date of such transfer (including the return of any Security Deposit), Landlord shall be released from, and Tenant shall look solely to the transferee for the performance of, such obligations; and (b) Tenant shall attorn to the transferee. If Tenant (or any party claiming by, through or under Tenant) pays directly to the provider for any energy consumed at the Property, Tenant, promptly upon request, shall deliver to Landlord (or, at Landlord's option, execute and deliver to Landlord an instrument enabling Landlord to obtain from such provider) any data about such consumption that Landlord, in its reasonable judgment, is required to disclose to a prospective buyer, tenant or Security Holder under California Public Resources Code § 25402.10 or any similar Law. Landlord reserves all rights not expressly granted to Tenant hereunder, including the right to make alterations to the Project. No rights to any view or to light or air over any property are granted to Tenant hereunder. The expiration or earlier termination hereof shall not relieve either party of any obligation that accrued before, or continues to accrue after, such expiration or termination. This Lease may be executed in counterparts.

[SIGNATURES ARE ON THE FOLLOWING PAGE]

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

LANDLORD:

BRE/OC SCCC L.L.C., a Delaware limited liability company

By: 

Name:

Title:

Frank Campbell  
Managing Director

TENANT:

DLJ FINANCIAL, INC., a California corporation

By: 

Name:

Title:

[chairman] [president] [vice-president]

By: 

Name:

Title:

[secretary] [assistant secretary] [chief financial officer] [assistant treasurer]

EXHIBIT A  
SOUTH COAST CORPORATE CENTER

OUTLINE OF PREMISES

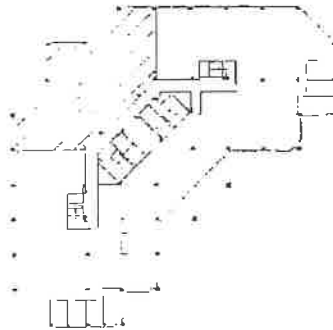


EXHIBIT B

SOUTH COAST CORPORATE CENTER

WORK LETTER

As used in this Exhibit B (this "Work Letter"), the following terms shall have the following meanings:

- (i) "Tenant Improvements" means all improvements to be constructed in the Premises pursuant to this Work Letter; and
- (ii) "Tenant Improvement Work" means the construction of the Tenant Improvements, together with any related work (including demolition) that is necessary to construct the Tenant Improvements

**1 ALLOWANCE.**

1.1 Allowance. Tenant shall be entitled to a one-time tenant improvement allowance (the "Allowance") in the amount of \$535,498.47 (i.e. \$32.11 per rentable square foot of the Premises) (as such amount may be increased pursuant to Section 1.4 of this Lease) to be applied toward the Allowance Items (defined in Section 1.2 below). Tenant shall be responsible for all costs associated with the Tenant Improvement Work, including the costs of the Allowance Items, to the extent such costs exceed the lesser of (a) the Allowance, or (b) the aggregate amount that Landlord is required to disburse for such purpose pursuant to this Work Letter.

1.2 Disbursement. Except as otherwise provided in this Work Letter, the Allowance shall be disbursed by Landlord only for the following items (the "Allowance Items"): (a) the fees of the Architect (defined in Section 2.1 below); (b) the cost of preparing the Engineering Drawings (defined in Section 3.2.1 below); (c) plan-check, permit and license fees relating to performance of the Tenant Improvement Work; (d) the cost of performing the Tenant Improvement Work, including after hours charges, testing and inspection costs, freight elevator usage, hoisting and trash removal costs, and contractors' fees and general conditions; (e) the cost of any change to the base, shell or core of the Premises or Building required by the Approved Plans (defined in Section 2.7 below) (including if such change is due to the fact that such work is prepared on an unoccupied basis), including all direct architectural and/or engineering fees and expenses incurred in connection therewith; (f) the cost of any change to the Approved Plans or the Tenant Improvement Work required by Law; (g) the Landlord Supervision Fee (defined in Section 3.4.1 below); (h) sales and use taxes; and (i) all other costs expended by Landlord in connection with the performance of the Tenant Improvement Work

1.3 Disbursement for Other Allowance Items. If any portion of the Allowance remains unused after all Allowance Items have been fully paid, then, upon Tenant's request, and subject to Section 1.4 below, Landlord shall disburse the Allowance, not to exceed \$41,692.50 (i.e. \$2.50 per rentable square foot of the Premises), to Tenant to pay the reasonable costs of relocating and installing in the Premises Tenant's furniture, fixtures, equipment, Lines and other personal property, within 30 days after receiving paid invoices from Tenant with respect to such costs (the "Other Allowance Items"). Tenant shall be responsible for all costs of the Other Allowance Items to the extent such costs exceed the aggregate amount that Landlord is required to disburse for such purpose pursuant to this Work Letter.

1.4 Deadline for Use of Allowance. Notwithstanding any contrary provision of this Lease, if, as a result of Tenant's breach of any of its obligations under this Lease, the entire Allowance is not used by September 30, 2016, then the unused amount shall revert to Landlord and Tenant shall have no further rights with respect thereto.

**2 ARCHITECTURAL PLANS: PRICING.**

2.1 Selection of Architect. Landlord shall retain the architect/space planner of Landlord's choice (the "Architect") to prepare the Space Plan (defined in Section 2.2 below) and the Architectural Drawings (defined in Section 2.5 below).

2.2 [Intentionally Omitted]

2.3 Approved Space Plan. Landlord and Tenant acknowledge that they have approved the scope of work described in the space plan for the Premises dated December 14, 2015 prepared by Shlennner Algaze Associates, excluding any provision thereof that is inconsistent with any provision of this Amendment (the "Approved Space Plan").

2.4 Additional Programming Information. After approving the Space Plan, Tenant shall deliver to Landlord, in writing, all information (including all interior and special finishes) that, when combined with the Approved Space Plan, will be sufficient to complete the Architectural Drawings, together with all information (including all electrical requirements, telephone requirements, special HVAC requirements, and plumbing requirements) that, when combined with the Approved Space Plan, will be sufficient to complete the Engineering Drawings (collectively, the "Additional Programming Information"). The Additional Programming Information shall be (a) consistent with the Approved Space Plan and the Landlord Requirements, (b) consistent with Landlord's requirements for avoiding aesthetic, engineering or other conflicts with the design and function of the balance of the Building (collectively, the "Landlord Requirements"), and (c) otherwise subject to Landlord's reasonable approval. Landlord shall provide Tenant with notice approving or reasonably disapproving the Additional Programming Information within five (5) business days after the later of Landlord's receipt thereof or the mutual execution and delivery of this Lease. If Landlord disapproves the Additional Programming Information, Landlord's notice of disapproval shall describe with reasonable specificity the basis for such disapproval and Tenant shall modify the Additional Programming Information and resubmit it for Landlord's approval. Such procedure shall be repeated as necessary until Landlord has approved the Additional Programming Information. Such approved Additional Programming Information shall be referred to herein as the "Approved Additional Programming Information." If requested by Tenant, Landlord, in its sole and absolute discretion, may assist Tenant, or cause the Architect and/or other contractors or consultants of Landlord to assist Tenant, in preparing all or a portion of the Additional Programming Information; provided, however, that, whether or not the Additional Programming Information is prepared with such assistance, Tenant shall be solely responsible for the timely preparation and delivery of the Additional Programming Information and for all elements thereof and, subject to Section 1 above, all costs relating thereto.

2.5 Architectural Drawings. After approving the Additional Programming Information, Landlord shall cause the Architect to prepare and deliver to Tenant the final architectural (and, if applicable, structural) working drawings for the Tenant Improvement Work that are in a form that (a) when combined with any programming information that is contained in the Approved Space Plan or the Approved Additional Programming Information but not expressly incorporated into such working drawings, will be sufficient to enable the Contractor (defined in Section 3.1 below) and its subcontractors to bid on the Tenant Improvement Work, and (b) when combined with any Engineering Drawings that satisfy the Engineering Requirements (defined in Section 3.2.1 below), will be sufficient to obtain the Permits (defined in Section 3.3 below) (the "Architectural Drawings"). The Architectural Drawings shall conform to the Approved Space Plan and the Approved Additional Programming Information. The Architect's preparation and delivery of the Architectural Drawings shall occur within 15 business days after the later of Landlord's approval of the Additional Programming Information or the mutual execution and delivery of this Lease. Tenant shall approve or disapprove the Architectural Drawings by notice to Landlord. If Tenant disapproves the Architectural Drawings, Tenant's notice of disapproval shall specify any revisions Tenant desires in the Architectural Drawings. After receiving such notice of disapproval, Landlord shall cause the Architect to revise the Architectural Drawings and resubmit them to Tenant, taking into account the reasons for Tenant's disapproval; provided, however, that Landlord shall not be required to cause the Architect to make any revision to the Architectural Drawings that conflicts with the Landlord Requirements or is otherwise reasonably disapproved by Landlord. Such revision and resubmission shall occur within five (5) business days after the later of Landlord's receipt of Tenant's notice of disapproval or the mutual execution and delivery of this Lease if such revision is not material, and within such longer period of time as may be reasonably necessary (but not more than 15 business days after the later of such receipt or such mutual execution and delivery) if such revision is material. Such procedure shall be repeated as necessary until Tenant has approved the Architectural Drawings. Such approved Architectural Drawings shall be referred to herein as the "Approved Architectural Drawings."

## 2.6 Construction Pricing.

2.6.1 Construction Pricing Proposal. Within 10 business days after the Architectural Drawings are approved by Landlord and Tenant, Landlord shall provide Tenant with Landlord's reasonable estimate (the "Construction Pricing Proposal") of the cost of all Allowance Items to be incurred by Tenant in connection with the performance of the Tenant Improvement Work pursuant to the Approved Architectural Drawings and the Approved Additional Programming Information. Tenant shall provide Landlord with notice approving or disapproving the Construction Pricing Proposal. If Tenant disapproves the Construction Pricing Proposal, Tenant's notice of disapproval shall be accompanied by proposed revisions to the Approved Architectural Drawings and/or the Approved Additional Programming Information that Tenant requests in order to resolve its objections to the Construction Pricing Proposal, and Landlord shall respond as required under Section 2.7 below. Such procedure shall be repeated as necessary until the Construction Pricing Proposal is approved by Tenant. Upon Tenant's approval of the Construction Pricing Proposal, Landlord may purchase the items set forth in the Construction Pricing Proposal and begin construction relating to such items.

**2.6.2 Over-Allowance Amount.** If the Construction Pricing Proposal exceeds the Allowance, then Tenant, concurrently with its delivery to Landlord of its approval of the Construction Pricing Proposal, shall deliver to Landlord cash in the amount of such excess (the "Over-Allowance Amount"). Any Over-Allowance Amount shall be disbursed by Landlord before the Allowance and pursuant to the same procedure as the Allowance. If, after the Construction Pricing Proposal is approved by Tenant, (a) any revision is made to the Approved Additional Programming Information or the Approved Architectural Drawings, or Tenant disapproves any Engineering Drawings that satisfy the Engineering Requirements, or the Tenant Improvement Work is otherwise changed, in each case in a way that increases the Construction Pricing Proposal, or (b) the Construction Pricing Proposal is otherwise increased to reflect the actual cost of all Allowance Items to be incurred by Tenant in connection with the performance of the Tenant Improvement Work pursuant to the terms hereof, then Tenant shall deliver any resulting Over-Allowance Amount (or any resulting increase in the Over-Allowance Amount) to Landlord immediately upon Landlord's request.

**2.7 Revisions.** If Tenant requests any revision to the Approved Space Plan, the Approved Additional Programming Information, the Approved Architectural Drawings, or the Approved Engineering Drawings (defined in Section 3.1 below) (collectively, the "Approved Plans"), Landlord shall provide Tenant with notice approving or reasonably disapproving such revision, and, if Landlord approves such revision, Landlord shall deliver to Tenant notice of any resulting change in the most recent Construction Pricing Proposal, if any (together with a copy of the revision itself, except in the case of the Approved Additional Programming Information), within five (5) (or, in the case of the Approved Architectural Drawings or the Approved Engineering Drawings, 15) business days after the later of Landlord's receipt of such request or the mutual execution and delivery of this Lease, whereupon Tenant, within one (1) business day, shall notify Landlord whether it desires to proceed with such revision. If Landlord has begun performing the Tenant Improvement Work, then, in the absence of such authorization, Landlord shall have the option to continue such performance disregarding such revision. Without limitation, it shall be deemed reasonable for Landlord to disapprove any such proposed revision that conflicts with the Landlord Requirements. Landlord shall not revise the Approved Plans without Tenant's consent, which shall not be unreasonably withheld or conditioned. Tenant shall approve, or reasonably disapprove (and state, with reasonable specificity, its reasons for disapproving), any revision to the Approved Plans within two (2) business days after receiving Landlord's request for approval thereof. For purposes hereof, any change order affecting the Approved Plans shall be deemed a revision thereto.

