

**4283 EL CAJON BLVD. BUILDING  
SAN DIEGO, CALIFORNIA**

**OFFICE LEASE AGREEMENT**

**BETWEEN**

**SAN DIEGO STATE UNIVERSITY FOUNDATION,  
a California non-profit corporation doing business as  
San Diego State University Research Foundation**

**(“LANDLORD”)**

**AND**

**HEALTH SCIENCES HIGH SCHOOL AND MIDDLE COLLEGE INC.,  
a California non-profit corporation**

**(“TENANT”)**

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**EXHIBITS:**

- Exhibit A Floor Plan Depicting Premises
- Exhibit B Building Rules and Regulations

Addendum No. 1 MEDICAL OFFICE PROVISIONS

**OFFICE LEASE AGREEMENT**

THIS OFFICE LEASE AGREEMENT (“**Lease**”) is made and entered into as of the Effective Date, as defined below, by and between SAN DIEGO STATE UNIVERSITY FOUNDATION, a California non-profit corporation doing business as San Diego State University Research Foundation (“**Landlord**”), and HEALTH SCIENCES HIGH SCHOOL AND MIDDLE COLLEGE INC., a California non-profit corporation (“**Tenant**”).

**BASIC LEASE INFORMATION**

- A. **Date of Lease:** As of August 18, 2022, for reference purposes only, and effective on the date on which each party has signed and delivered a copy of this Lease to the other party, presumed to be the latter of the signature dates below (“**Effective Date**”).
- B. “**Building**” means the building located at 4283 El Cajon Blvd, in the City of San Diego, County of San Diego, State of California 92115.
- C. “**Premises**” means Suite 250 of the Building, as generally depicted on Exhibit A to this Lease. The Rentable Square Footage of the Building, the Rentable Square Footage of the Premises and the Usable Square Footage of the Premises set forth below are deemed correct and shall not be re-measured.
- D. “**Tenant Parking Spaces**” means the parking ratio of 4.0/1,000 Usable Square Feet of the Premises in the surface and garage lot parking areas which Tenant is entitled to use pursuant to Section 4(g) below.
- E. “**Rentable Square Footage of the Building**” means approximately 54,815 square feet.
- F. “**Rentable Square Footage of the Premises**” means approximately 1,373 square feet.
- G. “**Usable Square Footage of the Premises**” means approximately 1,161 square feet.
- H. “**Base Rent**”: The Base Rent shall be the following during the following periods of the initial Term.

<b>Months of Term</b>	<b>Monthly Base Rent</b>
1-10 August 15, 2022-June 30, 2023	\$2.36 \$3,240.28
11-12 July 1, 2023-August 31, 2023	\$3,402.29

- I. “**Tenant's Pro Rata Share**”: 2.5 percent. (Determined by dividing the Rentable Square Footage of the Premises by the Rentable Square Footage of the Building.)
- J. “**Term**” means a period of twelve (12) full calendar months, plus any fraction of a calendar month between the Commencement Date and the first day of the first full calendar month of the Term. The Term shall commence on August 15, 2022 (“**Commencement Date**”) and, unless terminated early in accordance with this Lease, shall end on August 31, 2023 (“**Expiration Date**”).
- K. “**Tenant Improvements**” means Landlord at its sole cost and expense, utilizing building standard materials and finishes, add a separation wall between Suite 245 and 250, paint, install carpet over

pad, remove the film from the windows, replace stained or brown ceiling tiles, ensure lights are clean and operational and replace the HVAC unit.

- L. **“Tenant Improvement Allowance”** per details above in section K.
- M. **“Security Deposit”** means \$3,402.29.
- N. **“Permitted Use”**: General office purposes and for no other use or purpose (unless the Landlord provides express written consent for a revision to the Permitted Use, which Landlord may withhold at its sole and absolute discretion); provided, however, if the following box is checked and initialed by both parties, then (a) Tenant shall use the Premises for medical office purposes and for no other use or purpose (unless the Landlord provides express written consent for a revision to the Permitted Use, which Landlord may withhold at its sole and absolute discretion); and (b) the Addendum entitled "Medical Office Provisions" attached hereto shall apply.

Medical Office Lease

- O. **"Notice Addresses"**:

**Tenant:** Health Sciences High School and Middle College Inc.  
4283 El Cajon Blvd., Suite 250  
San Diego, CA 92115  
Attention: Ian Pumpian  
Telephone: 619.528.9070  
Email: ipumpian@sdsu.edu

**Landlord:** San Diego State University Research Foundation,  
5250 Campanile Drive, 4th Floor  
San Diego, California 92182-1999  
Telephone: 619.594.5761  
Email: sdsurffacilities@sdsu.edu

NOTE: Telephone numbers and email addresses are provided for convenience only. Pursuant to Section 27, notices pursuant to this Lease must be delivered in person, by messenger, by overnight courier or by certified mail, return receipt requested. Communication by telephone or email is not effective as a notice, except that notice by telephone is permitted pursuant to provisions of this Lease expressly permitting oral notice.

- P. **“Business Day(s)”** are Monday through Friday of each week, exclusive of New Year's Day, Martin Luther King, Jr. Day, Cesar Chavez Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the day after Thanksgiving and Christmas Day (**“Holidays”**). Landlord may designate additional Holidays, provided that the additional Holidays are commonly recognized by other office buildings in the area where the Building is located.
- Q. **“Landlord Related Parties”** means the State of California, the Trustees of the California State University, San Diego State University, the campus of San Diego State University and their respective principals, trustees, beneficiaries, members, partners, shareholders, officers, directors, managers, employees, agents, contractors, volunteers, successors and assigns.
- R. **“Law(s)”** means all laws, statutes, codes (including building codes), ordinances, rules, regulations and orders promulgated or issued by any federal, state or local governmental entity (whether

executive, administrative, legislative or judicial) with jurisdiction over the Building or any business, use or operation therein, as the same may be amended, superseded, supplemented, modified or revised.

- S. “**Normal Business Hours**” for operation of the Building are 8:00 a.m. to 5:00 p.m. on Business Days, Monday through Friday. Operating hours for HVAC are 7:00 a.m. to 6:00 p.m. on Business Days, Monday through Friday.
- T. “**Property**” means the Building and the parcel(s) of land on which the Building is located and, at Landlord's discretion, the Building garage and other improvements serving the Building, if any, and the parcel(s) of land on which they are located.
- U. “**Person**” means any natural person or persons in individual or representative capacities and any entity or entities recognized by Law, including, without limitation, corporations, partnerships, limited liability companies and associations, or any combination of natural persons and entities.
- V. “**Including**” or “**includes**” (including other conjugations) shall not be construed to imply or impose any limitations or restrictions.

[End of Basic Lease information]

**SECTION 1      LEASE GRANT.**

Landlord leases and demises the Premises to Tenant, and Tenant leases and hires the Premises from Landlord, together with the non-exclusive right in common with others to use any portions of the Property that are designated by Landlord from time to time for the common use of tenants and others, such as sidewalks, unreserved parking areas, common corridors, elevator foyers, restrooms, vending areas and lobby areas (“**Common Areas**”).

**SECTION 2      POSSESSION.**

Subject to Landlord’s express obligations, if any, to perform any work under the Work Letter attached to this Lease, and subject to Landlord’s obligations under Section 8(b), the Premises are accepted by Tenant in “as is” condition and configuration. By taking possession of the Premises, Tenant agrees that the Premises are in good order and satisfactory condition, and that there are no representations or warranties by Landlord regarding the condition of the Premises or the Building.

**SECTION 3      RENT.**

(a)      ***Payments.***

(i)      Tenant shall pay Landlord, without any setoff or deduction, the total amount of Base Rent. Base Rent shall be due and payable on the first day of each calendar month without notice or demand. All other items of Rent shall be due and payable by Tenant within 10 days after receipt of invoices therefor from Landlord. All payments of Rent shall be by good and sufficient check or by other means (such as automatic debit or electronic transfer) acceptable to Landlord. Unless otherwise agreed or required by applicable law, Rent will be applied first to any unpaid collection costs and late charges, then to oldest balance owed.

(ii)      Tenant’s failure to pay any Rent when due may cause Landlord to incur unanticipated costs. The exact amount of such costs are impractical or extremely difficult to ascertain. Such costs may include processing and accounting charges and late charges which may be imposed on Landlord by assessment or by any ground lease, mortgage or trust deed encumbering the Premises. Therefore, if Landlord does not receive any payment within five days after it becomes due, Tenant shall pay Landlord a late charge equal to 10 percent of the overdue amount. The parties agree that such late charge is not a penalty, but instead represents a fair and reasonable estimate of the costs Landlord will incur by reason of such late payment.

(iii)      If any check or other instrument of payment delivered to Landlord by Tenant is returned by Landlord’s bank for any reason, including without limitation, insufficient funds, Tenant shall pay to Landlord upon demand the amount incurred by Landlord in connection with the returned payment plus a processing fee of One Hundred Dollars (\$100) per returned check, in addition to, if applicable, any late charge due under this Section 3(a)(ii). If more than two of Tenant’s payments are returned due to insufficient funds or paid more than five days after such payment is due during any 12-month period, then without limiting its other rights and remedies, Landlord may require at any time thereafter that Tenant make all future payments one month in advance of the due date by cashier’s check or money order or using ACH (Automated Clearing House) or another electronic payment method reasonably acceptable to Landlord, and that in the case of electronic payment, all regularly scheduled payments be automatically debited.

(iv) If the Term commences on a day other than the first day of a calendar month or terminates on a day other than the last day of a calendar month, the monthly Base Rent for the month shall be prorated based on the number of days in such calendar month and Tenant shall pay such prorated Rent on the Commencement Date. Landlord's acceptance of less than the correct amount of Rent shall be considered a payment on account of the earliest Rent due. No endorsement or statement on a check or letter accompanying a check or payment shall be considered an accord and satisfaction, and either party may accept the check or payment without prejudice to that party's right to recover the balance or pursue other available remedies. Tenant's covenant to pay Rent is independent of every other covenant in this Lease.

(b) **Taxes.**

(i) Landlord shall pay all real property taxes levied against the land and the building in which the Premises are located and the parking areas available to said building. In the event taxes are assessed in connection with any commercial activities associated with the Tenant, Tenant shall be responsible for paying those direct costs to the Landlord.

(ii) Tenant shall pay, prior to delinquency all taxes assessed against or levied upon Tenant's trade fixtures, furnishings, equipment, personal property or other personal property located at the Premises.

**SECTION 4 USE; COMPLIANCE WITH LAWS; HAZARDOUS MATERIALS; SECURITY SERVICES; AND PARKING.**

(a) **Use; Compliance With Laws.** The Premises shall be used only for the Permitted Use and for no other use or purpose whatsoever (unless the Landlord provides written consent for a revision to the Permitted Use, which Landlord may withhold at its sole and absolute discretion). Tenant shall not use or permit the use of the Premises for any purpose which is illegal, dangerous to persons or property or which, in Landlord's reasonable opinion, disturbs any other tenants of the Building or interferes with the operation of the Building. Tenant shall comply with all Laws, including all applicable Disabilities Acts (defined in Section 4(d) below), regarding the operation of Tenant's business and the use, condition, configuration and occupancy of the Premises, including, without limitation, all Laws relating to alcohol, fire, health and life safety issues. Tenant, within 10 days after receipt, shall provide Landlord with copies of any notices it receives regarding a violation or alleged violation of any Laws. Tenant shall comply with the rules and regulations of the Building attached as Exhibit B and such other reasonable rules and regulations adopted by Landlord from time to time. Tenant shall also cause its agents, contractors, subcontractors, employees, customers, and subtenants to comply with all rules and regulations. Landlord shall not knowingly discriminate against Tenant in Landlord's enforcement of the rules and regulations.

(b) **Hazardous Materials.** Tenant hereby makes the following covenants regarding Hazardous Materials:

(i) Tenant shall at all times and in all respects comply with all federal, state and local Laws, including the Federal Water Pollution Control Act (33 U.S.C. Section 1251, et seq.), Resource Conservation & Recovery Act (42 U.S.C. Section 6901, et seq.), Safe Drinking Water Act (42 U.S.C. Section 3000f, et seq.), Toxic Substances Control Act (15 U.S.C. Section 2601, et seq.), the Clean Air Act (42 U.S.C. Section 7401, et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.), California Health & Safety Code (Section 25100, et seq., Section



39000, et seq.), California Safe Drinking Water & Toxic Enforcement Act of 1986 (California Health & Safety Code Section 25249.5, et seq.), California Water Code (Section 13000, et seq.), and other comparable state Laws (“**Hazardous Materials Laws**”), relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any “hazardous substances”, “hazardous wastes”, “hazardous materials” or “toxic substances” under any such Laws (collectively, “**Hazardous Materials**”).

(ii) Tenant shall, at its own expense, procure, maintain in effect and comply with all conditions of any and all permits, licenses, and other governmental and regulatory approvals required for Tenant’s use of the Premises, including, without limitation, discharge of (appropriately treated) materials or wastes into or through any sanitary sewer serving the Premises. Except as discharged into the sanitary sewer in strict accordance and conformity with all applicable Hazardous Materials Laws, Tenant shall cause any and all Hazardous Materials removed from the Premises to be removed and transported solely by duly licensed haulers to duly licensed facilities for final disposal of such materials and wastes. Tenant shall in all respects handle, treat, deal with and manage any and all Hazardous Materials in, on, under or about the Premises in total conformity with all applicable Hazardous Materials Laws and prudent industry practices regarding management of such Hazardous Materials. Upon expiration or earlier termination of the Term, Tenant shall cause all Hazardous Materials to be removed from the Premises and transported for use, storage or disposal in accordance with and compliance with all applicable Hazardous Materials Laws. Tenant shall not take any remedial action in response to the presence of any Hazardous Materials in or about the Premises, the Building or the Property, nor enter into any settlement agreement, consent decree or other compromise with respect to any claims relating to any Hazardous Materials in any way connected with the Premises, the Building or the Property, without first notifying Landlord of Tenant’s intention to do so and affording Landlord ample opportunity to appear, intervene or otherwise appropriately assert and protect Landlord’s interest with respect thereto.

(iii) Tenant shall immediately notify Landlord in writing of: (A) any enforcement, cleanup, removal or other governmental or regulatory action instituted, completed or threatened pursuant to any Hazardous Materials Laws; (B) any claim made or threatened by any Person against Tenant, the Premises, the Building or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from or claimed to result from any Hazardous Materials; and (C) any reports made to any environmental agency arising out of or in connection with any Hazardous Materials in or removed from the Premises, the Building or the Property, including any complaints, notices, warnings or asserted violations in connection therewith. Tenant shall also supply to Landlord as promptly as possible, and in any event within five days after Tenant first receives or sends the same, with copies of all claims, reports, complaints, notices, warnings or asserted violations, relating in any way to the Premises, the Building or the Property or Tenant’s use thereof. Tenant shall promptly deliver to Landlord copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Premises.

(iv) Tenant shall indemnify, defend (by counsel reasonably acceptable to Landlord), protect and hold Landlord and each of the Landlord Related Parties free and harmless from and against any and all claims, liabilities, penalties, forfeitures, losses or expenses (including attorney's fees, collection fees, and expert witness fees), or death or injury to any Person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by (A) the presence in, on, under or about the Premises, the Building or the Property, or the discharge in or from the Premises, the Building or the Property, of any Hazardous Materials brought or caused to be brought into or onto the Premises, the Building or the Property by or on behalf of Tenant; (B) Tenant's use, analysis, storage, transportation, disposal, release, threatened release, discharge or generation of Hazardous Materials to, in, on, under, about or from the Premises, the Building or the Property; or (C) Tenant's failure to comply with any Hazardous Materials Law. Tenant's obligations hereunder shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary repair, cleanup or detoxification or decontamination of the Premises, the Building or the Property, or the preparation and implementation of any closure, remedial action or other required plans in connection therewith, and shall survive the expiration or earlier termination of the Term. For purposes of the release and indemnity provisions of this Section 4(b), any acts or omissions of Tenant, or by employees, agents, assignees, subtenants, contractors or subcontractors of Tenant or others acting for or on behalf of Tenant (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Tenant.

(v) If at any time it reasonably appears to Landlord that Tenant is not maintaining sufficient insurance or other means of financial capacity to enable Tenant to fulfill its obligations to Landlord under this Section 4(b), whether or not then accrued, liquidated, conditional or contingent, Tenant shall procure and thereafter maintain in full force and effect such insurance or other form of financial assurance, with or from Persons and in forms reasonably acceptable to Landlord, as Landlord may from time to time reasonably request.

(c) **Security Services.** Landlord shall not be obligated to provide security guards, security patrols, private police or any other type of security services (collectively, "**Security Services**") for the Premises or on or about the Property (including without limitation the Common Area). Tenant hereby acknowledges that Landlord shall not be so obligated and that Landlord will not provide any Security Services of any type for the Premises or on or about the Property (including without limitation the Common Area). Tenant waives any and all claims for damages to Persons or property sustained by Tenant, or by any other person or entity, arising from, out of or in connection with, or alleged to arise from, out of or in connection with, Landlord's not providing Security Services for the Premises or on or about the Property. In addition, Tenant assumes the responsibility to provide, at Tenant's sole cost and expense, any such Security Services as Tenant may require in connection with Tenant's use of the Premises, and Tenant assumes all risk in connection with any failure to provide or lack of such Security Services in the Premises. Notwithstanding anything in this Section to the contrary, Landlord may elect, in Landlord's sole, absolute and unfettered discretion, to provide Security Services in the Common Area.

(d) **Compliance with Disabilities Acts.** As between Landlord and Tenant: (i) Tenant shall bear the risk and cost of complying with the Americans With Disabilities Act of 1990, and its implementing regulations, as amended or supplemented from time-to-time, and any state laws governing handicapped access or architectural barriers, and all rules, regulations, and guidelines promulgated under such laws, as amended from time to time (the "**Disabilities Acts**") in the Premises; and (ii) Landlord shall bear the risk and cost of complying with the Disabilities Acts in

the Common Areas, excluding any work or liability for compliance resulting from Tenant's specific use of the Premises or from any future alterations or additions made by or on behalf of Tenant, which shall be borne solely by Tenant.

(e) ***Certified Access Specialist Disclosure.*** As of the date of this Lease, to Landlord's current actual knowledge without investigation, the Premises have not been inspected by a Certified Access Specialist ("CASp"). Accordingly, Landlord makes the following disclosure as required by California Civil Code Section 1938: "A Certified Access Specialist 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 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." If Tenant requests or otherwise obtains a CASp inspection of the Premises or any other area(s) within the Building or the Property, then: (i) Tenant shall pay the cost of such inspection; (ii) such inspection shall occur at a time mutually agreed upon by Landlord and Tenant; (iii) Tenant shall provide Landlord with a copy of the CASp's report resulting from such inspection within 10 days after Tenant's receipt thereof; (iv) Tenant shall not disclose and shall keep the CASp's inspection, the nature and circumstances of such inspection, and all information in the CASp's report absolutely confidential, except only to the extent necessary to comply with any disclosure required by applicable Laws or as otherwise permitted in this Section; and (v) Tenant shall perform all repairs or other work necessary to correct violations of construction-related accessibility standards identified by such CASp inspection, which repairs or other work shall be completed at Tenant's sole cost and expense within 120 days after the date of such CASp inspection (provided Landlord may elect to complete any or all such repairs or other work, in which case, Tenant shall pay to Landlord the entire cost thereof within 30 days after receipt of an invoice therefor). Notwithstanding the foregoing, to the extent reasonably necessary, Tenant may disclose information in such CASp report to a third-party assisting with such repairs or other work, provided that such third-party agrees in writing to keep such information confidential.

(f) ***Common Areas.*** Tenant agrees that Landlord shall at all times have the right and privilege of determining the nature and extent of the Common Area, including without limitation parking areas, if any, and the location and number of parking spaces, and of temporarily closing or making such changes, rearrangements, additions or reductions to the Common Area from time to time which Landlord determines, or which are made as a result of any federal, state, or local environmental protection or other law, rule, regulation, guideline or order, provided any changes, rearrangements, additions or reductions that are voluntary in nature shall not materially reduce Tenant's rights or access hereunder.

(g) ***Parking.***

(i) If the Common Area includes any parking areas, whether surface or garage parking areas. Landlord shall not be liable for any damage to motor vehicles of Tenant, its visitors or employees, for any loss of property from within those motor vehicles, or for any injury to Tenant, its visitors or employees, unless caused by Landlord's sole active negligence or willful misconduct. Landlord shall have the right to establish, and from time to time amend, and to enforce against all users of the parking areas all reasonable rules and regulations (including the designation of areas for employee parking) as Landlord

may deem necessary and advisable for the proper and efficient operation and maintenance of the parking areas. Landlord may, in its sole discretion, charge for parking and may establish for the parking areas a system or systems of permit parking for Tenant, its employees and its visitors; provided however, if this Lease includes Tenant Parking Spaces, then Tenant shall be entitled to use such Tenant Parking Spaces for its employees and visitors free of any additional charges not expressly set forth in this Lease during the initial Term of this Lease.

(ii) Tenant shall, upon request of Landlord from time to time, furnish Landlord with a list of its employees' names and of Tenant's and its employees' vehicle license numbers. In no event shall Tenant or its employees park in reserved parking spaces leased to other tenants or in parking spaces within designated visitor parking zones, nor shall Tenant or its employees utilize more than the number of Tenant Parking Spaces, if any, specified in the Basic Lease Information with respect to surface parking areas or garage Parking areas, or both, as applicable.

(iii) If this Lease includes Tenant Parking Spaces, then unless otherwise provided in this Lease, such parking shall be on a nonexclusive basis, for noncommercial passenger vehicles only. Tenant shall instruct its employees to park as far away as possible from the entrance to the Building so that the most convenient parking spaces are available for visitors, guests and invitees, and Landlord may designate from time to time particular spaces for Tenant's employees, and in such event, Tenant shall cause its employees to park in the designated spaces. The right to use any such designated area may be revoked, or the area may be redesignated, at any time by Landlord.

(iv) Landlord shall have the right to temporarily close the Parking Facilities or certain areas therein in order to perform necessary repairs, maintenance and improvements to the Parking Facilities.

(v) Tenant shall not assign or sublease any of the spaces without the direct written consent of the Landlord.

(vi) Tenant shall not, at any time, park recreational vehicles, inoperative vehicles, equipment, or storage of any kind. Except for emergency repairs, Tenant, its employees and visitors shall not perform any work on any automobiles while located in the Parking Facilities or on the Property. If it is necessary for Tenant, its employees or a visitor to leave an automobile in the Parking Facilities overnight, Tenant shall provide Landlord with prior notice thereof designating the license plate number and model of such automobile.