**2.8 Tenant's Approval Deadline.** Tenant shall approve the Construction Pricing Proposal pursuant to Section 2.6.1 above on or before Tenant's Approval Deadline (defined below). As used in this Work Letter, "Tenant's Approval Deadline" means the date occurring 45 business days after the mutual execution and delivery of this Lease; provided, however, that Tenant's Approval Deadline shall be extended by one (1) day for each day, if any, by which Tenant's approval of the Construction Pricing Proposal pursuant to Section 2.6.1 above is delayed by any failure of Landlord to perform its obligations under this Section 2.

### **3 CONSTRUCTION.**

**3.1 Contractor.** Landlord shall retain a contractor of its choice (the "Contractor") to perform the Tenant Improvement Work. In addition, Landlord may select and/or approve of any subcontractors, mechanics and materialmen used in connection with the performance of the Tenant Improvement Work.

#### **3.2 Engineering Drawings.**

**3.2.1 Preparation.** Landlord shall cause the engineering working drawings for the mechanical, electrical, plumbing, fire-alarm and fire sprinkler work in the Premises (the "Engineering Drawings") to (a) be prepared by one or more of the Architect, the Contractor, and/or engineers or other consultants selected and/or retained by the Architect, the Contractor or Landlord, and (b) conform to the Approved Space Plan, the Approved Additional Programming Information, the first sentence of Section 4 below, and any then-existing Approved Architectural Drawings (collectively, the "Engineering Requirements").

**3.2.2 Design Build.** Except as provided in Section 3.2.3 below, the Engineering Drawings shall be delivered to Tenant within 15 business days after the later of Tenant's approval of the Architectural Drawings pursuant to Section 2.7 above or the mutual execution and delivery of this Lease. Tenant shall approve, or reasonably disapprove (and state, with reasonable specificity, its reasons for disapproving), the Engineering Drawings within two (2) business days after the latest of (a) Tenant's receipt of the Engineering Drawings, (b) Tenant's approval of the Architectural Drawings, or (c) the mutual execution and delivery of this Lease. After receiving any such notice of reasonable disapproval, Landlord shall cause the Contractor to revise the Engineering Drawings and resubmit them to Tenant, taking into account the reasons for Tenant's disapproval; provided, however, that Landlord shall not be required to make any revision to the Engineering Drawings that conflicts with the Engineering



Requirements or the Landlord Requirements or is otherwise reasonably disapproved by Landlord. Such procedure shall be repeated as necessary until Tenant has reasonably approved the Engineering Drawings. Such approved Engineering Drawings shall be referred to herein as the "Approved Engineering Drawings".

3.2.3 **Design Bid Build.** If Landlord, at its option, causes the Engineering Drawings to be delivered to Tenant on or before the date on which the Architectural Drawings are first delivered to Tenant pursuant to Section 2.5 above, then (a) Section 3.2.2 above shall not apply; (b) Tenant's review and approval of the Engineering Drawings shall be governed by Section 2.5 above as if the Engineering Drawings were part of the Architectural Drawings; and (c) the Engineering Drawings, as approved by Tenant pursuant to Section 2.5 above, shall be referred to herein as the "Approved Engineering Drawings".

3.3 **Permits.** Landlord shall cause the Contractor to submit the Approved Architectural Drawings and the Approved Engineering Drawings (collectively, the "Approved Construction Drawings") to the appropriate municipal authorities and otherwise apply for and obtain from such authorities all permits necessary for the Contractor to complete the Tenant Improvement Work (the "Permits").

#### 3.4 **Construction.**

3.4.1 **Performance of Tenant Improvement Work.** Landlord shall cause the Contractor to perform the Tenant Improvement Work in accordance with the Approved Construction Drawings. Tenant shall pay a construction supervision and management fee (the "Landlord Supervision Fee") to Landlord in an amount equal to 1% of the aggregate amount of all Allowance Items other than the Landlord Supervision Fee.

3.4.2 **Contractor's Warranties.** Tenant waives all claims against Landlord relating to any defects in the Tenant Improvements; provided, however, that if, within 30 days after substantial completion of the Tenant Improvement Work, Tenant provides notice to Landlord of any non-latent defect in the Tenant Improvements, or if, within 11 months after substantial completion of the Tenant Improvement Work, Tenant provides notice to Landlord of any latent defect in the Tenant Improvements, then Landlord shall promptly cause such defect to be corrected.

4 **COMPLIANCE WITH LAW; SUITABILITY FOR TENANT'S USE.** Landlord shall cause the Architect and the Contractor to use the Required Level of Care (defined below) to cause the Space Plan, the Architectural Drawings and the Engineering Drawings to comply with Law; provided, however, that Landlord shall not be responsible for any violation of Law resulting from (a) any particular use of the Premises (as distinguished from general office use), or (b) any failure of the Approved Additional Programming Information to comply with Law. As used herein, "Required Level of Care" means the level of care that reputable architects and engineers customarily use to cause architectural and engineering plans, drawings and specifications to comply with Law where such plans, drawings and specifications are prepared for spaces in buildings comparable in quality to the Building. Except as provided above in this Section 4, Tenant shall be responsible for ensuring that the Approved Plans are suitable for Tenant's use of the Premises and comply with Law, and neither the preparation of any of the Approved Plans by the Architect or the Contractor nor Landlord's approval of the Approved Plans shall relieve Tenant from such responsibility. To the extent that either party (the "Responsible Party") is responsible under this Section 4 for causing the Approved Plans to comply with Law, the Responsible Party may contest any alleged violation of Law in good faith, including by seeking a waiver or deferment of compliance, asserting any defense allowed by Law, and exercising any right of appeal (provided that the other party incurs no liability as a result of such contest and that, after completing such contest, the Responsible Party makes any modification to the Approved Plans or any alteration to the Premises that is necessary to comply with any final order or judgment).

#### 5 **COMPLETION.**

5.1 **Substantial Completion.** For purposes of Section 1.3.2 of this Lease, and subject to Section 5.2 below, the Tenant Improvement Work shall be deemed to be "Substantially Complete" upon the completion of the Tenant Improvement Work pursuant to the Approved Construction Drawings (as reasonably determined by Landlord), with the exception of any details of construction, mechanical adjustment or any other similar matter the non-completion of which does not materially interfere with Tenant's use of the Premises.

5.2 **Tenant Cooperation; Tenant Delay.** Tenant shall use reasonable efforts to cooperate with Landlord, the Architect, the Contractor, and Landlord's other consultants to complete all phases of the plans and specifications for the Tenant Improvement Work, approve the Construction Pricing Proposal, obtain the Permits, and complete the Tenant Improvement Work as soon as possible, and Tenant shall meet with Landlord, in accordance with a schedule determined by Landlord, to discuss the parties'

progress. Without limiting the foregoing, if (i) the Tenant Improvements include the installation of electrical connections for furniture stations to be installed by Tenant, and (ii) any electrical or other portions of such furniture stations must be installed in order for Landlord to obtain any governmental approval required for occupancy of the Premises, then (x) Tenant, upon five (5) business days' notice from Landlord, shall promptly install such portions of such furniture stations in accordance with Sections 7.2 and 7.3 of this Lease, and (y) during the period of Tenant's entry into the Premises for the purpose of performing such installation, all of Tenant's obligations under this Lease relating to the Premises shall apply, except for the obligation to pay Monthly Rent. In addition, without limiting the foregoing, if the Substantial Completion of the Tenant Improvement Work is delayed (a "Tenant Delay") as a result of (a) any failure of Tenant to approve the Construction Pricing Proposal pursuant to Section 2.6.1 above on or before Tenant's Approval Deadline; (b) any failure of Tenant to timely approve the Engineering Drawings for any reason other than their failure to satisfy the Engineering Requirements; (c) any failure of Tenant to timely approve any other matter requiring Tenant's approval; (d) any breach by Tenant of this Work Letter or this Lease; (e) any request by Tenant for any revision to, or for Landlord's approval of any revision to, any portion of the Approved Plans (except to the extent that such delay results from a breach by Landlord of its obligations under Section 2.7 above); (f) any requirement of Tenant for materials, components, finishes or improvements that are not available in a commercially reasonable time given the anticipated date of Substantial Completion of the Tenant Improvement Work as set forth in this Lease; (g) any change to the base, shell or core of the Premises or Building required by the Approved Construction Drawings; or (h) any other act or omission of Tenant or any of its agents, employees or representatives, then, notwithstanding any contrary provision of this Lease, and regardless of when the Tenant Improvement Work is actually Substantially Completed, the Tenant Improvement Work shall be deemed to be Substantially Completed on the date on which the Tenant Improvement Work would have been Substantially Completed if no such Tenant Delay had occurred. Notwithstanding the foregoing, Landlord shall not be required to tender possession of the Premises to Tenant before the Tenant Improvement Work has been Substantially Completed, as determined without giving effect to the preceding sentence.

6 MISCELLANEOUS. Notwithstanding any contrary provision of this Lease, if Tenant defaults under this Lease before the Tenant Improvement Work is completed, Landlord's obligations under this Work Letter shall be excused until such default is cured and Tenant shall be responsible for any resulting delay in the completion of the Tenant Improvement Work. This Work Letter shall not apply to any space other than the Premises.

EXHIBIT C

SOUTH COAST CORPORATE CENTER

CONFIRMATION LETTER

\_\_\_\_\_, 20\_\_\_\_

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Lease ID: \_\_\_\_\_  
Business Unit Number: \_\_\_\_\_

Dear \_\_\_\_\_

In accordance with the Lease, Tenant accepts possession of the Premises and confirms the following:

- 1 The Commencement Date is \_\_\_\_\_ and the Expiration Date is \_\_\_\_\_
- 2 The exact number of rentable square feet within the Premises is \_\_\_\_\_ square feet, subject to Section 2.1.1 of the Lease.
- 3 Tenant's Share, based upon the exact number of rentable square feet within the Premises, is \_\_\_\_\_%, subject to Section 2.1.1 of the Lease.

Please acknowledge the foregoing by signing all three (3) counterparts of this letter in the space provided below and returning two (2) fully executed counterparts to my attention. Please note that, pursuant to Section 2.1.1 of the Lease, if Tenant fails to execute and return (or, by notice to Landlord, reasonably object to) this letter within five (5) days after receiving it, Tenant shall be deemed to have executed and returned it without exception.

"Landlord":

\_\_\_\_\_  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Agreed and Accepted as of \_\_\_\_\_, 20\_\_\_\_.

"Tenant":

\_\_\_\_\_  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT D

### SOUTH COAST CORPORATE CENTER

#### RULES AND REGULATIONS

Tenant shall comply with the following rules and regulations (as modified or supplemented from time to time, the "Rules and Regulations"). Landlord shall not be responsible to Tenant for the nonperformance of any of the Rules and Regulations by any other tenants or occupants of the Project. In the event of any conflict between the Rules and Regulations and the other provisions of this Lease, the latter shall control.

1. Tenant shall not alter any lock or install any new or additional locks or bolts on any doors or windows of the Premises without obtaining Landlord's prior consent. Tenant shall bear the cost of any lock changes or repairs required by Tenant. Two (2) keys will be furnished by Landlord for the Premises, and any additional keys required by Tenant must be obtained from Landlord at a reasonable cost to be established by Landlord. Upon the termination of this Lease, Tenant shall restore to Landlord all keys of stores, offices and toilet rooms furnished to or otherwise procured by Tenant, and if any such keys are lost, Tenant shall pay Landlord the cost of replacing them or of changing the applicable locks if Landlord deems such changes necessary.

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

3. Landlord may close and keep locked all entrance and exit doors of the Building during such hours as are customary for Comparable Buildings. Tenant shall cause its employees, agents, contractors, invitees and licensees who use Building doors during such hours to securely close and lock them after such use. Any person entering or leaving the Building during such hours, or when the Building doors are otherwise locked, may be required to sign the Building register, and access to the Building may be refused unless such person has proper identification or has a previously arranged access pass. Landlord will furnish passes to persons for whom Tenant requests them. Tenant shall be responsible for all persons for whom Tenant requests passes and shall be liable to Landlord for all acts of such persons. Landlord and its agents shall not be liable for damages for any error with regard to the admission or exclusion of any person to or from the Building. In case of invasion, mob, riot, public excitement or other commotion, Landlord may prevent access to the Building or the Project during the continuance thereof by any means it deems appropriate for the safety and protection of life and property.

4. No furniture, freight or equipment shall be brought into the Building without prior notice to Landlord. All moving activity into or out of the Building shall be scheduled with Landlord and done only at such time and in such manner as Landlord designates. Landlord may prescribe the weight, size and position of all safes and other heavy property brought into the Building and also the times and manner of moving the same in and out of the Building. Safes and other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such safe or property. Any damage to the Building, its contents, occupants or invitees resulting from Tenant's moving or maintaining any such safe or other heavy property shall be the sole responsibility and expense of Tenant (notwithstanding Sections 7 and 10.4 of this Lease).

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

6. Employees of Landlord shall not perform any work or do anything outside their regular duties unless under special instructions from Landlord.