(h) **Noise Transference.** Tenant acknowledges and agrees that the Premises is a situated in a shared commercial building in which external noise is expected. By initialing below, Tenant acknowledges and agrees that there is no guarantee that the Premises will be a quiet space, that noise may be transferred into the Premises, and that Landlord is not responsible for any noise transference into the Premises.



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Tenant's Initials

**SECTION 5 SECURITY DEPOSIT.**

Tenant shall pay to Landlord, immediately upon Tenant's signing this Lease, a Security Deposit in the amount specified in the Basic Lease Information. Said amount shall be held by Landlord as security for the faithful performance by Tenant of all of the terms, covenants and conditions of this Lease to be kept and performed by Tenant during the Term. If Tenant defaults with respect to any provision of this Lease, including the provisions relating to the payment of Rent, Landlord may (but shall not be required to) use, apply or retain all or any part of the Security Deposit for the payment of any Rent or any other amount in default, or for the payment of any other amount which Landlord may spend or become obligated to spend by reason of Tenant's default or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default; however, the Security Deposit is not an advance payment of Rent or a measure of Tenant's liability for damages. If any portion of said deposit is so used or applied, Tenant shall, upon demand therefor, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its original amount and Tenant's failure to do so shall be a material default of this Lease. Landlord shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such deposit. If Tenant fully and faithfully performs every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to Tenant (or at Landlord's option, to the last assignee of Tenant's interests hereunder) within 45 days after the Expiration Date, provided that Landlord may retain the Security Deposit until such time as any amount due from Tenant under this Lease (including damages under Civil Code Section 1951.2) has been determined and paid in full. Tenant also hereby consents to Landlord's application of all or part of the Security Deposit to any post-rejection claims that Landlord may have with respect to Tenant's obligations under this Lease in any bankruptcy proceeding involving Tenant. Tenant hereby waives the provisions of Section 1950.7 of the California Civil Code, or any successor statute, and all other provisions of law, now or hereafter in effect, which (i) establish the time frame by which a landlord must refund a security deposit under a lease, and/or (ii) provide that a landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by a tenant or to clean the premises, it being agreed that Landlord may, in addition, claim those sums specified in this Section above and/or those sums reasonably necessary to compensate Landlord for any loss or damage caused by Tenant's default of the Lease, as amended hereby, including all damages or rent due upon termination of this Lease pursuant to Section 1951.2 of the California Civil Code. No trust relationship or fiduciary duty is created between Landlord and Tenant with respect to the Security Deposit, only a relationship of debtor and creditor.

Tenant hereby pledges and grants to Landlord a security interest in the Security Deposit, to secure the payment and performance of any and all debts, obligations and liabilities of Tenant to Landlord arising out of, connected with or related to the Lease, whether now existing or hereafter arising, voluntary or involuntary, whether jointly owed with others, direct or indirect, absolute or contingent, liquidated or unliquidated, and whether from time to time decreased or extinguished and later increased, created or incurred. Tenant authorizes Landlord to file such financing or continuation statements, and amendments thereto, relating to all or any part of the Security Deposit as Landlord deems necessary. With respect to the Security Deposit, Landlord shall have all the rights, powers and remedies of a secured party under the Uniform Commercial Code. All of the rights, powers and remedies of Landlord under this Lease shall be in addition to all rights, powers and remedies given to Landlord by any statute or rule of law, or other agreement, shall be cumulative and may be exercised successively or concurrently without impairing or in any way affecting Landlord's security interest in the Security Deposit.

**SECTION 6 SERVICES TO BE FURNISHED BY LANDLORD; SIGNAGE.**

(a) Landlord agrees to furnish Tenant with the following services: (i) water service for use in the lavatories on each floor on which the Premises are located; (ii) heating, ventilation and air conditioning ("HVAC") during Normal Business Hours and as customary for the weather

or season. HVAC may also be provided by Landlord to the Premises at hours other than Normal Business Hours, provided Tenant shall pay Landlord, as Additional Rent, the entire cost of such additional service, which shall be fixed at \$25.00 per hour during the first year of the Lease Term, increasing by four percent per annum thereafter; (iii) maintenance and repair of the Property as described in Section 8(b); (iv) janitor service two (2) times per week (provided if Tenant's use, floor covering or other improvements require special services in excess of the standard janitorial services for the building, Tenant shall pay the additional costs attributable to the special services); (v) elevator service; (vi) electrical services to the Premises for general office use, in accordance with and subject to the terms and conditions in Section 9; and (vii) such other services as Landlord reasonably determines are necessary or appropriate for the Property.

(b) Landlord's failure to furnish, or any interruption or termination of, services due to the application of Laws, the failure of any equipment, the performance of any repairs, improvements or alterations, or the occurrence of any event or cause beyond the control of Landlord ("**Service Failure**") shall not render Landlord liable to Tenant, constitute a constructive eviction of Tenant, give rise to an abatement of Rent, nor relieve Tenant from the obligation to fulfill any covenant or agreement. However, if the Premises, or a material portion of the Premises, is made untenantable for a period in excess of 10 consecutive days as a result of the Service Failure, then Tenant, as its sole remedy, shall be entitled to receive an abatement of Rent during the period beginning on the 11th consecutive day of the Service Failure and ending on the day the service is restored. If the entire Premises has not been rendered untenantable by the Service Failure, the amount of abatement that Tenant is entitled to receive shall be prorated based upon the percentage of the Premises rendered untenantable. In no event, however, shall Landlord be liable to Tenant for any loss or damage, including lost revenue, lost profit, lost opportunities or the theft of Tenant's Property (defined in Section 14), arising from, out of or in connection with any Service Failure (including the failure of any security services, personnel or equipment). Subject to the foregoing provisions of this Section 6(b), during any period of a Service Failure, Landlord shall use commercially reasonable efforts to restore the applicable service to Tenant.

(c) Tenant shall be entitled to be identified, at Landlord's cost and expense, and in a standard format designated by Landlord, on (i) suite identification signage at the main entrance to the Premises; and (ii) if there is a lobby directory for the Building, on the directory. Except for such signage, Tenant shall not place or permit to be placed, any sign, advertisement, notice or other similar matter on the doors, windows, exterior walls, roof or other areas of the Premises which are open to the view of Persons in the common area of the Building or the Property, except with the advance written consent of Landlord, which consent may be withheld in Landlord's sole, absolute and unfettered discretion.

## **SECTION 7 LEASEHOLD IMPROVEMENTS.**

All improvements to the Premises made by or for the benefit of Tenant, including Tenant Improvements pursuant to the Work Letter and Alterations (defined in Section 8(c)) (collectively, "**Leasehold Improvements**"), shall be owned by Landlord and shall remain upon the Premises without compensation to Tenant. However, except to the extent Landlord delivers to Tenant written notice, prior to the expiration or earlier termination of the Lease, instructing Tenant that any of the following Required Removables shall remain upon the Premises, Tenant shall remove at Tenant's cost and expense: (a) Cable (defined in Section 8(a)) installed by or for the exclusive benefit of Tenant, excluding any Cable installed as part of the Tenant Improvements constructed pursuant to Exhibit D or installed in the Premises or other portions of the Building following the Commencement Date (i.e., after Tenant's initial build-out); and (b) any Leasehold Improvements that are performed by or for the benefit of Tenant and, in Landlord's reasonable judgment, are of a nature that would require removal and repair costs that are materially in

excess of the removal and repair costs associated with standard office improvements (collectively referred to as “**Required Removables**”). Required Removables include without limitation internal stairways, raised floors, personal baths and showers, vaults, rolling file systems, and structural alterations and modifications of any type. The Required Removables designated by Landlord shall be removed by Tenant before the Expiration Date (or if earlier, the date on which this Lease terminates), provided that upon prior written notice to Landlord, Tenant may remain in the Premises for up to five days after the Expiration Date (or such earlier termination date) for the sole purpose of removing the Required Removables. Tenant’s remaining in the Premises shall be subject to all of the terms and conditions of this Lease, including the obligation to maintain insurance and pay Rent on a per diem basis at the rate in effect for the last month of the Term. Tenant shall reimburse Landlord for the cost to repair damage caused by the installation or removal of Required Removables. If Tenant fails to remove any Required Removables in a timely manner, Landlord, at Tenant’s expense, may remove and dispose of the Required Removables. Tenant, within 10 days after delivery of an invoice, shall reimburse Landlord for repair and/or removal costs incurred by Landlord pursuant to this Section. Notwithstanding the foregoing, Tenant, at the time it requests approval for a proposed Alteration, may request in writing that Landlord inform Tenant whether the Alteration or any portion of the Alteration will be designated as a Required Removable. Within 10 days after receipt of Tenant’s request, Landlord shall inform Tenant in writing as to which portions of the Alteration, if any, will be considered Required Removables.

## **SECTION 8      REPAIRS AND ALTERATIONS.**

(a)      ***Tenant’s Repair Obligations.*** Tenant shall, at its sole cost and expense, promptly perform all maintenance and repairs (including replacements if repairs are not feasible or would not be effective) to the Premises that are not Landlord's express responsibility under this Lease, and shall keep the Premises in good condition and repair. Tenant's maintenance and repair obligations include maintaining and repairing: (i) floor coverings; (ii) interior partitions; (iii) doors; (iv) the interior side of demising walls; (v) electronic, phone and data cabling and related equipment (collectively, "Cable") that is installed by or for the exclusive benefit of Tenant and located in the Premises or other portions of the Building; (vi) the components and elements of the electrical, plumbing and fire/life safety systems that serve only the Premises; (vii) private showers and kitchens, including hot water heaters, plumbing, and similar facilities serving only the Premises; (viii) any and all lighting fixtures that are not Building standard, including replacement of light bulbs and fluorescent lighting tubes that are not Building standard; and (ix) Alterations performed by contractors retained by Tenant (except that related HVAC balancing shall be performed by Landlord's HVAC contractor or service company and billed to Tenant). All work shall be performed in accordance with the rules and procedures described in Section 8(c). If Tenant fails to make any repairs to the Premises for more than 15 days after delivery of notice from Landlord (although notice shall not be required if there is an emergency), Landlord may make the repairs, and Tenant shall pay the reasonable cost of the repairs to Landlord within 10 days after delivery of an invoice, together with an administrative charge in an amount equal to 10 percent (10%) of the cost of the repairs.

(b)      ***Landlord’s Repair Obligations.*** Landlord shall perform all maintenance and repairs (including replacements if repairs are not feasible or would not be effective) to the following, and shall keep the following in good condition and repair: (i) structural elements of the Building; (ii) the common components and elements of the HVAC and other mechanical, electrical, plumbing and fire/life safety systems (i.e., those that serve the Building generally or that serve the Premises and other premises in the Building); (iii) all Building standard light fixtures, including Building standard light bulbs and fluorescent lighting tubes, (iv) Common Areas; (v) the roof of the Building; (vi) exterior windows of the Building; and (vii) the elevator serving the Building. Landlord shall perform items "(i)" and "(v)" at Landlord's cost and expense.