7. No sign, advertisement, notice or handbill shall be exhibited, distributed, painted or affixed by Tenant on any part of the Premises or the Building without Landlord's prior consent. Tenant shall not disturb, solicit, peddle or canvass any occupant of the Project.

8. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substance shall be thrown therein. Notwithstanding Sections 7 and 10.4 of this Lease, Tenant shall bear the expense of any breakage, stoppage or damage resulting from any violation of this rule by Tenant or any of its employees, agents, contractors, invitees or licensees.

9. Tenant shall not overload the floor of the Premises, or mark, drive nails or screws or drill into the partitions, woodwork or drywall of the Premises, or otherwise deface the Premises, without

Landlord's prior consent. Tenant shall not purchase bottled water, ice, towel, linen, maintenance or other like services from any person not approved by Landlord.

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

11. Tenant shall not without Landlord's prior consent, use, store, install, disturb, spill, remove, release or dispose of, within or about the Premises or any other portion of the Project, any asbestos-containing materials, any solid, liquid or gaseous material now or subsequently considered toxic or hazardous under the provisions of 42 U.S.C. Section 9601 et seq. or any other applicable environmental law, or any inflammable, explosive or dangerous fluid or substance; provided, however, that Tenant may use, store and dispose of such substances in such amounts as are typically found in similar premises used for general office purposes provided that such use, storage and disposal does not damage any part of the Premises, Building or Project and is performed in a safe manner and in accordance with all Laws. Tenant shall comply with all Laws pertaining to and governing the use of such materials by Tenant and shall remain solely liable for the costs of abatement and removal. No burning candle or other open flame shall be ignited or kept by Tenant in or about the Premises, Building or Project.

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

13. Tenant shall not use or keep any foul or noxious gas or substance in or on the Premises, or occupy or use the Premises in a manner offensive or objectionable to Landlord or other occupants of the Project by reason of noise, odors or vibrations, or interfere with other occupants or those having business therein, whether by the use of any musical instrument, radio, CD player or otherwise. Tenant shall not throw anything out of doors, windows or skylights or down passageways.

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

15. No cooking shall be done in the Premises, nor shall the Premises be used for lodging, for living quarters or sleeping apartments, or for any improper, objectionable or immoral purposes. Notwithstanding the foregoing, Underwriters' laboratory-approved equipment and microwave ovens may be used in the Premises for heating food and brewing coffee, tea, hot chocolate and similar beverages for employees and invitees, provided that such use complies with all Laws.

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

17. Landlord may exclude from the Project any person who, in Landlord's judgment, is intoxicated or under the influence of liquor or drugs, or who violates any of these Rules and Regulations.

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

19. Tenant shall not waste electricity, water or air conditioning, shall cooperate with Landlord to ensure the most effective operation of the Building's heating and air conditioning system, and shall not attempt to adjust any controls. Tenant shall install and use in the Premises only ENERGY STAR rated equipment, where available. Tenant shall use recycled paper in the Premises to the extent consistent with its business requirements.

20. Tenant shall store all its trash and garbage inside the Premises. No material shall be placed in the trash or garbage receptacles if, under Law, it may not be disposed of in the ordinary and customary manner of disposing of trash and garbage in the vicinity of the Building. All trash, garbage and refuse disposal shall be made only through entryways and elevators provided for such purposes at such times as Landlord shall designate. Tenant shall comply with Landlord's recycling program, if any.

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

22. Any persons employed by Tenant to do janitorial work (a) shall be subject to Landlord's prior consent, (b) shall not, in Landlord's reasonable judgment, disturb labor harmony with any workforce or trades engaged in performing other work or services at the Project; and (c) while in the Building and outside of the Premises, shall be subject to the control and direction of the Building manager (but not as an agent or employee of such manager or Landlord), and Tenant shall be responsible for all acts of such persons.

23. No awning or other projection shall be attached to the outside walls of the Building without Landlord's prior consent. Other than Landlord's Building-standard window coverings, no curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises. All electrical ceiling fixtures hung in the Premises or spaces along the perimeter of the Building must be fluorescent and/or of a quality, type, design and a warm white bulb color approved in advance by Landlord. Neither the interior nor exterior of any windows shall be coated or otherwise sunscreened without Landlord's prior consent. Tenant shall abide by Landlord's regulations concerning the opening and closing of window coverings.

24. Tenant shall not obstruct any sashes, sash doors, skylights, windows or doors that reflect or admit light or air into the halls, passageways or other public places in the Building, nor shall Tenant place any bottles, parcels or other articles on the windowsills.

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

26. Tenant must comply with the State of California "No Smoking" law set forth in California Labor Code Section 6404.5 and with any local "No Smoking" ordinance that is not superseded by such law.

27. Tenant shall cooperate in any reasonable safety or security program developed by Landlord or required by Law.

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

29. Tenant shall not use any hand trucks except those equipped with rubber tires and rubber side guards.

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

31. Tenant shall not use any name or image of the Building or Project (a) in any advertising or other publicity without Landlord's prior consent, (b) for any purpose other than to identify the address of the business to be conducted by Tenant in the Premises, or (c) in any manner that would infringe any trade name, trade mark, copyright or similar right of Landlord or any third party in or to any name or image of the Building or Project. Without limiting the foregoing, Tenant shall not, in any signage displayed at the Building or Project, on its website, or in any other advertising or promotional material, identify, describe, or refer to itself or its business as "[Tenant's name or trade name] (name of Building or Project)" or "[Tenant's name or trade name] At (name of Building or Project)".

Landlord may from time to time modify or supplement these Rules and Regulations in a manner that, in Landlord's reasonable judgment, is appropriate for the management, safety, care and cleanliness of the Premises, the Building, the Common Areas and the Project, for the preservation of good order therein, and for the convenience of other occupants and tenants thereof, provided that no such modification or supplement shall materially reduce Tenant's rights or materially increase Tenant's obligations hereunder. Landlord may waive any of these Rules and Regulations for the benefit of any tenant, but no such waiver shall be construed as a waiver of such Rule and Regulation in favor of any other tenant nor prevent Landlord from thereafter enforcing such Rule and Regulation against any tenant. Notwithstanding the foregoing, no rule that is added to the initial Rules and Regulations shall be enforced against Tenant in a manner that unreasonably discriminates in favor of any other similarly situated tenant.

## EXHIBIT E

### SOUTH COAST CORPORATE CENTER

#### JUDICIAL REFERENCE

IF THE JURY-WAIVER PROVISIONS OF SECTION 25.8 OF THIS LEASE ARE NOT ENFORCEABLE UNDER CALIFORNIA LAW, THE PROVISIONS SET FORTH BELOW SHALL APPLY

It is the desire and intention of the parties to agree upon a mechanism and procedure under which controversies and disputes arising out of this Lease or related to the Premises will be resolved in a prompt and expeditious manner. Accordingly, except with respect to actions for unlawful or forcible detainer or with respect to the prejudgment remedy of attachment, any action, proceeding or counterclaim brought by either party hereto against the other (and/or against its officers, directors, employees, agents or subsidiaries or affiliated entities) on any matters arising out of or in any way connected with this Lease, Tenant's use or occupancy of the Premises and/or any claim of injury or damage, whether sounding in contract, tort, or otherwise, shall be heard and resolved by a referee under the provisions of the California Code of Civil Procedure, Sections 638 — 645.1, inclusive (as same may be amended, or any successor statute(s) thereto) (the "Referee Sections"). Any fee to initiate the judicial reference proceedings and all fees charged and costs incurred by the referee shall be paid by the party initiating such procedure (except that if a reporter is requested by either party, then a reporter shall be present at all proceedings where requested and the fees of such reporter — except for copies ordered by the other parties — shall be borne by the party requesting the reporter); provided however, that allocation of the costs and fees, including any initiation fee, of such proceeding shall be ultimately determined in accordance with Section 25.6 of this Lease. The venue of the proceedings shall be in the county in which the Premises are located. Within 10 days of receipt by any party of a request to resolve any dispute or controversy pursuant to this Exhibit E, the parties shall agree upon a single referee who shall try all issues, whether of fact or law, and report a finding and judgment on such issues as required by the Referee Sections. If the parties are unable to agree upon a referee within such 10-day period, then any party may thereafter file a lawsuit in the county in which the Premises are located for the purpose of appointment of a referee under the Referee Sections. If the referee is appointed by the court, the referee shall be a neutral and impartial retired judge with substantial experience in the relevant matters to be determined, from Jams-Endispute, Inc., ADR Services, Inc. or a similar mediation/arbitration entity approved by each party in its sole and absolute discretion. The proposed referee may be challenged by any party for any of the grounds listed in the Referee Sections. The referee shall have the power to decide all issues of fact and law and report his or her decision on such issues, and to issue all recognized remedies available at law or in equity for any cause of action that is before the referee, including an award of attorneys' fees and costs in accordance with this Lease. The referee shall not, however, have the power to award punitive damages, nor any other damages that are not permitted by the express provisions of this Lease, and the parties waive any right to recover any such damages. The parties may conduct all discovery as provided in the California Code of Civil Procedure, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge, with rights to regulate discovery and to issue and enforce subpoenas, protective orders and other limitations on discovery available under California Law. The reference proceeding shall be conducted in accordance with California Law (including the rules of evidence), and in all regards, the referee shall follow California Law applicable at the time of the reference proceeding. The parties shall promptly and diligently cooperate with one another and the referee, and shall perform such acts as may be necessary to obtain a prompt and expeditious resolution of the dispute or controversy in accordance with the terms of this Exhibit E. In this regard, the parties agree that the parties and the referee shall use best efforts to ensure that (a) discovery be conducted for a period no longer than six (6) months from the date the referee is appointed, excluding motions regarding discovery, and (b) a trial date be set within nine (9) months of the date the referee is appointed. In accordance with Section 644 of the California Code of Civil Procedure, the decision of the referee upon the whole issue must stand as the decision of the court, and upon the filing of the statement of decision with the clerk of the court, or with the judge if there is no clerk, judgment may be entered thereon in the same manner as if the action had been tried by the court. Any decision of the referee and/or judgment or other order entered thereon shall be appealable to the same extent and in the same manner that such decision, judgment, or order would be appealable if rendered by a judge of the superior court in which venue is proper hereunder. The referee shall in his/her statement of decision set forth his/her findings of fact and conclusions of law. The parties intend this general reference agreement to be specifically enforceable in accordance with the Code of Civil Procedure. Nothing in this Exhibit E shall prejudice the right of any party to obtain provisional relief or other equitable remedies from a court of competent jurisdiction as shall otherwise be available under the Code of Civil Procedure and/or applicable court rules.

EXHIBIT F

SOUTH COAST CORPORATE CENTER

ADDITIONAL PROVISIONS

1. California Civil Code Section 1938. Pursuant to California Civil Code § 1938, Landlord hereby states that the Premises have not undergone inspection by a Certified Access Specialist (CASp) (defined in California Civil Code § 55.52)

2. Right of First Offer.

2.1. Grant of Option; Conditions.

A. Subject to the terms of this Section 2, Tenant shall have a right of first offer ("Right of First Offer") with respect to the following suite and each portion thereof (each, a "Potential Offering Space"): the 4,442 rentable square feet known as Suite 250 on the 2<sup>nd</sup> floor of the Building shown on the demising plan attached to this Lease as Exhibit F-1. Tenant's Right of First Offer shall be exercised as follows: At any time after Landlord has determined that a Potential Offering Space has become Available (defined below), but before leasing such Potential Offering Space to a third party, Landlord, subject to the terms of this Section 2, shall provide Tenant with a written notice (for purposes of this Section 2, an "Advice") advising Tenant of the material terms on which Landlord is prepared to lease such Potential Offering Space (sometimes referred to herein as an "Offering Space") to Tenant, which terms shall be consistent with Section 2.2 below. For purposes hereof, a Potential Offering Space shall be deemed to become "Available" as follows: (i) if such Potential Offering Space is not leased to a third party as of the date of mutual execution and delivery of this Lease, such Potential Offering Space shall be deemed to become Available when Landlord has located a prospective tenant that may be interested in leasing such Potential Offering Space; and (ii) if such Potential Offering Space is leased to a third party as of, or at any time after, the date of mutual execution and delivery of this Lease, such Potential Offering Space shall be deemed to become Available when Landlord has determined that such third-party tenant, and any occupant of such Potential Offering Space claiming under such third-party tenant, will not extend or renew the term of its lease, or enter into a new lease, for such Potential Offering Space. Upon receiving an Advice, Tenant may lease the Offering Space, in its entirety only, on the terms set forth in the Advice, by delivering to Landlord a written notice (for purposes of this Section 2, a "Notice of Exercise") within five (5) business days after receiving the Advice.

B. If Tenant receives an Advice but does not deliver a Notice of Exercise within the period of time required under Section 2.1.A above, Landlord may lease the Offering Space to any party on any terms determined by Landlord in its sole and absolute discretion.

C. Notwithstanding any contrary provision hereof, (i) Landlord shall not be required to provide Tenant with an Advice if any of the following conditions exists when Landlord would otherwise deliver the Advice; and (ii) if Tenant receives an Advice from Landlord, Tenant shall not be entitled to lease the Offering Space based on such Advice if any of the following conditions exists:

- (1) a Default exists;
- (2) all or any portion of the Premises is sublet;
- (3) this Lease has been assigned; or
- (4) Tenant is not occupying the Premises.

If, by operation of the preceding sentence, Landlord is not required to provide Tenant with an Advice, or Tenant, after receiving an Advice, is not entitled to lease the Offering Space based on such Advice, then Landlord may lease the Offering Space to any party on any terms determined by Landlord in its sole and absolute discretion.



2.2 Terms for Offering Space.

- A The term for the Offering Space shall be such period as Landlord, in its sole and absolute discretion, may set forth in the Advice; provided, however, that such term shall be not less than coterminous with the term for the balance of the Premises and (except to the extent necessary to be so coterminous) shall not exceed 120 months. Except as may be otherwise provided in the Advice, Section 3 below shall not apply to the Offering Space.
- B The term for the Offering Space shall commence on the commencement date stated in the Advice and thereupon the Offering Space shall be considered a part of the Premises subject to the provisions of this Lease; provided, however, that the provisions of the Advice (including the provision of the Advice establishing the expiration date for the Offering Space) shall prevail to the extent they conflict with the provisions of this Lease.
- C Tenant shall pay Monthly Rent for the Offering Space in accordance with the provisions of the Advice, which shall reflect the Prevailing Market (defined in Section 2.5 below) rate for the Offering Space as determined in Landlord's reasonable judgment.
- D Except as may be otherwise provided in the Advice, (i) the Offering Space shall be accepted by Tenant in its configuration and condition existing when Landlord tenders possession of the Offering Space to Tenant, without any obligation on the part of Landlord to perform or pay for any alterations or improvements thereto; and (ii) if Landlord is delayed in delivering possession of the Offering Space by any holdover or unlawful possession of the Offering Space by any party, Landlord shall use reasonable efforts to obtain possession of the Offering Space and any obligation of Landlord to tender possession of, permit entry to, or perform alterations to the Offering Space shall be deferred until after Landlord has obtained possession of the Offering Space.

2.3 Termination of Right of First Offer; Ongoing Right.

- A. Notwithstanding any contrary provision hereof, (i) Landlord shall not be required to provide Tenant with an Advice after the date occurring 12 months before the expiration of the initial Term (the "Initial Cutoff Date") unless Tenant has previously validly exercised, or continues to have the right to exercise, its Extension Option under Section 3 below; (ii) Tenant shall not be entitled to exercise its Right of First Offer after the Initial Cutoff Date unless Tenant has previously validly exercised, or then validly exercises, its Extension Option pursuant to Section 3 below; and (iii) if the term of this Lease is extended pursuant to Section 3 below, then Landlord shall not be required to provide Tenant with an Advice, and Tenant shall not be entitled to exercise its Right of First Offer, after the date occurring 12 months before the expiration of the Extension Term.
- B. If Landlord leases a Potential Offering Space to a third party as permitted under Section 2.1 above and subsequently determines that such Potential Offering Space has again become Available, then the provisions of this Section 2 shall apply again to such Potential Offering Space.

2.4 Offering Amendment. If Tenant validly exercises its Right of First Offer, Landlord, within a reasonable period of time thereafter, shall prepare and deliver to Tenant an amendment (the "Offering Amendment") adding the Offering Space to the Premises on the terms set forth in the Advice and reflecting the changes in the Base Rent, the rentable square footage of the Premises, Tenant's Share, and other appropriate terms in accordance with this Section 2. Tenant shall execute and return the Offering Amendment to Landlord within 15 business days after receiving it, but an otherwise valid exercise of the Right of First Offer shall be fully effective whether or not the Offering Amendment is executed.

2.5 Definition of Prevailing Market. For purposes of this Section 2, "Prevailing Market" means the arms-length, fair-market, annual rental rate per rentable square foot, under renewal and expansion leases and amendments entered into on or about the date on which the Prevailing Market is being determined hereunder, for space comparable to the Offering Space in the Building and Comparable Buildings in the Costa Mesa, California area. The determination of Prevailing Market shall take into account (i) any material

economic differences between the terms of this Lease and any comparison lease or amendment, such as rent abatements, construction costs and other concessions, and the manner, if any, in which the landlord under any such lease is reimbursed for operating expenses and taxes; and (ii) any material differences in configuration or condition between the Offering Space and any comparison space

2.6 **Landlord's Right to Extend Term for Balance of Premises.** If the term for the Offering Space, as set forth in the Advice, extends beyond the expiration date for the balance of the Premises, Landlord, at its option, may state in the Advice that if Tenant exercises its Right of First Offer based on the Advice, the term for the balance of the Premises shall be extended to be coterminous with the term for the Offering Space on the terms set forth in the Advice. In such event, (a) the Advice shall also state the material terms on which Landlord is prepared to extend the term of the balance of the Premises to be coterminous with the term for the Offering Space, which material terms shall include a rate of Base Rent that is equal to the Prevailing Market rate (provided, however, that Section 2.5 above, as applied to the balance of the Premises, shall be deemed to be amended by replacing each reference therein to the Offering Space with a reference to the balance of the Premises), as determined in Landlord's reasonable judgment, and (b) if Tenant exercises its Right of First Offer based on the Advice, then (i) the term for the balance of the Premises shall be extended to be coterminous with the term for the Offering Space on the terms set forth in the Advice; (ii) during such extension term, Tenant shall pay Monthly Rent for the balance of the Premises in accordance with the provisions of the Advice; (iii) except as may be otherwise provided in the Advice, the balance of the Premises shall be accepted by Tenant in its configuration and condition existing when the term for the balance of the Premises would otherwise have expired, without any obligation on the part of Landlord to perform or pay for any alterations or improvements thereto; and (iv) the Offering Amendment shall reflect the change in the term for the balance of the Premises.

2.7 **Subordination.** Notwithstanding any contrary provision hereof, Tenant's Right of First Offer shall be subject and subordinate to the expansion rights (whether such rights are designated as a right of first offer, right of first refusal, expansion option or otherwise) of any tenant of the Project existing on the date hereof.

### 3. **Extension Option.**

3.1. **Grant of Option; Conditions.** Tenant shall have the right (the "Extension Option") to extend the term of this Lease for one (1) additional period of five (5) years beginning on the day immediately following the expiration date of this Lease and ending on the 5<sup>th</sup> anniversary of such expiration date (the "Extension Term"), if:

- (a) not less than nine (9) and not more than 12 full calendar months before the expiration date of this Lease, Tenant delivers written notice to Landlord (the "Extension Notice") electing to exercise the Extension Option;
- (b) no Default exists when Tenant delivers the Extension Notice;
- (c) no part of the Premises is sublet when Tenant delivers the Extension Notice; and
- (d) this Lease has not been assigned before Tenant delivers the Extension Notice

3.2 **Terms Applicable to Extension Term.**

A During the Extension Term, (a) the Base Rent rate per rentable square foot shall be equal to the Prevailing Market (defined in Section 3.5 below) rate per rentable square foot; (b) Base Rent shall increase, if at all, in accordance with the increases assumed in the determination of Prevailing Market rate, and (c) Base Rent shall be payable in monthly installments in accordance with the terms and conditions of this Lease

B During the Extension Term Tenant shall pay Tenant's Share of Expenses and Taxes for the Premises in accordance with this Lease.

3.3 **Procedure for Determining Prevailing Market.**

A **Initial Procedure.** Within 30 days after receiving the Extension Notice, Landlord shall give Tenant written notice ("Landlord's Notice") stating Landlord's estimate of the Prevailing Market rate for the Extension Term. Tenant, within

15 days thereafter, shall give Landlord either (i) written notice ("Tenant's Binding Notice") accepting Landlord's estimate of the Prevailing Market rate for the Extension Term stated in Landlord's Notice, or (ii) written notice ("Tenant's Rejection Notice") rejecting such estimate. If Tenant gives Landlord a Tenant's Rejection Notice, Landlord and Tenant shall work together in good faith to agree in writing upon the Prevailing Market rate for the Extension Term. If, within 30 days after delivery of a Tenant's Rejection Notice, the parties fail to agree in writing upon the Prevailing Market rate, the provisions of Section 3.3.B below shall apply.

**B** Dispute Resolution Procedure

- 1 If, within 30 days after delivery of a Tenant's Rejection Notice, the parties fail to agree in writing upon the Prevailing Market rate, Landlord and Tenant, within five (5) days thereafter, shall each simultaneously submit to the other, in a sealed envelope, its good faith estimate of the Prevailing Market rate for the Extension Term (collectively, the "Estimates"). Within seven (7) days after the exchange of Estimates, Landlord and Tenant shall each select a broker or agent (an "Agent") to determine which of the two Estimates most closely reflects the Prevailing Market rate for the Extension Term. Each Agent so selected shall be licensed as a real estate broker or agent and in good standing with the California Department of Real Estate, and shall have had at least five (5) years' experience within the previous 10 years as a commercial real estate broker or agent working in Costa Mesa, California, with working knowledge of current rental rates and leasing practices relating to buildings similar to the Building.
- 2 If each party selects an Agent in accordance with Section 3.3.B.1 above, the parties shall cause their respective Agents to work together in good faith to agree upon which of the two Estimates most closely reflects the Prevailing Market rate for the Extension Term. The Estimate, if any, so agreed upon by such Agents shall be final and binding on both parties as the Prevailing Market rate for the Extension Term and may be entered in a court of competent jurisdiction. If the Agents fail to reach such agreement within 20 days after their selection, then, within 10 days after the expiration of such 20-day period, the parties shall instruct the Agents to select a third Agent meeting the above criteria (and if the Agents fail to agree upon such third Agent within 10 days after being so instructed, either party may cause a court of competent jurisdiction to select such third Agent). Promptly upon selection of such third Agent, the parties shall instruct such Agent (or, if only one of the parties has selected an Agent within the 7-day period described above, then promptly after the expiration of such 7-day period the parties shall instruct such Agent) to determine, as soon as practicable but in any case within 14 days after his selection, which of the two Estimates most closely reflects the Prevailing Market rate. Such determination by such Agent (the "Final Agent") shall be final and binding on both parties as the Prevailing Market rate for the Extension Term and may be entered in a court of competent jurisdiction. If the Final Agent believes that expert advice would materially assist him, he may retain one or more qualified persons to provide such expert advice. The parties shall share equally in the costs of the Final Agent and of any experts retained by the Final Agent. Any fees of any other broker, agent, counsel or expert engaged by Landlord or Tenant shall be borne by the party retaining such broker, agent, counsel or expert.

- C** Adjustment. If the Prevailing Market rate has not been determined by the commencement date of the Extension Term, Tenant shall pay Base Rent for the Extension Term upon the terms and conditions in effect during the last month ending on or before the expiration date of this Lease until such time as the Prevailing Market rate has been determined. Upon such determination, the Base Rent for the Extension Term shall be retroactively adjusted. If such adjustment results in an under- or overpayment of Base Rent by Tenant, Tenant shall pay Landlord the amount of such underpayment, or receive a credit in the amount of such overpayment, with or against the next Base Rent due under this Lease.

- 3.4 **Extension Amendment.** If Tenant is entitled to and properly exercises its Extension Option, and if the Prevailing Market rate for the Extension Term is determined in accordance with Section 3.3 above, Landlord, within a reasonable time thereafter, shall prepare and deliver to Tenant an amendment (the "Extension Amendment") reflecting changes in the Base Rent, the term of this Lease, the expiration date of this Lease, and other appropriate terms in accordance with this Section 3, and Tenant shall execute and return (or provide Landlord with reasonable objections to) the Extension Amendment within 15 days after receiving it. Notwithstanding the foregoing, upon determination of the Prevailing Market rate for the Extension Term in accordance with Section 3.3 above, an otherwise valid exercise of the Extension Option shall be fully effective whether or not the Extension Amendment is executed.
- 3.5 **Definition of Prevailing Market.** For purposes of this Extension Option, "Prevailing Market" shall mean the arms-length, fair-market, annual rental rate per rentable square foot under extension and renewal leases and amendments entered into on or about the date on which the Prevailing Market is being determined hereunder for space comparable to the Premises in the Building and Comparable Buildings in the Costa Mesa, California area. The determination of Prevailing Market shall take into account (i) any material economic differences between the terms of this Lease and any comparison lease or amendment, such as rent abatements, construction costs and other concessions, and the manner, if any, in which the landlord under any such lease is reimbursed for operating expenses and taxes; (ii) any material differences in configuration or condition between the Premises and any comparison space, including any cost that would have to be incurred in order to make the configuration or condition of the comparison space similar to that of the Premises; and (iii) any reasonably anticipated changes in the Prevailing Market rate from the time such Prevailing Market rate is being determined and the time such Prevailing Market rate will become effective under this Lease.
- 3.6 **Subordination.** Notwithstanding anything herein to the contrary, Tenant's Extension Option is subject and subordinate to the expansion rights (whether such rights are designated as a right of first offer, right of first refusal, expansion option or otherwise) of any tenant of the Building or the Project existing on the date hereof.