(c) **Management of Repairs.** In the event of damages requiring simultaneous action by Tenant to perform its repair and maintenance obligations under Section 8(a) and by Landlord to perform its repair and maintenance obligations under Section 8(b) (to include, without limitation, any Casualty event under Section 16), Landlord shall have the right to coordinate and supervise the maintenance and repair process. To that end, Landlord may hire a designated construction manager to oversee the repairs conducted by both Tenant and Landlord's respective contractors. Landlord and/or Landlord's designated construction manager shall have full control over the timing and staging of all maintenance and repair operations, and Landlord shall have approval rights over all maintenance and repair activities which do not solely affect the interior of the Premises.

(d) **Alterations.** Tenant shall not make alterations, additions or improvements to the Premises or install any Cable in the Premises or other portions of the Building (collectively, "**Alterations**") without first obtaining the written consent of Landlord in each instance, which consent (i) may be granted or withheld in Landlord's sole, absolute and unfettered discretion if the proposed Alteration affects or involves the structure or roof of the Building or any system of the Building; and (ii) otherwise shall not be unreasonably withheld. However, Landlord's consent shall not be required for any Alteration that satisfies all of the following criteria ("**Cosmetic Alteration**"): (A) is of a cosmetic nature, such as painting, wallpapering, hanging pictures and installing carpeting; (B) is not visible from the exterior of the Premises or Building; (C) will not affect or involve the systems or structure of the Building; and (D) does not require work to be performed inside the walls or above the ceiling of the Premises. However, even though consent is not required, the performance of Cosmetic Alterations shall be subject to all the other provisions of this Section 8(d). Before starting work, Tenant shall furnish Landlord with plans and specifications reasonably acceptable to Landlord; names of licensed contractors reasonably acceptable to Landlord (provided that Landlord may designate specific contractors with respect to Building systems); copies of contracts; necessary permits and approvals; evidence of contractor's and subcontractor's insurance in amounts reasonably required by Landlord and designating Landlord and the Landlord Related Parties as additional insureds (including evidence thereof); and any security for performance that is reasonably required by Landlord. All contractors, contractor's representatives, and installation technicians performing work in the Building shall be licensed and insured, subject to Landlord's prior approval, and shall be required to comply with Landlord's standard rules, regulations, policies and procedures, as the same may be revised from time to time. Tenant shall be solely responsible for complying with all applicable laws, codes and ordinances pursuant to which said work shall be performed. Changes to the plans and specifications must also be submitted to Landlord for its approval. Alterations shall be constructed in a good and workmanlike manner using materials of a quality acceptable to Landlord. Landlord may designate reasonable rules, regulations and procedures for the performance of work in the Building and, to the extent necessary to avoid disruption to the occupants of the Building, shall have the right to designate the time when Alterations may be performed. Tenant shall reimburse Landlord within 10 days after delivery of an invoice for sums paid by Landlord for third party examination of Tenant's plans for non-Cosmetic Alterations. Upon completion, Tenant shall furnish "as-built" plans (except for Cosmetic Alterations), completion affidavits, full and final waivers of lien in recordable form, and receipted bills covering all labor and materials. Tenant shall assure that the Alterations comply with all insurance requirements and Laws. Landlord's approval of an Alteration shall not be a representation by Landlord that the Alteration complies with applicable Laws or will be adequate for Tenant's use.

## **SECTION 9 UTILITIES.**

(a) Landlord may cause consumption of one or more utilities in the Premises to be separately metered ("**Separately Measured Utility**"). In such event, commencing upon Landlord's



delivering possession of the Premises to Tenant, Tenant shall pay for each Separately Measured Utility consumed according to the applicable separate meter. Tenant shall establish an account for each Separately Measured Utility in Tenant's name and shall pay the amount of each bill therefor directly to the provider before delinquency.

(b) In the absence of a utility being separately metered to the Premises, the cost of the utility shall be based on Tenant's pro-rata share of the building. The foregoing notwithstanding, if Tenant has an unusually high use of any such utility, Landlord may, in its sole, absolute and unfettered discretion, cause Tenant, at Tenant's sole cost and expense, to install a submeter for separately metering use of such utility at the Premises; in which event Tenant shall pay for use of such utility in the amount shown by such separate submeter; and Tenant shall make such payment within 10 days after delivery of an invoice therefor.

(c) Tenant shall furnish and pay, at Tenant's cost and expense, all other utilities and other services which Tenant requires with respect to the Premises (e.g., telephone service, internet service and potted plant service).

#### **SECTION 10 ENTRY BY LANDLORD.**

Landlord, its agents, contractors and representatives, may enter the Premises with reasonable advance notice, to inspect or show the Premises, to clean and make repairs, alterations or additions to the Premises, to conduct or facilitate repairs, alterations or additions to any portion of the Building, including other tenants' premises, to post notices of non-responsibility and to inspect and examine the Premises and see that the covenants of this Lease are being kept and performed. Except in emergencies or to provide other Building services after Normal Business Hours, Landlord shall provide Tenant with reasonable prior notice of entry into the Premises, which may be communicated orally. If reasonably necessary for the protection and safety of Tenant and its employees, Landlord shall have the right to temporarily close all or a portion of the Premises to perform repairs, alterations and additions. However, except in emergencies, Landlord will not close the Premises if the work can reasonably be completed on weekends and after Normal Business Hours. Entry by Landlord shall not constitute constructive eviction or entitle Tenant to an abatement or reduction of Rent.

#### **SECTION 11 ASSIGNMENT AND SUBLETTING.**

(a) Tenant shall not assign, sublease, transfer or encumber any interest in this Lease or allow any third party to use any portion of the Premises (collectively or individually, a "Transfer") without the prior written consent of Landlord, which consent shall not be unreasonably withheld. For purposes of this Section 11(a), any transfer of the majority of the voting stock in any corporate Tenant, or majority or managing interest in the partnership of any partnership Tenant, or majority or managing interest in the limited liability company of any limited liability company Tenant, shall constitute an assignment hereunder. Without in any way limiting Landlord's right to refuse to grant such consent for any other reason or reasons, Landlord reserves the right to refuse to grant such consent if in Landlord's reasonable business judgment: (i) the proposed transferee's financial condition does not meet the criteria Landlord uses to select tenants having similar leasehold obligations; (ii) the proposed transferee's business is not suitable for the Building, taking into consideration the business of other tenants and the Building's prestige, or would result in a violation of another tenant's rights; (iii) Tenant is in default after the expiration of the notice and cure periods in this Lease; or (iv) any portion of the Premises, the Building or the Property would likely become subject to additional or different Laws as a consequence of the proposed Transfer. Any attempted Transfer in violation of this Section shall, at Landlord's option, be void and confer

no rights upon any third person. Consent by Landlord to one or more Transfer(s) shall not operate as a waiver of Landlord's rights to approve any subsequent Transfers.

(b) As part of its request for Landlord's consent to a Transfer, Tenant shall provide Landlord with financial statements for the proposed transferee, a complete copy of the proposed assignment, sublease and other contractual documents and such other information as Landlord may reasonably request. Landlord shall, by written notice to Tenant within 15 days after its receipt of the required information and documentation: (i) itself sublease the Premises or the portion thereof upon the same terms as those offered to the proposed transferee; (ii) terminate this Lease as to the portion (including all) of the Premises so proposed to be transferred, with a proportionate reduction in the Base Rent and other amounts payable under this Lease; (iii) deny its consent to the proposed Transfer; or (iv) grant its consent to the proposed Transfer. If Landlord does not respond to Tenant's request within such 15-day period by exercising one of the options set forth in items "(i)" through "(iv)" immediately preceding, then Tenant shall notify Landlord in writing that Landlord has so failed to respond, and Landlord shall have 10 days following receipt of such notice within which to elect to exercise one of the options set forth in items "(i)" through "(iv)". If Landlord does not exercise one of the options set forth in items "(i)" through "(iv)" within such 10-day period, or if Landlord grants its consent to the proposed Transfer, then Tenant may, within 90 days after the expiration of such 10-day period or after Landlord's granting its consent (whichever is applicable), enter into the Transfer upon the terms and conditions described, and to the transferee identified, in the information required to be furnished by Tenant to Landlord pursuant to this Section. Tenant shall pay Landlord a review fee not to exceed \$1,000.00 for Landlord's review of any requested Transfer.

(c) Tenant shall pay Landlord 50 percent of all rent and other consideration which Tenant receives as a result of a Transfer that is in excess of the Rent payable to Landlord for the portion of the Premises and Term covered by the Transfer. Tenant shall pay Landlord for Landlord's share of any excess within 10 days after Tenant's receipt of such excess consideration, whether in lump sum or installments. Tenant may deduct from the excess all reasonable and customary out-of-pocket expenses directly incurred by Tenant attributable to the Transfer (other than Landlord's review fee), including brokerage fees, legal fees and construction costs. If Landlord so elects during the Term of this Lease, Landlord may require, and Tenant hereby consents to, the transferee paying Base Rent, Additional Rent or Landlord's portion of the above-mentioned compensation or consideration (or any of the foregoing) directly to Landlord.

(d) In no event shall any Transfer release or relieve Tenant from any obligation under this Lease. If Tenant's transferee defaults under this Lease, Landlord may proceed directly against Tenant without pursuing remedies against the transferee. Landlord may consent to subsequent assignments or modifications of this Lease by Tenant's transferee, without notifying Tenant or obtaining its consent. Such action shall not relieve Tenant's liability under this Lease.

## **SECTION 12    LIENS.**

Tenant shall not permit mechanic's or other liens to be placed upon the Property, Premises or Tenant's leasehold interest in connection with any work or service done or purportedly done by or for the benefit of Tenant. If a lien is so placed, Tenant shall, within 10 days after notice from Landlord of the filing of the lien, fully discharge the lien by settling the claim which resulted in the lien or by bonding or insuring over the lien in the manner prescribed by the applicable Law. If Tenant fails to discharge the lien, then, in addition to any other right or remedy of Landlord, Landlord may bond or insure over the lien or otherwise discharge the lien. Tenant shall reimburse Landlord for any amount paid by Landlord to bond or insure

over the lien or discharge the lien, including reasonable attorneys' fees (if and to the extent permitted by Law) within 30 days after receipt of an invoice from Landlord.

**SECTION 13 INDEMNITY AND WAIVER OF CLAIMS.**

(a) Tenant shall indemnify, defend, protect and hold Landlord and each of the Landlord Related Parties harmless from and against all liabilities, obligations, damages, penalties, claims, actions, costs, charges and expenses (including attorneys' fees and costs, collection fees, and expert witness fees and costs), arising from, out of or in connection with any (i) act or omission (including violations of Law) of Tenant or any of Tenant's transferees, agents, employees or contractors, whether occurring in the Premises, the Common Areas or elsewhere; and (ii) damage or injury occurring in, on or about the Premises or any part thereof.

(b) Landlord and the Landlord Related Parties shall not be liable to Tenant (or any subtenant, assignee, licensee or invitee of Tenant) for, and Tenant (for itself and for its employees, agents and contractors) waives all claims for loss or damage for, any injury or damage that may result to any person or property by or from any cause whatsoever, and without limiting the generality of the foregoing, whether caused by (i) wind or weather; (ii) the failure of any sprinkler or HVAC equipment, any electric wiring or any gas, water or steam pipes; (iii) the backing up of any sewer pipe or downspout; (iv) the bursting, leaking or running of any tank, water closet, drain or other pipe; (v) water, snow or ice upon or coming through the roof, skylight, stairs, doorways, windows, walks or any other place upon or near the Building. Tenant shall insure against such loss, injury or damage pursuant to Section 14.

**SECTION 14 INSURANCE.**

(a) Tenant shall carry and maintain the following insurance ("**Tenant's Insurance**"), at its sole cost and expense:

(i) Commercial property insurance with a special form cause of loss endorsement (*i.e.*, special extended coverage formerly known as "all risks") or its equivalent, including at least the following perils: fire and extended coverage, smoke damage, vandalism, malicious mischief, and sprinkler leakage. This insurance policy shall cover the full replacement cost of all furniture, trade fixtures, equipment and other personal property owned by Tenant in the Premises ("**Tenant's Property**").

(ii) Commercial General Liability Insurance insuring bodily injury, personal injury and property damage including the following coverages: Premises and Operations, blanket contractual liability, products and completed operations, fire and water damage and legal liability. Such liability insurance shall be in an amount of not less than \$2,000,000 limit per occurrence and \$4,000,000 limit annual aggregate for bodily injury and personal injury and property damage, and such amounts shall be increased annually, in Landlord's sole discretion, based on any increase recommended by insurance professionals or customary for comparable properties. In addition, Tenant shall pay for and shall maintain in full force and effect contractual liability insurance to cover all of the indemnity obligations of Tenant under this Lease.

(iii) Business Automobile Liability Coverage insuring bodily injury and property damage arising from any of Tenant's owned, scheduled, non-owned and hired vehicles, if any, with a combined single limit of liability of at least \$1,000,000 per occurrence.

(iv) Workers' Compensation Insurance as required by Law.

(v) Employer's Liability Coverage of at least \$1,000,000 each accident, \$1,000,000 disease – each employee, and \$1,000,000 disease – policy limit.

(b) Tenant's insurance policies shall (i) designate Landlord, the Landlord Related Parties, Mortgagees (defined in Section 25) and other designees of Landlord as additional insureds, (ii) provide that the insurance shall not be canceled or altered unless 30 days prior written notice has been delivered to Landlord, and (iii) be issued by companies that are licensed to do business in California and have an A.M. Best rating of not less than A:VIII. The additional insured coverage shall be primary and non-contributory to any policies of insurance maintained by Landlord, the Landlord Related Parties, Mortgagees and other designees of Landlord. Tenant shall deliver to Landlord original certificates of liability insurance (form Acord 25 or comparable) and evidences of property insurance (form Acord 28, without the 2006 revisions, or comparable) evidencing that such insurance is in full force and effect, together with a copy of the additional insured endorsement, before the earlier to occur of the Commencement Date or the date on which Landlord delivers possession of the Premises to Tenant, and upon renewals at least 15 days before the expiration of the insurance coverage.

(c) Landlord shall maintain commercial property insurance with a special form cause of loss endorsement (*i.e.*, special extended coverage formerly known as "all risks") or its equivalent on the Building (including the Leasehold Improvements) at replacement cost (excluding footings and foundations), as reasonably estimated by Landlord. The cost of such insurance shall be included in Expenses.

(d) Limits of a party's insurance shall not limit such party's liability under this Lease.

#### **SECTION 15 SUBROGATION.**

Each party waives its right of recovery against the other party, the other party's trustees, members, principals, beneficiaries, partners, officers, directors, employees, Mortgagee(s) (defined in Section 25) and agents with respect to any loss or damage, including consequential loss or damage, to the waiving party's property caused, resulting from or occasioned by any peril or perils (including negligent acts) covered by any policy or policies carried or required to be carried by the waiving party.

#### **SECTION 16 CASUALTY DAMAGE.**

(a) If all or any part of the Premises is damaged by fire or other casualty, Tenant shall immediately notify Landlord in writing. During any period of time that all or a material portion of the Premises is rendered untenantable as a result of a fire or other casualty, the Rent shall abate for the portion of the Premises that is untenantable and not used by Tenant.

(b) Landlord shall have the right to terminate this Lease if: (i) the Building is damaged so that, in Landlord's reasonable judgment, substantial alteration or reconstruction of the Building is required (whether or not the Premises has been damaged); (ii) Landlord is not permitted by Law to rebuild the Building in substantially the same form as existed before the fire or casualty; (iii) the Premises have been materially damaged and there is less than two years of the Term remaining on the date of the casualty; (iv) any Mortgagee requires that the insurance proceeds be applied to the payment of the mortgage debt; or (v) an uninsured loss to the Building occurs, and the cost to repair or restore equals or exceeds 10 percent of the replacement cost of the Building. Landlord may exercise its right to terminate this Lease by notifying Tenant in writing within 90

days after the date of the casualty. If Landlord does not terminate this Lease, Landlord shall commence and proceed with reasonable diligence to repair and restore the Building and the Leasehold Improvements (excluding any Alterations). However, in no event shall Landlord be required to spend more than the insurance proceeds received by Landlord.

(c) Landlord and Tenant acknowledge that certain existing Laws may provide that upon the complete or partial damage or destruction of a leased premises, the lease will be terminated, and Landlord and Tenant, wishing instead that this Lease be terminated only on the terms provided in this Lease following such damage or destruction, hereby waive the provisions of any such Law, including without limitation the provisions of California Civil Code Sections 1932(2) and 1933(4), and agree that their respective rights and obligations in connection with damage or destruction of the Premises shall be governed by this Lease.

(d) If all or any portion of the Premises shall be made untenable by fire or other casualty, Landlord shall, with reasonable promptness, cause an architect or general contractor selected by Landlord to provide Landlord and Tenant with a written estimate of the amount of time required to substantially complete the repair and restoration of the Premises and make the Premises tenantable again, using standard working methods (“**Completion Estimate**”). If the Completion Estimate indicates that the Premises cannot be made tenantable within 120 days from the date the repair and restoration is started, then notwithstanding anything in this Section to the contrary, either party shall have the right to terminate this Lease by delivering written notice to the other of such election within 10 days after receipt of the Completion Estimate; provided, however, Tenant shall not have the right to terminate this Lease pursuant to this Section 16(d) if the fire or casualty was caused by the negligence or intentional misconduct of Tenant, any Tenant related parties, or any of Tenant’s transferees, contractors or licensees.

#### **SECTION 17    CONDEMNATION.**

Either party may terminate this Lease if the whole or any material part of the Premises is taken or condemned for any public or quasi-public use under Law, by eminent domain or private purchase in lieu thereof (“**Taking**”). Landlord shall also have the right to terminate this Lease if there is a Taking of any portion of the Building or Property which would leave the remainder of the Building unsuitable for use as an office building in a manner comparable to the Building’s use prior to the Taking. In order to exercise its right to terminate the Lease, Landlord or Tenant, as the case may be, must provide written notice of termination to the other within 45 days after the terminating party first receives notice of the Taking. Any such termination shall be effective as of the date on which title or physical possession of the Premises or the portion of the Building or Property occurs, whichever is earlier. If this Lease is not terminated, the Rentable Square Footage of the Building, the Rentable Square Footage of the Premises and Tenant’s Pro Rata Share shall, if applicable, be appropriately adjusted. In addition, Rent for any portion of the Premises taken or condemned shall be abated during the unexpired Term of this Lease effective when the physical taking of the portion of the Premises occurs. All compensation or proceeds awarded or realized for a Taking shall be the property of Landlord, any right to receive compensation or proceeds being expressly waived by Tenant. However, Tenant may file a separate claim at its sole cost and expense for Tenant’s Property and Tenant’s reasonable relocation expenses, provided the filing of the claim does not diminish the award which would otherwise be receivable by Landlord.

#### **SECTION 18    EVENTS OF DEFAULT.**

The occurrence of any of the following shall constitute an “**Event of Default**” under this Lease:

(a) Tenant's failure to pay when due all or any portion of the Rent, if the failure continues for three days after delivery of written notice to Tenant ("**Monetary Default**").

(b) Tenant's failure (other than a Monetary Default) to perform any obligation pursuant to this Lease or to comply with any term, provision or covenant of this Lease, if the failure is not cured within 10 days after delivery of written notice to Tenant. However, if Tenant's failure to comply cannot reasonably be cured within 10 days, Tenant shall be allowed additional time (not to exceed 60 days) as is reasonably necessary to cure the failure so long as: (i) Tenant commences to cure the failure within 10 days, and (ii) Tenant diligently pursues a course of action that will cure the failure and bring Tenant back into compliance with the Lease. However, if Tenant's failure to perform or comply creates a hazardous condition, the failure must be cured immediately upon notice to Tenant. In addition, if Landlord provides Tenant with notice of Tenant's failure to perform or to comply with any particular term, provision or covenant of the Lease on three occasions during any 12-month period, Tenant's subsequent violation of such term, provision or covenant shall, at Landlord's option, be an incurable Event of Default by Tenant.

(c) Tenant or any Guarantor becomes insolvent, makes a transfer in fraud of creditors, makes an assignment for the benefit of creditors, enters a general extension agreement with creditors or admits in writing its inability to pay its debts when due.

(d) The attachment, execution, or other judicial seizure of all or substantially all of Tenant's assets on the Premises, if such attachment or other seizure remains undismissed or undischarged for a period of thirty (30) days after the levy thereof.

(e) The employment of a receiver to take possession of substantially all of Tenant's assets on the Premises, if such attachment or other seizure remains undismissed or undischarged for a period of thirty (30) days after the levy thereof.

(f) The filing of Tenant for protection under the bankruptcy laws. In addition, Landlord shall have the right to declare this Lease terminated immediately upon the filing of such a bankruptcy petition by Tenant.

(g) The leasehold estate is taken by process or operation of Law, including selling Tenant's leasehold interest under execution.

(h) Tenant abandons or vacates all or any portion of the Premises for a period of more than 14 consecutive days. Tenant shall be deemed to have abandoned the Premises if Tenant fails to occupy and use the Premises for the Permitted Use during such period, and the fact that any of Tenant's Property remains in the Premises shall not be evidence that Tenant has not vacated or abandoned the Premises.

(i) Tenant is in default beyond any notice and cure period under any other lease or agreement with Landlord.

## **SECTION 19    REMEDIES.**

Upon an Event of Default, whether enumerated in Section 18 or not, Landlord may pursuant any and all of its rights and remedies without further notice or demand including without limitation:

(a) Terminate Tenant's right to possession of the Premises because of such Event of Default and recover from Tenant all damages allowed under §1951.2 of the California Civil Code,

including, without limitation, the worth at the time of the award of the amount by which the unpaid rent for the balance of the Term after the time of the award exceeds the amount of such rental loss for the same period that Tenant proves could be reasonably avoided; or

(b) Not terminate Tenant's right to possession because of such Event of Default, but continue this Lease in full force and effect; and in that event (i) Landlord may enforce all rights and remedies under this Lease and under the provisions of §1951.4 of the California Civil Code, including the right to recover the Rent and all other amounts due under this Lease as such Rent and other amounts become due under this Lease; and (ii) Tenant may assign its interest in this Lease with Landlord's prior written consent, which consent shall not be unreasonably withheld.

(c) For any Event of Default (other than a Monetary Default), in addition to all other rights and remedies, Tenant shall pay as Additional Rent the sum of \$100.00 per day after the period for notice and cure provided above, if any, until such Event of Default is cured or, if earlier, Landlord's termination of this Lease.

No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy set forth in this Lease or now or hereafter existing by agreement, applicable law or in equity. In addition to other remedies provided in this Lease, Landlord shall be entitled, to the extent permitted by applicable law, to injunctive relief, or to a decree compelling performance of any of the covenants, agreements, conditions or provisions of this Lease, or to any other remedy allowed to Landlord at law or in equity. Landlord may submit past due payments of Rent and other monetary obligations of Tenant to collections agencies, and Tenant agrees that Landlord may recover all associated collection costs and fees from Tenant in the event of such collection. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default.