#### 4. **Eyebrow Signage.**

- 4.1 **Tenant's Right to Eyebrow Signage.** Subject to the terms of this Section 4, from and after the Commencement Date, Tenant shall have the right to install, maintain, repair, replace and operate the Eyebrow Signage (defined below). As used herein, "Eyebrow Signage" means an "eyebrow" sign that (i) bears Tenant's Name (defined below) and is located on the exterior side of the north side of the Building, as more particularly shown in Exhibit E-2 attached hereto. As used herein, "Tenant's Name" means, at any time, at Tenant's discretion, (i) the name of Tenant set forth in the first paragraph of this Lease ("Tenant's Existing Name"), or (ii) if Tenant's name is not then Tenant's Existing Name, then Tenant's name, provided that such name is compatible with a first-class office building, as determined by Landlord in its reasonable discretion. Notwithstanding any contrary provision hereof, (i) Tenant's rights to the Eyebrow Signage under this Section 4 shall be personal to the party named as Tenant in the first paragraph of this Lease, and may not be transferred to any other party; and (ii) if at any time a Signage Default (defined below) occurs or the Minimum Occupancy Requirement (defined below) is not satisfied, then, at Landlord's option (which shall not be deemed waived by the passage of time), Tenant shall no longer have any further right to the Eyebrow Signage under this Section 4, even if such Signage Default is later cured and/or the Minimum Occupancy Requirement later becomes satisfied, as applicable. For purposes hereof, a "Signage Default" shall be deemed to occur if and only if (x) after a Default occurs, Landlord provides Tenant with written notice that Tenant may lose its right to Eyebrow Signage under this Section 4 if Tenant fails to cure such Default within five (5) business days after such notice, and (y) such Default is not cured within such 5-business-day period. For purposes hereof, the "Minimum Occupancy Requirement" shall be deemed satisfied if and only if Tenant occupies the entire Premises.
- 4.2 **Landlord's Approval.** The size, color, materials and all other aspects of the Eyebrow Signage, including the manner in which it is attached to the Building and any provisions for illumination, shall be subject to Landlord's approval, which may be withheld in Landlord's reasonable discretion; provided, however, that Landlord's approval as to aesthetic matters may be withheld in Landlord's sole and absolute (but good faith) discretion.
- 4.3 **General Provisions.** Tenant, at its expense, shall design, fabricate, install, maintain, repair, replace, operate and remove the Eyebrow Signage, in each case in a first class manner consistent with a first-class office building and in compliance with all applicable Laws. Without limiting the foregoing, Tenant shall not install or modify the Eyebrow Signage until after obtaining and

providing copies to Landlord of all permits and approvals necessary therefor. Tenant shall be solely responsible, at its expense, for obtaining such permits and approvals, provided, however, that Landlord shall reasonably cooperate with Tenant, at no material cost or liability to Landlord, in executing permit applications and performing any other ministerial acts reasonably necessary to enable Tenant to obtain such permits and approvals. Within 30 days after the expiration or earlier termination of this Lease (or, if earlier, the date on which Tenant becomes no longer entitled to Eyebrow Signage under this Section 4), Tenant, at its expense, shall remove the Eyebrow Signage and restore all damage to the Building caused by its installation, operation or removal. Notwithstanding any contrary provision of this Lease, Tenant, not Landlord, shall, at its expense, (i) cause its property insurance policy to cover the Eyebrow Signage, and (ii) promptly repair the Eyebrow Signage if it is damaged by fire or any other casualty (unless Tenant, by prompt written notice to Landlord, elects to remove the Eyebrow Signage altogether, in which event Tenant shall no longer be entitled to Eyebrow Signage under this Section 4). Except as may be expressly provided in this Section 4, the installation, maintenance, repair, replacement, removal and any other work performed by Tenant affecting the Eyebrow Signage shall be governed by the provisions of Section 7.3 of this Lease as if such work were an Alteration. If an emergency results from Tenant's failure to maintain, repair, replace, operate or remove the Eyebrow Signage as required under this Section 4, then, without limiting Landlord's remedies, Landlord, at its option, with notice to Tenant (by telephone, e-mail, fax or any other reasonable method, notwithstanding Section 25.1 of this Lease), may perform such maintenance, repair, replacement, operation or removal, in which event Tenant shall reimburse Landlord for the reasonable cost thereof upon Landlord's demand. The costs of any utilities consumed in operation of the Eyebrow Signage shall be paid by Tenant upon Landlord's demand in accordance with Section 3 of this Lease.

5. Letter of Credit.

5.1. **General Provisions.** Concurrently with its execution and delivery of this Lease, Tenant shall deliver to Landlord, as collateral for Tenant's performance of its obligations under this Lease, a standby, unconditional, irrevocable, transferable letter of credit (the "Letter of Credit") that (a) is substantially in the form of Exhibit E-3 (or another form approved by Landlord in its sole and absolute discretion), (b) is in the amount of \$273,919.74 (the "Letter of Credit Amount"), (c) names Landlord as beneficiary, and (d) is issued (or confirmed) by a financial institution that meets the Minimum Financial Requirement (defined below) and is otherwise acceptable to Landlord in its reasonable discretion. For purposes hereof, a financial institution shall be deemed to meet the "Minimum Financial Requirement" at a particular time only if such financial institution then (i) has not been placed into receivership by the FDIC, and (ii) has a financial strength that, in Landlord's good faith judgment, is not less than that which is then generally required by Landlord and its Affiliates as a condition to accepting letters of credit in support of new leases. Tenant shall cause the Letter of Credit to be continuously maintained in effect (whether through replacement, renewal or extension) in the Letter of Credit Amount through the date (the "Final LC Expiration Date") occurring 60 days after the scheduled expiration date of the Term, as it may be extended from time to time.

5.2. **Replacement of Letter of Credit.**

- A. If the Letter of Credit held by Landlord expires or terminates before the Final LC Expiration Date (whether by reason of a stated expiration date or a notice of termination or non-renewal given by the issuing bank), Tenant shall deliver to Landlord, not later than 60 days before such expiration or termination, a new Letter of Credit, or a certificate of renewal or extension of the Letter of Credit held by Landlord, in an amount not less than the Letter of Credit Amount (less the amount of any unapplied Proceeds (defined in Section 5.3 below) then held by Landlord) and otherwise satisfying all of the requirements set forth in the first sentence of Section 5.1 above (the "LC Requirements").
- B. If, at any time before the Final LC Expiration Date, the financial institution that issued (or confirmed) the Letter of Credit held by Landlord does not meet the Minimum Financial Requirement, then Tenant, within five (5) business days after Landlord's demand, shall deliver to Landlord, in replacement of such Letter of Credit, a new Letter of Credit that (i) is issued (or confirmed) by a financial institution that meets the Minimum Financial Requirement and is otherwise acceptable to Landlord in its reasonable discretion, and (ii) is in an amount not less than the Letter of Credit Amount (less the amount of any unapplied Proceeds then held by Landlord) and otherwise satisfies all of the LC Requirements, whereupon Landlord shall return to Tenant the Letter of Credit that is being replaced.

- C If, at any time before the Final LC Expiration Date, the amount of the Letter of Credit held by Landlord is less than the Letter of Credit Amount (less the amount of any unapplied Proceeds then held by Landlord), then Tenant, within five (5) business days after Landlord's demand, shall either (i) deliver to Landlord an additional Letter of Credit that is in an amount not less than the amount of such shortfall and otherwise satisfies all of the LC Requirements, or (ii) deliver to Landlord, in replacement of the Letter of Credit held by Landlord, a new Letter of Credit that is in an amount not less than the Letter of Credit Amount (less the amount of any unapplied Proceeds then held by Landlord) and otherwise satisfies all of the LC Requirements (whereupon, in the case of this clause (ii), Landlord shall return to Tenant the Letter of Credit that is being replaced).
- 5.3 **Drawings Under Letter of Credit; Use of Proceeds.** If Tenant breaches any provision of this Lease (including any provision of Section 5.2 above), Landlord, without limiting its remedies and without notice to Tenant, may draw upon the Letter of Credit and either (a) use all or part of the proceeds of the Letter of Credit ("Proceeds") to cure such breach and compensate Landlord for any loss or damage caused by such breach, including any damage for which recovery may be made under California Civil Code § 1951.2, or (b) hold the Proceeds, without segregation, until they are applied as provided in the preceding clause (a) or paid to Tenant pursuant to Section 5.4 below.
- 5.4 **Payment of Unapplied Proceeds to Tenant.** Upon receiving any new or additional Letter of Credit (or any certificate of renewal or extension of a Letter of Credit) satisfying the applicable requirements of Section 5.2 above, Landlord shall pay to Tenant any unapplied Proceeds then held by Landlord, except to the extent, if any, that the amount of the Letter of Credit then held by Landlord is less than the Letter of Credit Amount. In addition, any unapplied Proceeds shall be paid to Tenant within 60 days after the latest to occur of (a) the expiration of the Term, (b) Tenant's surrender of the Premises as required under this Lease, or (c) determination of the final Rent due from Tenant.
- 5.5 **Nature of Letter of Credit and Proceeds.** Landlord and Tenant acknowledge and agree that, subject to the terms of this Section 5, neither the Letter of Credit nor any Proceeds are (i) the property of Tenant or its bankruptcy estate, or (ii) intended to serve as, or in lieu of, a security deposit.
- 5.6 **Letter of Credit Transfer Fee.** Tenant, within 10 business days after Landlord's request, shall pay to the issuer of the Letter of Credit (or, at Landlord's option, reimburse Landlord for any amount paid by Landlord to such issuer in respect of) any fee required by such issuer to be paid by Landlord or Tenant in connection with any transfer of the Letter of Credit to any party to whom Landlord assigns its interest in this Lease.
- 5.7 **Reduction of Letter of Credit Amount.** Notwithstanding the foregoing, (i) if no Default occurs on or before the third (3<sup>rd</sup>) anniversary of the Commencement Date, then the Letter of Credit Amount shall be reduced to \$233,339.04; (ii) if no Default occurs on or before the fourth (4<sup>th</sup>) anniversary of the Commencement Date, then the Letter of Credit Amount shall be reduced to \$191,132.22; and (iii) if no Default occurs on or before the fifth (5<sup>th</sup>) anniversary of the Commencement Date, then the Letter of Credit Amount shall be reduced to \$147,230.13. If the Letter of Credit Amount is reduced in accordance with this Section 2.6, Tenant shall either (a) deliver to Landlord a new Letter of Credit in the amount of the reduced Letter of Credit Amount and otherwise satisfying the LC Requirements, whereupon Landlord shall return the Letter of Credit then held by Landlord (the "Existing Letter of Credit") to Tenant within 30 days after the later of Landlord's receipt of such new Letter of Credit or the effective date of such reduction, or (b) deliver to Landlord an amendment to the Existing Letter of Credit, executed by and binding upon the issuer of the Existing Letter of Credit and in a form reasonably acceptable to Landlord, reducing the amount of the Existing Letter of Credit to the reduced Letter of Credit Amount, whereupon Landlord shall execute and return such amendment to Tenant within 30 days after the later of Landlord's receipt of such amendment or the effective date of such reduction.

EXHIBIT F-1

SOUTH COAST CORPORATE CENTER

OUTLINE OF POTENTIAL OFFERING SPACE

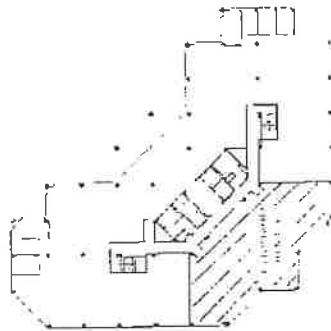


EXHIBIT F-2

SOUTH COAST CORPORATE CENTER

EYEBROW SIGNAGE





EXHIBIT F-3

SOUTH COAST CORPORATE CENTER

FORM OF LETTER OF CREDIT

[Issuer Letterhead]

[Issue Date]

ISSUER:

Morgan Stanley Bank, N.A.  
1300 Thames Street  
Thames Street Wharf  
4<sup>th</sup> Floor  
Baltimore, MD 21231  
Attention: Letter of Credit Department c/o Avnee Patel  
Telephone: (443) 627-4555  
Fax: (212) 507-5010

Irrevocable Standby Letter of Credit No. [ ]

BENEFICIARY:

BRE/OC SCCC L.L.C.  
C/O Equity Office, Attn: Treasury Department  
222 S. Riverside Plaza, 20<sup>th</sup> Floor, Chicago, IL 60606

APPLICANT:

Lahodny Family Trust  
2401 Francisco Dr.  
Newport Beach, CA 92660

Stated Amount:

USD TWO HUNDRED SEVENTY-THREE THOUSAND NINE HUNDRED NINETEEN  
AND 74/100 DOLLARS (U.S. \$273,919 74)

Expiration Date:

<One year from date of issuance> as such date may be extended pursuant to the terms hereof.