## **SECTION 20 LANDLORD'S DEFAULT.**

(a) If Landlord fails to perform any of its material obligations under this Lease, then Landlord shall be in default. Landlord shall commence promptly to cure such default immediately after receipt of written notice from Tenant specifying the nature of such default and shall complete such cure within 30 days thereafter, provided that if the nature of such default is such that it cannot be cured within said 30-day period, Landlord shall have such additional time as may be reasonably necessary to complete its performance so long as Landlord has proceeded with diligence after receipt of Tenant's notice and is then proceeding with diligence to cure such default.

(b) Whenever Tenant serves notice on Landlord of Landlord's default, written notice shall also be served at the same time upon each Mortgagee (defined in Section 25). Each such Mortgagee shall have the periods of time within which to cure Landlord's defaults as provided in Section 20(a), which periods shall commence to run 30 days after the commencement of the periods within which Landlord must cure its defaults under Section 20(a). In this connection any representative of a Mortgagee shall have the right to enter upon the Premises for the purpose of curing Landlord's default. Such Mortgagee shall notify Landlord and Tenant in the manner provided by Section 27 of the address of such Mortgagee to which such notice shall be sent, and the agreements of Tenant under this Section 20(b) are subject to prior receipt of such notice. If the nature of the default is such that the Mortgagee's possession is required to cure the default, then Tenant will not terminate the Lease so long as such mortgagee or beneficiary commences proceedings to obtain possession of the Premises within the period of time afforded to the Mortgagee to cure such default, and once the Mortgagee has obtained possession, diligently

proceeds to cure the default. Nothing contained in this Lease shall be construed to impose any obligation on any Mortgagee to cure any default by Landlord under the Lease.

**SECTION 21**    **NO WAIVER OR REDEMPTION.**

Either party's failure to declare a default immediately upon its occurrence, or delay in taking action for a default shall not constitute a waiver of the default, nor shall it constitute an estoppel. Either party's failure to enforce its rights for a default shall not constitute a waiver of its rights regarding any subsequent default. Receipt by Landlord of Tenant's keys to the Premises shall not constitute an acceptance or surrender of the Premises. The subsequent acceptance of Rent by Landlord shall not be deemed to be a waiver of any preceding default by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding default at the time of acceptance of such Rent. No waiver by Landlord of any default shall be effective unless such waiver is in writing and signed by Landlord. Tenant waives for Tenant and for all those claiming under Tenant all right now or hereafter existing to redeem by order or judgment of any court or by any legal process or writ, Tenant's right of occupancy of the Premises after any termination of this Lease.

**SECTION 22**    **QUIET ENJOYMENT.**

Provided Tenant pays the Rent and fully performs all of its covenants and agreements hereunder, Tenant shall peaceably and quietly enjoy, hold and occupy the Premises during the Lease Term, without hindrance from Landlord or any party claiming by, through, or under Landlord, but not otherwise. This covenant and all other covenants of Landlord shall be binding upon Landlord and its successors only during its or their respective periods of ownership of the Building, and shall not be a personal covenant of Landlord or any of the Landlord Related Parties. Further, Tenant shall not use its Premises or the Common Area in any manner that interferes with the quiet enjoyment of any other tenant or occupant of the Building or Property.

**SECTION 23**    **RELOCATION.**

Landlord, at its expense, at any time before or during the Term, may relocate Tenant from the Premises to reasonably comparable space ("**Relocation Space**") within the Building upon 60 days' prior written notice to Tenant. Tenant acknowledges that in reliance upon Landlord's right to relocate Tenant to other premises, Landlord may lease all or portions of the Premises to others or may grant other tenants of the Property one or more options to expand into all or part of the Premises. Tenant further acknowledges that Landlord may incur substantial liability to such other tenants if Landlord is unable to perform as agreed under any such leases or options for the Premises. If Landlord exercises its right under this Section, Tenant shall vacate the Premises and occupy the Relocation Space under all terms and conditions of this Lease, no later than the date stated by Landlord in Landlord's written notice; however, the Base Rent and Tenant's Pro Rata Share shall be adjusted based on the rentable square footage of the Relocation Space. Landlord shall pay Tenant's reasonable costs for moving Tenant's furniture and equipment and printing and distributing notices to Tenant's customers of Tenant's change of address and one month's supply of stationery showing the new address. Upon the completion of such relocation, all references in this Lease to the Premises shall refer to and mean the Relocation Space. Tenant shall, upon request by Landlord, sign and enter into an amendment of this Lease reflecting the substitution of the Relocation Space pursuant to this Section.



**SECTION 24    HOLDING OVER.**

Except as set forth in Section 7, if Tenant fails to surrender the Premises at the expiration or earlier termination of this Lease, Tenant's occupancy of the Premises after the termination or expiration shall be that of a tenancy at sufferance. Tenant's occupancy of the Premises during the holdover shall be subject to all the terms and provisions of this Lease, except that Tenant shall pay an amount (on a per month basis without reduction for partial months during the holdover) equal to 150 percent of the sum of the Base Rent and Additional Rent for the first 30 days of the holdover period and then, for the balance of Tenant's holdover period, the greater of: (a) 150 percent of the sum of the Base Rent and Additional Rent due for the period immediately preceding the holdover; or (b) the fair market gross rental for the Premises as reasonably determined by Landlord. No holdover by Tenant or payment by Tenant after the expiration or early termination of this Lease shall be construed to extend the Term or prevent Landlord from immediate recovery of possession of the Premises by summary proceedings or otherwise. In addition to the payment of the amounts provided above, if Landlord is unable to deliver possession of the Premises to a new tenant, or to perform improvements for a new tenant, as a result of Tenant's holdover, Tenant shall indemnify, protect, defend and hold harmless Landlord and each of the Landlord Related Parties from loss or liability resulting from such failure, including any claims made by or liabilities to any succeeding tenant arising out of such failure.

**SECTION 25    SUBORDINATION TO MORTGAGES; ESTOPPEL CERTIFICATE.**

(a) Tenant accepts this Lease subject and subordinate to any mortgage(s), deed(s) of trust, ground lease(s) or other lien(s) now or subsequently arising upon the Premises, the Building or the Property, and to renewals, modifications, refinancings and extensions thereof (collectively referred to as a "**Mortgage**"). The party having the benefit of a Mortgage shall be referred to as a "**Mortgagee**". This clause shall be self-operative, but within 10 days after request and delivery from a Mortgagee or Landlord, Tenant shall execute a commercially reasonable subordination agreement in favor of the Mortgagee. In lieu of having the Mortgage be superior to this Lease, a Mortgagee shall have the right at any time to subordinate its Mortgage to this Lease. If requested by a successor-in-interest to all or a part of Landlord's interest in the Lease, Tenant shall, without charge, attorn to the successor-in-interest.

(b) Landlord and Tenant shall each, within 10 days after receipt of a written request from the other, execute and deliver an estoppel certificate to those parties as are reasonably requested by the other (including a Mortgagee or prospective purchaser). The estoppel certificate shall include a statement certifying that this Lease is unmodified (except as identified in the estoppel certificate) and in full force and effect, describing the dates to which Rent and other charges have been paid, representing that, to such party's actual knowledge, there is no default (or stating the nature of the alleged default) and indicating other matters with respect to the Lease that may reasonably be requested.

**SECTION 26    ATTORNEYS' FEES.**

In case suit shall be brought for any unlawful detainer of the Premises, for the recovery of any rent due on the provisions of this Lease, or because of the failure to comply with any other covenant herein contained on the part of either party to be kept or performed (including enforcement of an indemnity provision), or for interpretation or a declaration of rights pursuant to this Lease, the prevailing party shall recover from the non-prevailing party all costs and expenses incurred therein, including reasonable attorney's fees and costs (including expert witness fees and costs, whether or not the expert is called to testify), including attorney's fees and costs incurred in enforcing any judgment.

**SECTION 27    COLLECTION FEES**

In case a collections agency is retained for the purposes of recovering any Rent or other sum due under the provisions of this Lease, in addition to those amounts due under the Lease, Tenant shall be responsible for all costs and expenses incurred in association with such collection.

**SECTION 28    NOTICE**

If a demand, request, approval, consent or notice (collectively referred to as a “**notice**”) shall or may be delivered to either party by the other, the notice shall be in writing and delivered by hand or sent by registered or certified mail with return receipt requested and postage prepaid, or sent by overnight or same day courier service with delivery charges prepaid at the party’s respective Notice Address(es) set forth in the Basic Lease Information, except that if Tenant has vacated the Premises (or if the Notice Address for Tenant is other than the Premises, and Tenant has vacated such address) without providing Landlord a new Notice Address, Landlord may serve notice in any manner described in this Section or in any other manner permitted by Law. Each notice shall be deemed to have been received by the party to which the notice is addressed on the earlier to occur of actual delivery or the date on which delivery is refused, or, if Tenant has vacated the Premises or the other Notice Address of Tenant without providing a new Notice Address, three days after notice is deposited in the U.S. mail in the manner described above or one business day after notice is deposited with a courier service in the manner described above. Either party may, at any time, change its Notice Address by notifying the other party of the new address in the manner described in this Section.

**SECTION 29    EXCEPTED RIGHTS.**

This Lease does not grant any rights to light or air over or about the Building. Landlord excepts and reserves exclusively to itself the use of: (a) roofs, (b) telephone, electrical, other utility and janitorial closets, (c) equipment rooms, Building risers or similar areas that are used by Landlord for the provision of Building services, (d) rights to the land and improvements below the floor of the Premises, (e) the improvements and air rights above the Premises, (f) the improvements and air rights outside the demising walls of the Premises, and (g) the areas within the Premises used for the installation of utility lines and other installations serving occupants of the Building. Landlord has the right to change the Building’s name or address. Landlord also has the right to make such other changes to the Property and Building as Landlord deems appropriate, provided the changes do not materially affect Tenant’s ability to use the Premises for the Permitted Use. Landlord shall also have the right (but not the obligation) to temporarily close the Building if Landlord reasonably determines that there is an imminent danger of significant damage to the Building or of personal injury to Landlord’s employees or the occupants of the Building. The circumstances under which Landlord may temporarily close the Building shall include electrical interruptions, hurricanes and civil disturbances. A closure of the Building under such circumstances shall not constitute a constructive eviction nor entitle Tenant to an abatement or reduction of Rent.

**SECTION 30    SURRENDER OF PREMISES.**

At the expiration or earlier termination of this Lease or Tenant’s right of possession, Tenant shall remove Tenant’s Property from the Premises, and quit and surrender the Premises to Landlord, broom clean, and in good order, condition and repair, ordinary wear and tear excepted. Tenant shall also be required to remove the Required Removables in accordance with Section 7. If Tenant fails to remove any of Tenant’s Property within two days after the expiration or earlier termination of this Lease or of Tenant’s right to possession, Landlord shall be entitled (but not obligated) to remove and store Tenant’s Property in accordance with Section 1993, et seq. of the California Civil Code.