This Irrevocable Standby Letter of Credit No. [ ] (the "Letter of Credit") is hereby issued in favor of Beneficiary (hereinafter also called "you") for the account of Applicant, as an accommodation for DLJ Financial Inc., with a business address of 19500 Jamboree Rd., Suite 200, Irvine, CA 92612 (the "Accommodation Party") for the Stated Amount. This Letter of Credit is effective immediately and will expire on the Expiration Date.

Demands for payment of amounts available hereunder must be made by presentation of the following documents (collectively, the "Documents") to us by physical or overnight delivery at our address specified above (or such other address which may be designated by us in a written notice delivered to you at your address specified above): (i) demand for payment of an amount available under this Letter of Credit in the form of Attachment A completed and signed by Beneficiary and (ii) this original Letter of Credit (including any amendments), which in the event of a partial drawing, will be returned to you following our notation thereon of the amount of such partial drawing.

We hereby agree with you that Documents drawn and presented to us in compliance with the terms and conditions of this Letter of Credit on a Business Day on or before the Expiration Date will be duly honored, without inquiry into the accuracy of the statements set forth in the Documents and regardless of whether the Applicant or the Accommodation Party disputes the content of such statements. Documents presented to us after 3:00 p.m., New York time shall be deemed to be presented on the following Business Day. As used herein, the term "Business Day" means a day on which we are open in the State of New York and the State of Maryland to conduct our letter of credit business and on which banks are not authorized or required by law or executive order to close in the State of New York or the State of Maryland. Notwithstanding any provision to the contrary in ISP 98 (as hereinafter defined), if the Expiration Date is not a

Business Day, then such date shall be automatically extended to the next succeeding date that is a Business Day.

Payment under this Letter of Credit shall be made in immediately available funds by wire transfer to such account as may be designated by Beneficiary in the applicable drawing request and accompanying payment instructions. By paying to you or your account an amount demanded we make no representation as to the correctness of the amount demanded or the purpose therefor.

Partial payments shall be permitted, with the amount of this Letter of Credit being reduced, without amendment, by the amount(s) drawn. The maximum amount available under this Letter of Credit shall be reduced automatically to the extent of Issuer's honor of any partial demand for payment.

The Expiration Date of this Letter of Credit will be automatically extended without amendment for a period of one (1) year from the Expiration Date, or any future Expiration Date, unless at least sixty (60) days prior to the then current Expiration Date we send notice to Beneficiary by overnight courier at Beneficiary's address specified above, that we elect not to extend the Expiration Date of this Letter of Credit for any such additional period. Upon such notice to you, and subject to the terms hereof, you may draw at any time prior to the then current Expiration Date up to the full amount then available. Notwithstanding anything in this Letter of Credit to the contrary, in no event shall the Expiration Date be extended, automatically or otherwise, beyond April 1, 2021 (the "Final Expiration Date"), and this Letter of Credit shall automatically expire on the Final Expiration Date if it has not previously expired pursuant to the terms hereof.

Upon the earlier to occur of (i) payment to you or to your account of the Stated Amount pursuant to your demand or (ii) the expiration of this Letter of Credit, we shall be fully discharged of our obligations to you, and you shall immediately return this original Letter of Credit (and any amendments) to us at our address specified above (or such other address which may be designated by us in a written notice delivered to you at your address specified above).

We may accept Documents submitted by Beneficiary that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

Beneficiary's rights to demand payment under this Letter of Credit may be transferred by Beneficiary by presentation of this original Letter of Credit (including any amendments) to us at the place, in the medium, and within the time permitted for presentation of Documents to us demanding payment, together with (i) a demand in the form of Attachment B completed and signed by Beneficiary if presented and (ii) documentary and other evidence of the transferee's identity as it may be reasonably necessary to enable us to verify the transferee's identity or to comply with any applicable law or regulation, including, without limitation, Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318. After the approval of the transferee by us (based solely on the foregoing criteria), the transferee shall become the Beneficiary and the sole permitted signer of any demands for payment under this Letter of Credit, and its name and address and bank account for payment by wire transfer of funds shall be substituted for that of the transferor. All proposed transfers are subject to compliance with U.S. Treasury and U.S. Department of Commerce regulations and compliance with other applicable governmental laws, rules and regulations, including, without limitation, any that prohibit or limit us from conducting business with the proposed transferee. No partial transfers shall be permitted. Payment of our customary transfer fee, not to exceed USD SEVEN HUNDRED FIFTY AND NO/100 DOLLARS (U.S. \$750.00), shall be for the account of the Applicant.

This Letter of Credit sets forth in full terms of our undertaking and such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Letter of Credit is referred to or to which this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

All inquiries regarding this Letter of Credit and all correspondence and requests for drawings under this Letter of Credit should be directed to the Letter of Credit Department at the phone number or address referenced above, as applicable.

To the extent not inconsistent with the express terms hereof, this Letter of Credit is subject to the International Standby Practices, International Chamber of Commerce Publication No. 590 (the "ISP 98") and shall be governed and construed in accordance with the laws of the State of New York, without regard to any of its conflicts of law provisions. In the event of any conflict between the laws of the State of New York and the provisions of ISP 98, the provisions of ISP 98 shall control.

Sincerely,

MORGAN STANLEY BANK, N.A.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTACHMENT A (Demand for Sight Payment)

[Demand Date]

ISSUER

Morgan Stanley Bank, N.A.  
1300 Thames Street  
Thames Street Wharf  
4<sup>th</sup> Floor  
Baltimore, MD 21231  
Telephone: (443) 627-4555  
Fax: (212) 507-5010

Attention: Letter of Credit Department c/o Avnee Patel

Re: Morgan Stanley Bank, N.A. Irrevocable Standby Letter of Credit No.  
[ ] (the "Letter of Credit")

The undersigned Beneficiary demands payment of USD [ ] AND [ ]/100  
DOLLARS (U.S. \$[ ] . [ ]) under the Letter of Credit.

Beneficiary represents, warrants, certifies and promises that either:

(a) Beneficiary is entitled, in accordance with the terms and conditions of that certain Office Lease (the "Agreement") between DLJ Financial Inc. and Beneficiary, to draw the amount requested hereunder, and the amount of this drawing remains due and owing under such Agreement; or

(b) Beneficiary has received notice from Issuer of its election not to extend the Expiration Date of the Letter of Credit for an additional one (1) year period.

Beneficiary further represents, warrants, certifies and promises that the proceeds from this demand under the Letter of Credit will be used to satisfy DLJ Financial Inc.'s obligations under such Agreement to Beneficiary.

Payment should be made to the account and pursuant to the wire transfer instructions attached hereto.

This demand is made as of the date hereof.

All capitalized terms not defined herein shall have the meanings given such terms in the Letter of Credit.

Yours faithfully,

BRE/OC SOCC LLC,

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

BENEFICIARY'S WIRING INSTRUCTIONS

ATTACHMENT B (Demand for Transfer)

[Demand Date]

ISSUER

Morgan Stanley Bank, N.A.  
1300 Thames Street  
Thames Street Wharf  
4<sup>th</sup> Floor  
Baltimore, MD 21231  
Telephone: (443) 627-4555  
Fax: (212) 507-5010

Attention: Letter of Credit Department c/o Avnee Patel

Re: Morgan Stanley Bank, N.A. Irrevocable Standby Letter Of Credit No  
[ ] (the "Letter of Credit")

The undersigned Beneficiary demands transfer of the rights to demand further payment  
under the Letter of Credit to the following person at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and with the bank account described in the attachment hereto for payment by wire transfer of  
funds to that person.

Beneficiary states that the name of the above-identified transferee is the full and correct legal  
name of such person.

Beneficiary states that the above-identified person is the transferee, from and after the  
effective date shown below, of all of Beneficiary's rights that are supported by the Letter of  
Credit and Beneficiary's related obligations under that certain Office Lease between DLJ  
Financial Inc. and Beneficiary.

Beneficiary agrees to make no demand or request for payment or other transfer under the  
Letter of Credit while this demand for transfer is outstanding, provided, however, that you agree  
to notify the undersigned Beneficiary in writing on or before the proposed effective date of the  
transfer of the completion and approval of the requested transfer, or of your rejection or denial of  
the requested transfer, whereupon Beneficiary (in the event of a denial) or transferee (in the  
event of a transfer) shall again have the right to demand payments under the Letter of Credit in  
accordance with the terms thereof.

Enclosed is the original Letter of Credit (including all amendments). Please effectuate  
the demanded transfer as of the following effective date: [ ] (which effective

date is not less than ten Business Days after the date of this demand for transfer). Please do so by marking and delivering the Letter of Credit or by delivering a replacement to the above-identified person as the transferee beneficiary and by notifying the undersigned thereof.

This demand and statement are made as of the date hereof.

All capitalized terms not defined herein shall have the meanings given such terms in the Letter of Credit.

Yours faithfully,

BRE/OC SCCC LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



PROPOSED TRANSFEREE'S BANK ACCOUNT INFORMATION

{Include name and address of the proposed transferee's bank and name and number of the proposed transferee's account}

EXHIBIT C

SOUTH COAST CORPORATE CENTER

[Intentionally Omitted.]



4041 MacArthur Boulevard, Suite 150  
Newport Beach, California 92660  
phone 856 274 0064 fax 856 536 6523  
www.equityoffice.com

EXHIBIT C

3070 Bristol Street

COMMENCEMENT LETTER

July 19, 2016

DLJ Financial, Inc.  
3070 Bristol Street, Suite 200  
Santa Ana, CA 92704

Re: Office Lease (the "Lease") dated February 17, 2016, between BRE/OC SCCC, LLC, a Delaware limited liability company ("Landlord"), and DLJ FINANCIAL, INC., a California corporation ("Tenant"), concerning Suite 200 (the "Premises") on the 2nd floor of the building located at 3070 Bristol Street, Costa Mesa, California.

Lease ID: 000003302  
Business Unit Number: 22561

Dear Mr. Lorne Lahodny:

In accordance with the Lease, Tenant accepts possession of the Premises and confirms the following:

1. The Commencement Date May 27, 2016 and the Expiration Date is May 31, 2022.
2. The exact number of rentable square feet within the Premises is 16,677 square feet, subject to Section 1.2.2 of the Lease.
3. Tenant's Share, based upon the exact number of rentable square feet within the Premises, is 13.0403% subject to Section 1.6 of the Lease.

Please acknowledge the foregoing and your acceptance of possession by signing all three (3) counterparts of this Commencement letter in the space provided below and returning two (2) fully executed counterparts to my attention. Please note that, pursuant to Section 2.1.1 of the Lease, if Tenant fails to execute and return (or, by notice to Landlord, reasonably object to) this letter within five (5) days after receiving it, Tenant shall be deemed to have executed and returned it without exception.

Agreed and Accepted as of 8/3, 2016.

"Tenant":

DLJ Financial Inc., a California company

By: [Signature]  
Name: Lorne Lahodny  
Title: President

"Landlord":

BRE CA OFFICE OWNER LLC, a Delaware limited liability company

By: [Signature]

Name: Krystal Hoang  
Title: Property Manager

## FIRST AMENDMENT

**THIS FIRST AMENDMENT** (this "Amendment") is made and entered into as of November 11/18/2021 2021 (the "Effective Date"), by and between BRE/OC SCCC L.L.C., a Delaware limited liability company ("Landlord"), and LOANSNAP, INC., a California corporation ("Tenant").

### RECITALS

- A. Landlord and Tenant (as successor in interest to DLJ Financial, Inc., a California corporation) are parties to that certain Office Lease dated February 17, 2016 (the "Existing Lease"). Pursuant to the Existing Lease, Landlord has leased to Tenant space (the "Premises") known as Suite 200 on the 2<sup>nd</sup> floor of the building commonly known as Canvas South located at 3070 Bristol Street, Costa Mesa, California 92626 (the "Building").
- B. The Existing Lease will expire by its terms on May 31, 2022 (the "Existing Expiration Date"), and the parties wish to extend the Term of the Existing Lease on the following terms and conditions. The Existing Lease as amended by this Amendment is herein referred to as the "Lease".
- C. The Existing Lease describes the Premises as containing approximately 16,677 rentable square feet and the Building as containing approximately 127,888 rentable square feet. Landlord has re-measured the Premises and the Building and the parties have agreed to amend the Existing Lease to reflect the results of such re-measurement.

**NOW, THEREFORE**, in consideration of the above recitals which by this reference are incorporated herein, the mutual covenants and conditions contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. **Re-measurement of Premises and Building.** Landlord and Tenant acknowledge and agree that (a) Landlord has re-measured the Premises and the Building, and, according to such re-measurement, (i) the rentable area of the Premises is 16,971 rentable square feet, and (ii) the rentable area of the Building is 130,165 square feet; and (b) from and after the Extension Date (defined in Section 2 below), (i) the rentable areas of the Premises and Building shall be deemed to be the square footages set forth in the preceding clause (a), and (ii) Tenant's Share for the Premises shall be 13.0381%.
2. **Extension.** The Term of the Existing Lease is hereby extended through May 31, 2027 (the "Extended Expiration Date"). The portion of the Term of the Existing Lease beginning on the date immediately following the Existing Expiration Date (the "Extension Date") and ending on the Extended Expiration Date shall be referred to herein as the "Extended Term". As of the Effective Date, (i) the defined term "Term" as used in the Existing Lease shall mean the Term as extended through the Extended Expiration Date and (ii) the defined term "Expiration Date" as used in the Existing Lease shall mean the Extended Expiration Date.
3. **Base Rent.** During the Extended Term, the schedule of Base Rent shall be as follows:

Period of Extended Term	Annual Rate Per Square Foot	Monthly Base Rent
06/01/22 - 05/31/23	\$37.80	\$53,458.65
06/01/23 - 05/31/24	\$38.93	\$55,056.75

06/01/24 - 05/31/25	\$40.10	\$56,711.43
06/01/25 - 05/31/26	\$41.31	\$58,422.67
06/01/26 - 05/31/27	\$42.54	\$60,162.20

All such Base Rent shall be payable by Tenant in accordance with the terms of the Lease.

Notwithstanding the foregoing, Base Rent for the Premises shall be abated (i) in the amount of \$53,458.65 per month for the months of April 2023 and May 2023, (ii) in the amount of \$55,056.75 per month for the months of April 2024 and May 2024, and (iii) in the amount of \$48,133.49 for the month of April 2025 (all such abated Rent, the "**Abated Base Rent**"); provided, however, that (a) if a Default exists when any such abatement would otherwise apply, such abatement shall be deferred until the date, if any, on which such Default is cured; and (b) Landlord, at its option, may cancel all or any portion of any such abatement that has not yet been applied, by notifying Tenant of such cancellation and paying Tenant the value of such unapplied abatement (the "**Base Rent Cancellation Amount**"), in which event the parties, at Landlord's option, shall execute a commercially reasonable amendment to the Lease prepared by Landlord memorializing such cancellation.

4. **Letter of Credit.** As of the Effective Date, the Letter of Credit Amount (defined in Section 5.1 of Exhibit F to the Existing Lease) shall be increased to be **\$200,000.00** from the amount previously reduced pursuant to Section 5.7 of the Existing Lease, and Tenant shall deliver to Landlord, within five (5) business days following mutual execution and delivery of this Amendment, a replacement Letter of Credit in such new Letter of Credit Amount and otherwise satisfying the LC Requirements (the "**Replacement Letter of Credit**"). Landlord shall return the existing Letter of Credit held by Landlord to Tenant within twenty (20) days after receipt of such Replacement Letter of Credit. Notwithstanding any contrary provision hereof, provided that no Default then exists, the Letter of Credit Amount shall be reduced to \$150,000.00 on June 1, 2024. If the Letter of Credit Amount is reduced in accordance with this Section 4, Tenant shall either (a) deliver to Landlord a new Letter of Credit in the new Letter of Credit Amount and otherwise satisfying the LC Requirements, whereupon Landlord shall return the Letter of Credit then held by Landlord (the "**Existing Letter of Credit**") to Tenant within 20 days after the later of Landlord's receipt of such new Letter of Credit or the effective date of such new Letter of Credit, or (b) deliver to Landlord an amendment to the Existing Letter of Credit, executed by and binding upon the issuer of the Existing Letter of Credit and in a form reasonably acceptable to Landlord, amending the amount of the Existing Letter of Credit to the new Letter of Credit Amount, whereupon Landlord shall execute and return such amendment to Tenant within 20 days after the later of Landlord's receipt of such amendment or the effective date of such amendment.
5. **Expenses and Taxes.** During the Extended Term, Tenant shall pay for Tenant's Share of Expenses and Taxes in accordance with the terms of the Existing Lease; provided, however, that during the Extended Term (i) the Base Year for Expenses and Taxes shall be 2022, and (ii) Tenant shall not be required to pay Tenant's Share of Expenses and Taxes with respect to any period occurring before June 1, 2023.
6. **Improvements to Premises.**
  - 6.1. **Configuration and Condition of Premises.** Tenant acknowledges that it is in possession of the Premises and agrees to accept them "as is" without any representation by Landlord regarding their configuration or condition and without any obligation on the part of Landlord to perform or pay for any alteration or improvement, except as may be otherwise expressly

provided in this Amendment.

- 6.2. **Responsibility for Improvements to Premises.** Except as otherwise expressly provided in this Amendment, any improvements to the Premises performed by Tenant shall be paid for by Tenant and performed in accordance with the terms of the Lease.

7. **Other Pertinent Provisions.** Landlord and Tenant agree that, as of the Effective Date (unless different effective date(s) is/are specifically referenced in this Section), the Existing Lease shall be amended in the following additional respects:

- 7.1. **Payment to Tenant.** Within 15 business days following the Extension Date, Landlord shall pay to Tenant the amount of \$339,420.00.

- 7.2. **General Use Allowance.** Beginning June 1, 2024, Tenant shall be entitled to a one-time allowance (the "**General Use Allowance**") in the amount of \$339,420.00 (i.e., \$20.00 per rentable square foot of the Premises) to be applied toward payment of (a) the costs of purchasing and moving into the Premises Tenant's furniture, equipment and/or other personal property, (b) the costs of purchasing and/or installation of Lines by Tenant in the Premises, (c) Tenant's parking fees, or (d) Base Rent. Any portion of the General Use Allowance that Tenant uses pursuant to clause (a) or (b) of the preceding sentence shall be disbursed by Landlord to Tenant within 30 days after receipt of paid invoices from Tenant with respect to the costs described therein. Any portion of the Allowance that Tenant uses pursuant to clause (c) of the first sentence of this **Section 6.2** shall be disbursed by Landlord to pay parking fees next coming due at least 30 days after Tenant's request. Any portion of the Allowance that Tenant uses pursuant to clause (d) of the first sentence of this **Section 6.2** shall be disbursed by Landlord to pay Base Rent next coming due at least 30 days after Tenant's request. Notwithstanding the foregoing, if Tenant fails to use the entire General Use Allowance by May 31, 2025, the unused amount shall revert to Landlord and Tenant shall have no further rights with respect thereto.

- 7.3. **California Civil Code Section 1938.** Pursuant to California Civil Code § 1938(a), Landlord hereby states that the Premises have not undergone inspection by a Certified Access Specialist (CASp) (defined in California Civil Code § 55.52). Accordingly, pursuant to California Civil Code § 1938(c), Landlord hereby further states as follows:

A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

In accordance with the foregoing, Landlord and Tenant agree that if Tenant obtains a CASp inspection of the Premises, then Tenant shall pay (i) the fee for such inspection, and (ii) except as may be otherwise expressly provided in this Amendment, the cost of making any repairs necessary to correct violations of construction-related accessibility standards

within the Premises.

- 7.4. **Parking.** Effective as of the Extension Date, Section 1.9, "Parking", of the Existing Lease, shall be deemed deleted in its entirety and replaced with the following:

"67 unreserved parking spaces located in the parking structure included in the Parking Facility (defined in Section 2.4), at the Unreserved Standard Rate (defined below). As used herein, "**Unreserved Standard Rate**" means the rate of (i) \$0.00 per space per month during the portion of the Term commencing on the Extension Date and ending on the last day of the 36<sup>th</sup> full calendar month of the Extended Term, (ii) \$40.00 per space for the balance of the Extended Term, and (iii) Landlord's prevailing rate during any extension or renewal Term.

The Unreserved Over-Standard Number (defined below) of unreserved parking spaces located on the top level of the parking structure included in the Parking Facility, at the Unreserved Over-Standard Rate (defined below). As used herein, "**Unreserved Over-Standard Number**" means zero (0); provided, however, that Tenant, upon thirty (30) days' notice to Landlord from time to time, may change the Unreserved Over-Standard Number to any whole number from zero (0) to thirty (30). As used herein, "**Unreserved Over-Standard Rate**" means the rate of (i) \$40.00 per space per month during the Extended Term, and (ii) Landlord's prevailing rate during any extension or renewal Term.

Three (3) reserved parking spaces, at the rate of (i) \$0.00 per space per month during the portion of the Term commencing on the Extension Date and ending on the last day of the 36<sup>th</sup> full calendar month of the Extended Term, (ii) \$85.00 per space for the balance of the Extended Term, and (iii) Landlord's prevailing rate during any extension or renewal term."

8. **Miscellaneous.**

- 8.1. This Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. This Amendment shall be binding upon and shall inure to the benefit of Landlord and Tenant and their respective legal representatives, successors and assigns and related entities. There have been no additional oral or written representations or agreements. Tenant shall not be entitled, in connection with entering into this Amendment, to any free rent, allowance, alteration, improvement or similar economic incentive to which Tenant may have been entitled in connection with entering into the Existing Lease, except as may be otherwise expressly provided in this Amendment.
- 8.2. Except as herein modified or amended, the provisions, conditions and terms of the Existing Lease shall remain unchanged and in full force and effect.
- 8.3. In the case of any inconsistency between the provisions of the Existing Lease and this Amendment, the provisions of this Amendment shall govern and control.
- 8.4. Submission of this Amendment by Landlord is not an offer to enter into this Amendment but rather is a solicitation for such an offer by Tenant. Landlord shall not be bound by this Amendment until Landlord has executed and delivered it to Tenant.
- 8.5. Capitalized terms used but not defined in this Amendment shall have the meanings given in

the Existing Lease.

- 8.6. Tenant shall indemnify and hold Landlord, its trustees, members, managers, principals, beneficiaries, partners, officers, directors, employees, mortgagee(s) and agents, and the respective principals, members and managers of any such agents harmless from all claims of any brokers (other than Madison Street Partners) claiming to have represented Tenant in connection with this Amendment. Landlord shall indemnify and hold Tenant, its trustees, members, managers, principals, beneficiaries, partners, officers, directors, employees, and agents, and the respective principals, members and managers of any such agents harmless from all claims of any brokers (including Newmark Knight Frank) claiming to have represented Landlord in connection with this Amendment. Tenant acknowledges that any assistance rendered by any agent or employee of any affiliate of Landlord in connection with this Amendment has been made as an accommodation to Tenant solely in furtherance of consummating the transaction on behalf of Landlord, and not as agent for Tenant. Landlord shall pay commission to Madison Street Partners pursuant to a separate written agreement.
- 8.7. If Tenant has any expansion right (whether such right is designated as a right of first offer, right of first refusal, expansion option or otherwise) that was granted to Tenant under the Existing Lease (as determined without giving effect to this Amendment) and that, by virtue of this Amendment, will continue in effect during the Extended Term, then, from and after the Extension Date, such expansion right shall be subject and subordinate to any expansion right (whether such right is designated as a right of first offer, right of first refusal, expansion option or otherwise) of any tenant of the Building or Project existing on the date of mutual execution and delivery hereof.
- 8.8. Each signatory of this Amendment represents hereby that he or she has the authority to execute and deliver the same on behalf of the party hereto for which such signatory is acting.
- 8.9. This Amendment represents the complete understanding of Landlord and Tenant with respect to the subject matter hereof, and may not be modified, amended or altered except by their subsequent written agreement. No prior or other agreement or understanding pertaining to the matters set forth herein shall be valid or of any force or effect. The warranties, representations, agreements and obligations contained in this Amendment shall survive the execution and delivery of this Amendment and shall survive any and all performances in accordance with this Amendment.
- 8.10. This Amendment may be executed in counterparts and shall constitute an agreement binding on all parties notwithstanding that all parties are not signatories to the original or the same counterpart provided that all parties are furnished a copy or copies thereof reflecting the signature of all parties. The parties agree that delivery of a copy or of an electronically executed signature page of this Amendment by electronic transmission (including, without limitation, via emailed .pdf or DocuSign) shall be deemed as effective as delivery of an original, manually executed signature page of this Amendment. This Amendment shall be construed and enforced in accordance with the laws of the state in which the Premises are located.
- 8.11. This Amendment shall be construed without regard to any presumption or other rule requiring construction against the party causing this Amendment or any part thereof to be drafted. Each of the parties hereto acknowledge that it has been or has had the opportunity to be represented by counsel of its own choice throughout all of the negotiations which preceded the preparation of this Amendment and in connection with the preparation and execution of this Amendment.



- 8.12. If Tenant (or any party claiming by, through or under Tenant) pays directly to the provider for any energy, water or other utility consumed at the Property, Tenant shall deliver to Landlord on a monthly (or, at Landlord's option, a less frequent) basis, or, at Tenant's option, execute and deliver to Landlord an instrument enabling Landlord to obtain from such provider, Tenant's utility bills and any other data about such consumption that Landlord, in its reasonable judgment, desires to obtain or is required to disclose to a prospective buyer, tenant, Security Holder or governmental agency under applicable Law. Tenant shall use its commercially reasonable efforts to cooperate with Landlord to achieve cost efficiencies using tariff analysis and property improvement recommendations resulting from ASHRAE audits and aggregated procurement.