**SECTION 31 MISCELLANEOUS.**

(a) This Lease and the rights and obligations of the parties shall be interpreted, construed and enforced in accordance with the Laws of the State of California and Landlord and Tenant hereby irrevocably: (i) agrees that any suit, action or other legal proceeding arising out of or relating to this Lease shall be brought and adjudicated only in a court of competent jurisdiction located in San Diego, California; (ii) consents to and waives any objection to the personal jurisdiction and venue of such court in any such suit, action or other legal proceeding; and (iii) waives any purported right or claim to bring a motion to transfer such suit, action or other legal proceeding pursuant to 28 U.S.C. §§ 1404 or 1406, or comparable provision of other law, including based upon the doctrine of *forum non conveniens*. If any term or provision of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected, and each provision of this Lease shall be valid and enforced to the fullest extent permitted by Law. The headings and titles to the Sections of this Lease are for convenience only and shall have no effect on the interpretation of any part of the Lease.

(b) Tenant shall not record this Lease or any memorandum without Landlord's prior written consent, which may be granted or withheld in Landlord's sole, absolute and unfettered discretion.

(c) To the fullest extent permitted by applicable Law, Landlord and Tenant waive any right to trial by jury in any proceeding based upon or pertaining to this Lease, including any default under this Lease. To the extent such waiver is not enforceable under California law, then Landlord and Tenant agree that, except with respect to any unlawful detainer action, any disputes arising in connection with this Lease (including but not limited to a determination of any and all of the issues in such dispute, whether of fact or of law) shall be resolved (and a decision shall be rendered) by way of a general reference as provided for in Part 2, Title 8, Chapter 6 (§§ 638 et. seq.) of the California Code of Civil Procedure, or any successor California statute governing resolution of disputes by a court appointed referee.

(d) Whenever a period of time is prescribed for the taking of an action by Landlord or Tenant, the period of time for the performance of such action shall be extended by the number of days that the performance is actually delayed due to strikes, acts of God, adverse weather conditions, governmental regulations or restrictions, fire or other casualties, shortages of labor or materials, pandemics, war, civil disturbances and other causes (excluding a financial impact) beyond the reasonable control of the performing party ("**Force Majeure**"). However, events of Force Majeure shall not extend any period of time for the payment of Rent or other sums payable by either party or any period of time for the written exercise of an option or right by either party, and shall not extend the Term.

(e) The Premises or Landlord's interest under this Lease (or both) may be freely sold or assigned by Landlord and, in the event of any such sale or assignment, the covenants and obligations of Landlord herein shall be binding on each successive "landlord" and its successors and assigns, only during their respective periods of ownership. The liability of Landlord under this Lease shall be limited to its interest in the Premises, as reflected on Landlord's most recent audited financial statements. Tenant shall look solely to Landlord's interest in the Premises for the recovery of any judgment or award against Landlord. Neither Landlord nor any Landlord related party shall be personally liable for any judgment or deficiency. If during the Term of this Lease, Landlord conveys its interest in the Premises or this Lease, then from and after the effective date of such conveyance, Landlord shall be released and discharged from any and all further obligations and responsibilities under this Lease except those already accrued of which Landlord has notice at the

time of conveyance. In addition, if Tenant has a security deposit on deposit with Landlord at the time Landlord conveys its interest in the Premises or this Lease, then Landlord may transfer or deliver such security deposit to the person to whom Landlord conveys the Premises or this Lease; upon such transfer or delivery of Tenant's security deposit, Landlord shall be released and discharged with respect to any liability for or in connection with Tenant's security deposit.

(f) Each party warrants and represents to the other that it has not entered into any agreement under which a brokerage commission or fee would be payable in connection with this Lease by the other party. Each party further agrees to indemnify, protect, defend and hold the other party (including each of the Landlord Related Parties as indemnitees, but not as indemnitors) harmless from any loss, cost, liability and expense (including attorney's fees and expert witness fees) which the other party may incur as the result of any violation of this Section 30(f). Tenant shall indemnify and hold Landlord and each of the Landlord Related Parties harmless from any loss, cost, liability and expense (including attorney's fees and expert witness fees) which Landlord may incur as the result of any actual or alleged claim that Landlord is or may be obligated to pay any commission in connection with any assignment or sublease of all or any part of the Premises.

(g) Tenant covenants, warrants and represents that: (i) each individual signing, attesting and/or delivering this Lease on behalf of Tenant is authorized to do so on behalf of Tenant; (ii) this Lease is binding upon Tenant; and (iii) Tenant is duly organized and legally existing in the state of its organization and is qualified to do business in the State of California. If there is more than one Tenant, or if Tenant is comprised of more than one party or entity, the obligations imposed upon Tenant shall be joint and several obligations of all the parties and entities. Notices, payments and agreements delivered to or made by, with or to any one person or entity shall be deemed to have been delivered to or made by, with and to all of them.

(h) Time is of the essence with respect to this Lease. This Lease shall create only the relationship of landlord and tenant between the parties, and not a partnership, joint venture or any other relationship. This Lease and the covenants and conditions in this Lease shall inure only to the benefit of and be binding only upon Landlord and Tenant and their permitted successors and assigns.

(i) The expiration of the Term, whether by lapse of time or otherwise, shall not relieve either party of any obligations which accrued prior to or which may continue to accrue after the expiration or early termination of this Lease. Without limiting the scope of the prior sentence, it is agreed that Tenant's obligations under Sections 3(a), 3(b), 7, 13, 18, 23 and 28 shall survive the expiration or early termination of this Lease.

(j) Landlord has delivered a copy of this Lease to Tenant for Tenant's review only, and the delivery of it does not constitute an offer to Tenant or an option. This Lease shall not be effective against any party hereto until an original copy of this Lease has been signed by such party.

(k) All understandings and agreements previously made between the parties are superseded by this Lease, and neither party is relying upon any warranty, statement or representation not contained in this Lease. This Lease may be modified only by a written agreement signed by Landlord and Tenant.

(l) Tenant, within 15 days after request, shall provide Landlord with a current financial statement and such other information as Landlord may reasonably request in order to create a "business profile" of Tenant and determine Tenant's ability to fulfill its obligations under this Lease. Landlord, however, shall not require Tenant to provide such information unless

Landlord is requested to produce the information in connection with a proposed financing or sale of the Building. Upon written request by Tenant, Landlord shall enter into a commercially reasonable confidentiality agreement covering any confidential information that is disclosed by Tenant.

(m) In consideration of each covenant made elsewhere under this Lease wherein one of the parties agrees not to unreasonably withhold its consent or approval, the requesting party releases the other party and waives all claims for any damages arising out of or connected with any alleged or claimed unreasonable withholding of consent or approval. The aggrieved party's sole remedy shall be an action to enforce any such provision through specific performance or declaratory judgment.

(n) Landlord and Tenant acknowledge all correspondence and all communication between Landlord and Tenant (or their respective agents) concerning the information related to this Lease is strictly confidential. Landlord and Tenant shall keep all information confidential and shall not disclose any information to any persons or entities other than Landlord or Tenant's financial or legal representatives or consultants.

**SECTION 32 ENTIRE AGREEMENT.**

This Lease and the following exhibits, attachments and addenda constitute the entire agreement between the parties and supersede all prior agreements and understandings related to the Premises, including all lease proposals, letters of intent and other documents:

Exhibit A	Floor Plan Depicting Premises
Exhibit B	Building Rules and Regulations

Addendum No. 1 MEDICAL OFFICE PROVISIONS


**SECTION 33 FUTURE REDEVELOPMENT OF PROPERTY; AND NOTICE OF INELIGIBILITY FOR RELOCATION ASSISTANCE AND BENEFITS.**

Landlord discloses that Landlord may redevelop the property, either on its own or in cooperation with San Diego State University or any of its affiliates or auxiliaries. Landlord also discloses that it is not eligible for any assistance and benefits under the Relocation Assistance Law (California Government Code, Sections 7260, et. seq.) and state and local rules and regulations adopted pursuant thereto, or any federal law, as a result of any displacement from the Premises, whether the displacement is caused by Landlord, or in cooperation with others. TENANT WAIVES AND RELINQUISHES ANY AND ALL CLAIMS TO ASSISTANCE AND BENEFITS WHICH MIGHT OTHERWISE ACCRUE, IF ANY, AS A RESULT OF ANY SUCH DISPLACEMENT. The projected date of any displacement is uncertain at this time; however, Landlord shall give Tenant at least six (6) months prior notice.

**IN WITNESS WHEREOF**, Landlord and Tenant hereby enter into this Lease effective as of the Effective Date.

**Landlord:**


SAN DIEGO STATE UNIVERSITY FOUNDATION, a California non-profit corporation doing business as San Diego State University Research Foundation

By   
Eric Elson (Aug 19, 2022 10:47 PDT)  
Eric L. Elson  
Director  
Facilities Planning and Management

Date: 19-Aug-2022

**Tenant:**

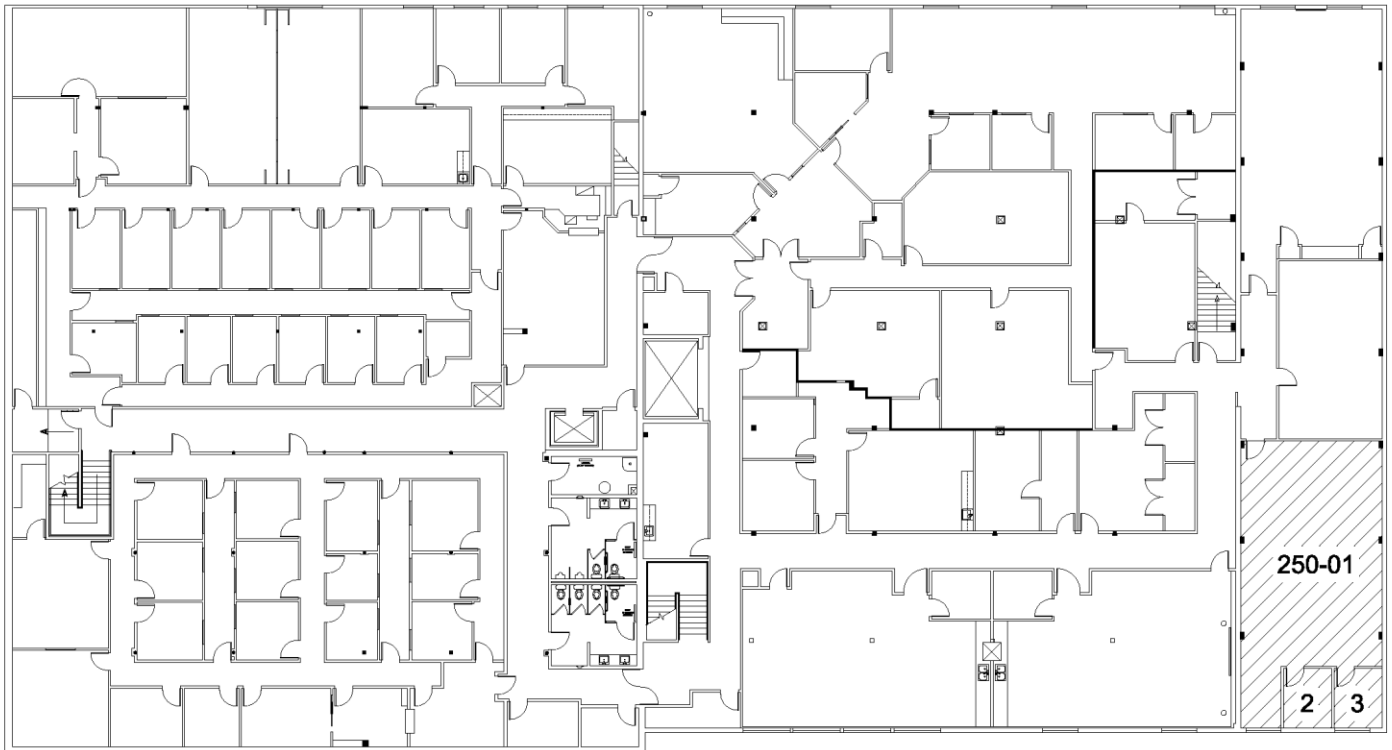
HEALTH SCIENCES HIGH SCHOOL AND MIDDLE COLLEGE INC., a California non-profit corporation