**[SIGNATURES ARE ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, Landlord and Tenant have duly executed this Amendment as of the day and year first above written.

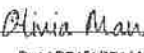
**LANDLORD:**

**BRE/OC SCCC L.L.C.**, a Delaware limited liability company

By:   
Name: Brendan McCracken  
Title: SVP Portfolio Director

**TENANT:**

**LOANSNAP, INC.**, a California corporation

By:   
Name: Olivia Man  
Title: CFO

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## CONSENT TO CHANGE OF CONTROL

THIS CONSENT TO CHANGE OF CONTROL (this "Consent") is entered into as of February 1, 2018, by and among BRE/OC SCCC L.L.C., a Delaware limited liability company ("Landlord"), and DLJ FINANCIAL, INC., a California corporation ("Tenant").

### RECITALS:

- A. Landlord and Tenant are parties to that certain lease dated February 17, 2016 (as the same may have been amended, the "Lease") for the premises containing approximately 16,677 rentable square feet known as Suite 200 on the 2<sup>nd</sup> floor of the building known as South Coast Corporate Center located at 3070 Bristol Street, Costa Mesa, California 92626.
- B. Tenant has entered into an agreement with LoanSnap Holdings, Inc., a Delaware corporation ("New Controlling Party") pursuant to which New Controlling Party will acquire a controlling interest in Tenant (the "Change of Control").
- C. Tenant has requested Landlord's consent to the Change of Control and Landlord has agreed to give such consent upon the terms and conditions contained in this Consent.


NOW THEREFORE, in consideration of the foregoing recitals which by this reference are incorporated herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

- 1. Consent. Landlord hereby consents to the Change of Control, pursuant to Section 14.2 of the Lease, provided that (a) the Change of Control occurs within 60 days after the date hereof; and (b) immediately after the Change of Control, (i) Tenant has a net worth (as determined in accordance with GAAP, but excluding intellectual property and any other intangible assets) not less than that of Tenant immediately before the Change of Control, and (ii) no party that (other than through the passive ownership of interests traded on a recognized securities exchange) owns or controls Tenant is (A) in violation of any laws relating to terrorism or money laundering, or (B) among the individuals or entities identified on any list compiled pursuant to Executive Order 13224 for the purpose of identifying suspected terrorists or on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treasury.gov/ofac/dfs/in.pdf> or any replacement website or other replacement official publication of such list. This Consent shall not constitute a waiver of any obligation to obtain Landlord's consent to any subsequent transfer under the Lease, nor shall it constitute a waiver of any existing default under the Lease.
- 2. Administrative Fee. Pursuant to Section 14.1 of the Lease, Tenant shall pay Landlord a fee in the amount of \$1,000.00 upon Tenant's execution hereof for Landlord's administrative and processing expenses in connection with this Consent.
- 3. Miscellaneous. This Consent sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements. Except as amended herein, all terms and conditions of the Lease shall remain and continue in full force and effect. In case of inconsistency between the Lease and this Consent, the latter shall govern and control. This Consent may be amended, modified or canceled only by an instrument in writing signed by all parties hereto.
- 4. Counterparts. This Consent may be executed in counterparts and shall constitute an agreement binding on all parties notwithstanding that all parties are not signatories to the original or the same counterpart provided that all parties are furnished a copy or copies thereof reflecting the signature of all parties.

IN WITNESS WHEREOF, the parties have executed this Consent as of the date first above written.

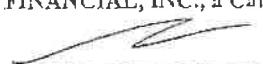
**LANDLORD:**

BRE/OC SCCC L.L.C., a Delaware limited liability company

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Brent Campbell

**TENANT:**

DLJ FINANCIAL, INC., a California corporation

By:   
Name: LORNE LANYON  
Title: PRESIDENT

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

# Exhibit 2

**FIVE DAY NOTICE TO PAY RENT OR QUIT**  
**(Commercial Tenancy)**

TO: LOANSNAP, INC., A CALIFORNIA CORPORATION  
All tenants and subtenants in possession and all others in possession  
Of the premises located at:

3070 Bristol Street, Suite 200 Costa Mesa, CA 92626  
(Street Address, City, Zip)

**WITHIN FIVE BUSINESS DAYS, EXCLUDING WEEKENDS AND COURT HOLIDAYS** after service on you of this Notice, you are hereby required to make payment PAYABLE TO: (Owner/Agent)

MGR OC 1, LLC, a California limited liability company c/o MGR Property Management, Inc.

the rent and other monetary obligations of your Lease, for the premises amounting to the total sum of: **Four Hundred Four Thousand Six Hundred Sixty-Seven and 13/100 (\$404,667.13)** calculated as follows:

**1. February 2024 – Total owed \$57,809.59 broken down as follows:**

\$55,056.75 for the rental period from February 1, 2024 through February 29, 2024  
(Due: 1st of each month per Paragraph 3 of the Lease)

\$2,752.84 for late fees for February 2024 rent per paragraph 3 of the leases which states that any installment of Rent that is not received within five (5) business days after its due date, Tenant shall pay a late charge equal to 5% of the overdue amount.

**2. January 2024 – Total owed \$57,809.59 broken down as follows:**

\$55,056.75 for the rental period from January 1, 2024 through January 31, 2024  
(Due: 1st of each month per Paragraph 3 of the Lease)

\$2,752.84 for late fees for January 2024 rent per paragraph 3 of the leases which states that any installment of Rent that is not received within five (5) business days after its due date, Tenant shall pay a late charge equal to 5% of the overdue amount.

**3. December 2023 – Total owed \$57,809.59 broken down as follows:**

\$55,056.75 for the rental period from December 1, 2023 through December 31, 2023  
(Due: 1st of each month per Paragraph 3 of the Lease)

\$2,752.84 for late fees for December 2023 rent per paragraph 3 of the leases which states that any installment of Rent that is not received within five (5) business days after its due date, Tenant shall pay a late charge equal to 5% of the overdue amount.

**4. November 2023 – Total owed \$57,809.59 broken down as follows:**

\$55,056.75 for the rental period from November 1, 2023 through November 30, 2023  
(Due: 1st of each month per Paragraph 3 of the Lease)

\$2,752.84 for late fees for November 2023 rent per paragraph 3 of the leases which states that any installment of Rent that is not received within five (5) business days after its due date, Tenant shall pay a late charge equal to 5% of the overdue amount.

**5. October 2023 – Total owed \$57,809.59 broken down as follows:**

\$55,056.75 for the rental period from October 1, 2023 through October 31, 2023  
(Due: 1st of each month per Paragraph 3 of the Lease)

\$2,752.84 for late fees for October 2023 rent per paragraph 3 of the leases which states that any installment of Rent that is not received within five (5) business days after its due date, Tenant shall pay a late charge equal to 5% of the overdue amount.

**6. September 2023 – Total owed \$57,809.59 broken down as follows:**

\$55,056.75 for the rental period from September 1, 2023 through September 30, 2023  
(Due: 1st of each month per Paragraph 3 of the Lease)

\$2,752.84 for late fees for September 2023 rent per paragraph 3 of the leases which states that any installment of Rent that is not received within five (5) business days after its due date, Tenant shall pay a late charge equal to 5% of the overdue amount.

**7. August 2023 – Total owed \$57,809.59 broken down as follows:**

\$55,056.75 for the rental period from August 1, 2023 through August 31, 2023  
(Due: 1st of each month per Paragraph 3 of the Lease)

\$2,752.84 for late fees for September 2023 rent per paragraph 3 of the leases which states that any installment of Rent that is not received within five (5) business days after its due date, Tenant shall pay a late charge equal to 5% of the overdue amount.

**OR QUIT AND DELIVER THE POSSESSION OF THE PREMISES.**

If you fail to perform or otherwise comply, Owner/Agent declares the forfeiture of your Rental/Lease Agreement and will institute legal proceedings to obtain possession. Such proceedings could result in a judgment against you, which may include attorneys' fees and court costs as allowed by law, and an additional punitive award of six hundred dollars (\$600) pursuant to *California Code of Civil Procedure* § 1174(b), in accordance with California law.

WITHOUT WAIVING ANY RIGHTS UNDER *CALIFORNIA CIVIL CODE* § 1951.2, YOU ARE NOTIFIED that in the event you fail to pay the rent set forth, it is the intention of your Lessor to obtain possession of the Premises and attempt to relet same without relieving you of your liability under said lease, and to take such other actions as may be provided in said lease. The undersigned hereby elects to declare the forfeiture of the lease under which you occupy said Premises. A partial payment of rent by you shall not waive the Lessor's election of forfeiture.

FURTHER NOTICE IS GIVEN that in the event any partial payments of rent, expenses, or other charges are tendered and accepted by the undersigned after service of this Notice and/or after the filing of the Complaint for Unlawful Detainer, acceptance shall be without a waiver of any of the rights of the Lessor,

(California Code of Civil Procedure § 1161.1(b) et seq.) including the right to recover possession of the Premises hereinabove described as well as the balance of the rent, expenses and other charges due under this Notice and/or the lease. If you fail to fulfill the terms of your credit obligations, a negative credit report may be submitted to a credit reporting agency.

This Five-Day Notice to Pay Rent or Quit supersedes all previous Five-Day Notices to Pay Rent or Quit, if any. Further, the amount demanded herein shall be deemed "**ESTIMATED**" per California Code of Civil Procedure § 1161.1(a).

Payment must be made in the form of **Cashier's Check; Money Order; or Electronic Payment Pursuant to Previous Established Procedures** and delivered to:

\_\_\_\_\_  
MGR Property Management, Inc. C/O Monica Mixon

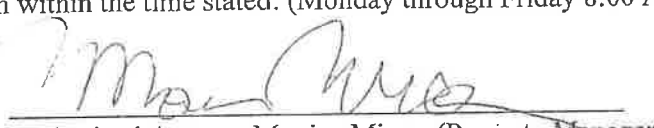
at: 3090 Bristol Street, Suite 255, Costa Mesa, CA 92626

Telephone number for the above person is: 949-287-5200 x 205, Monday-Friday 8:00am-5:00pm

(Payment may be made at any time in person within the time stated: (Monday through Friday 8:00 AM through 5:00 PM, excluding holidays))

02/07/2024

Date

  
Authorized Agent - Monica Mixon (Property Manager)

Addresses 5 day Notice is being served at:

1. LOANSNAP INC., a California corporation  
3070 Bristol Street, Suite 200  
Costa Mesa, CA 92626  
(Premises Address per Paragraph 1.9 of the Lease)



# Exhibit 3

## PROOF (DECLARATION) OF SERVICE OF NOTICE TO TENANT

On 02/07/2024, I served the NOTICE(s) herein to the following Tenant(s):  
(Insert Date of Service of Notice)

Loansnap, Inc., a California Corporation

(Insert Name of Tenant)

(Insert Name of Tenant)

(Insert Name of Tenant)

(Insert Name of Tenant)

- ☐ 3 Day Notice to Pay Rent or Quit  
☐ 3 Day Notice to Perform Covenant or Quit  
☐ 30 Day Notice of Termination of Tenancy  
☐ 60 Day Notice of Termination of Tenancy  
☒ Other: 5 Day Notice to Pay Rent or Quit

The NOTICE(s) set forth above were served by:

☐ **PERSONAL DELIVERY:**

I **HANDED** a copy of the NOTICE(s) to the following Tenant(s)

(Insert Name of Tenant)

(Insert Name of Tenant)

☐ **SUBSTITUTED SERVICE BY LEAVING NOTICE & MAILING:**

I **LEFT** copies of the NOTICE(s) with a person of suitable age and discretion at the residence or usual place of business of the Tenant(s), said Tenant(s) being absent there from. Thereafter, on the same date, I also **MAILED** copies of the NOTICE(s) to the Tenant(s) by depositing a sealed envelope with First Class postage fully prepaid, in the United States Mail, addressed to the Tenant(s) at the Premises.

(Insert Name of the Person that you left the Notice With Who Is At Least 18 years old or Give Description (Age, Sex, Height, Weight etc). If person refuses to give name)

☒ **POSTING & MAILING:**

I served the NOTICE to the Tenant(s) by **POSTING** a copy of the NOTICE(s) in a conspicuous place on the Premises, as no person of suitable age or discretion could be found at the Premises and the business cannot be ascertained. Thereafter, on the same date, I also **MAILED** copies of the NOTICE(s) to the Tenant(s) by depositing a sealed envelope with First Class postage fully prepaid, in the United States Mail, addressed to the Tenant(s) at the Premises.

I declare under penalty of perjury under the laws of the State of California that that at the time of service of the NOTICE(s) I was at least EIGHTEEN (18) years of age and that foregoing is true and correct. If called as a witness to testify thereto, I could do so competently.

Executed (Signed) on 02/07/2024, at Ontario California.

Monica Mixon

(Insert City)

Print Name

Monica Mixon

Signature (To Be Signed Only By the Person Actually Serving the Notice)