By   
Ian Pumpian (Aug 19, 2022 10:44 PDT)  
Ian Pumpian

Date: 19-Aug-2022

**EXHIBIT A**

**FLOOR PLAN DEPICTING PREMISES**



## **EXHIBIT B**

### **BUILDING RULES AND REGULATIONS**

The following rules and regulations shall apply, where applicable, to the Premises, the Building, the parking garage associated therewith (if any), the Property and the appurtenances thereto:

1. Sidewalks, doorways, vestibules, halls, stairways and other similar areas shall not be obstructed by Tenant or used by Tenant for any purpose other than ingress and egress to and from the Premises. No rubbish, litter, trash or material of any nature shall be placed, emptied or thrown in those areas. At no time shall Tenant permit Tenant's employees to loiter in Common Areas or elsewhere in or about the Building or Property.
2. Tenant shall store all of its trash and garbage within its Premises or in other facilities provided by Landlord. Tenant shall not place in any trash box or receptacle any material which cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. All garbage and refuse disposal shall be made in accordance with directions issued from time to time by Landlord.
3. Plumbing fixtures and appliances shall be used only for the purposes for which designed, and no sweepings, rubbish, rags or other unsuitable material shall be thrown or placed therein. Damage resulting to any such fixtures or appliances from misuse by Tenant or its agents, employees or invitees, shall be paid for by Tenant, and Landlord shall not in any case be responsible therefore.
4. No signs, advertisements or notices shall be painted or affixed on or to any windows, doors or other parts of the Building, except those of such color, size, style and in such places as shall be first approved in writing by Landlord. No nails, hooks or screws shall be driven or inserted into any part of the Premises or Building except by the Building maintenance personnel, nor shall any part of the Building be defaced by Tenant.
5. Corridor doors, when not in use, shall be kept closed.
6. Tenant shall not place any additional lock or locks on any door in the Premises or Building without Landlord's prior written consent. Up to ten (10) keys to the locks on the doors in the Premises shall be furnished by Landlord to Tenant at the cost of Tenant, and Tenant shall not have any duplicate keys made. In addition, Landlord shall provide to Tenant up to ten (10) access cards to the Building. In the event Tenant requires more than ten (10) keys or access cards, a reasonable additional number will be made available to Tenant at Landlord's then-current standard charge per-key or per-card. All keys and access cards shall be returned to Landlord at the expiration or earlier termination of this Lease.
7. Tenant assumes any and all responsibility for protecting its Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry of the Premises closed.
8. Tenant shall not install, operate or maintain in the Premises or in any other area of the Building, any security system or camera system without Landlord's prior written consent. Tenant acknowledges that any such system, if approved in advance by Landlord, shall be restricted to coverage of the Premises only, and shall be subject to requirements of the Landlord.
9. Movement in or out of the Building of furniture or office equipment, or dispatch or receipt by Tenant of any merchandise or materials which require the use of elevators, stairways, lobby areas or loading dock areas shall be restricted to hours designated by Landlord. Tenant must seek



Landlord's prior approval by providing in writing a detailed listing of any such activity. If approved by Landlord, such activity shall be under the supervision of Landlord and performed in the manner stated by Landlord. Landlord may prohibit any article, equipment or any other item from being brought into the Building. Tenant is to assume all risk for damage to articles moved and injury to any persons resulting from such activity. If any equipment, property, and/or personnel of Landlord or of any other tenant is damaged or injured as a result of or in connection with such activity, Tenant shall be solely liable for any and all damage or loss resulting therefrom.

10. Landlord shall have the power to prescribe the weight and position of safes and other heavy equipment or items, which in all cases shall not in the opinion of Landlord exceed acceptable floor loading and weight distribution requirements. All damage done to the Building by the installation, maintenance, operation, existence or removal of any of Tenant's Property shall be repaired at the expense of Tenant.
11. Tenant shall not: (1) make or permit any improper, objectionable or unpleasant noises or odors in the Building, or otherwise interfere in any way with other tenants or persons having business with them; (2) solicit business or distribute, or cause to be distributed, in any portion of the Building any handbills, promotional materials or other advertising; or (3) conduct or permit any other activities in the Building that might constitute a nuisance.
12. No animals shall be brought into or kept in, on or about the Premises, other than trained and certified service dogs of visitors, without Landlord's prior written consent.
13. Tenant shall not use or occupy the Premises in any manner or for any purpose which would injure the reputation or impair the present or future value of the Premises or the Building; without limiting the foregoing, Tenant shall not use or permit the Premises or any portion thereof to be used for lodging, sleeping or for any illegal purpose.
14. Landlord reserves the right to exclude or expel from the Building any person who, in Landlord's judgment, is intoxicated or under the influence of liquor or drugs or who is in violation of any of the Rules and Regulations of the Building.
15. Tenant shall not take any action which would violate Landlord's labor contracts affecting the Building or which would cause any work stoppage, picketing, labor disruption or dispute, or any interference with the business of Landlord or any other tenant or occupant of the Building or with the rights and privileges of any person lawfully in the Building. Tenant shall take any actions necessary to resolve any such work stoppage, picketing, labor disruption, dispute or interference and shall have pickets removed and, at the request of Landlord, immediately terminate at any time any construction work being performed in the Premises giving rise to such labor problems, until such time as Landlord shall have granted its written consent for such work to resume. Tenant shall have no claim for damages of any nature against Landlord or any of the Landlord Related Parties in connection therewith, nor shall the Commencement Date of the Lease Term be extended as a result thereof.
16. Tenant shall not install, operate or maintain in the Premises or in any other area of the Building, any electrical equipment which does not bear the U/L (Underwriters Laboratories) seal of approval, or which would overload the electrical system or any part thereof beyond its capacity for proper, efficient and safe operation as determined by Landlord, taking into consideration the overall electrical system and the present and future requirements therefore in the Building. Tenant shall not furnish any cooling or heating to the Premises, including the use of any electronic or gas heating

devices, without Landlord's prior written consent. Tenant shall not use more than its proportionate share of telephone lines available to service the Building.

17. No cooking shall be done or permitted in the Premises except the use by Tenant of U/L approved equipment for brewing coffee, tea, and other similar hot beverages shall be permitted, and the use of a U/L approved microwave oven for employee use shall be permitted provided that such equipment and use are in accordance with all applicable federal, state, county and city laws, codes, ordinances, rules and regulations.
18. Tenant shall not operate or permit to be operated on the Premises any coin or token operated vending machine or similar device (including telephones, lockers, toilets, scales, amusement devices and machines for sale of beverages, foods, candy, cigarettes or other goods), except for those vending machines or similar devices which are for the sole and exclusive use of Tenant's employees, and then only if such operation does not violate the lease of any other tenant of the Building.
19. Bicycles and other vehicles are not permitted inside or on the walkways outside the Building, except in those areas specifically designated by Landlord for such purposes.
20. Landlord may from time to time adopt appropriate systems and procedures for the security or safety of the Building, its occupants, entry and use, or its contents, including fire protection and evacuation procedures and regulations. Tenant, Tenant's agents, employees, contractors, guests and invitees shall comply with Landlord's reasonable requirements relative thereto.
21. Landlord shall have the right to prohibit the use of the name of the Building or any other publicity by Tenant that in Landlord's opinion may tend to impair the reputation of the Building or its desirability for Landlord or other tenants. Upon written notice from Landlord, Tenant will refrain from and/or discontinue such publicity immediately. Without Landlord's prior written consent, Tenant shall not use the name of the Building in connection with or in promoting or advertising the business of Tenant except as Tenant's address.
22. Tenant shall not install any radio or television antenna, loudspeaker or other device(s) on the roof(s) or exterior walls of the Building.
23. Tenant shall carry out Tenant's permitted repair, maintenance, alterations, and improvements in the Premises only during times agreed to in advance by Landlord and in a manner which will not interfere with the rights of other tenants in the Building.
24. Canvassing, soliciting, and peddling in or about the Building is prohibited. Tenant shall cooperate and use its best efforts to prevent the same.
25. At no time shall Tenant permit or shall Tenant's agents, employees, contractors, guests or invitees smoke in any Common Area of the Building, unless such Common Area has been declared a designated smoking area by Landlord, or to allow any smoke from the Premises to emanate into the Common Areas or any other tenant's premises. Per California law, the Building is currently designated as a non-smoking building, which includes the use of any electronic smoking devices.
26. Tenant shall observe Landlord's rules with respect to maintaining standard window coverings at all windows in the Premises so that the Building presents a uniform exterior appearance. Tenant shall ensure that to the extent reasonably practicable, window coverings are closed on all windows in the Premises while they are exposed to the direct rays of the sun.

27. All deliveries to or from the Premises shall be made only at such times, in the areas and through the entrances and exits designated for such purposes by Landlord. Tenant shall not permit the process of receiving deliveries to or from the Premises outside of said areas or in a manner which may interfere with the use by any other tenant of its premises or of any Common Areas, any pedestrian use of such area, or any use which is inconsistent with good business practice.
28. Landlord reserves the right to rescind any of these Rules and Regulations and to make future Rules and Regulations as, in its judgment, may from time to time be needed for safety, comfort and security; for care and cleanliness of the Property; and for the preservation of good order therein. Tenant agrees to abide by all such Rules and Regulations hereinabove stated and any additional rules and regulations which are adopted.
29. Landlord reserves the right to charge as Additional Rent to Tenant any extra costs incurred by Landlord as a result of Tenant's violation of these Rules and Regulations.

[End of Exhibit]

**SDSURF OFFICE BUILDING**

**LEASE ADDENDUM NO. 1**

**MEDICAL OFFICE PROVISIONS**

Addendum No. 1 to Lease between SAN DIEGO STATE UNIVERSITY FOUNDATION, a California non-profit corporation doing business as San Diego State University Research Foundation, as Landlord, and HEALTH SCIENCES HIGH SCHOOL AND MIDDLE COLLEGE INC., a California non-profit corporation, as Tenant:

1. This Addendum applies (a) in the event the box for Medical Office Lease is checked and initialed in the Basic Lease Information; and (b) notwithstanding anything in the Lease to the contrary.

2. “**Medical Waste**” means wastes which are generated in the diagnosis, treatment or immunization of humans or related research, or in the preparation and administration of radiation (whether diagnostic or for treatment) or of chemotherapy agents, together with (a) all infectious and biohazardous materials and wastes, including scalpels, needles, syringes and other so-called medical “sharps”, tissue samples, specimens for testing, blood, plasma and other bodily fluids; and (b) all such other wastes which are defined pursuant to any medical or biological waste regulations which have been or may hereafter be promulgated by any governmental agency or authority with jurisdiction over the Premises or the Tenant’s use thereof or business conducted therein, and as further set forth in any Laws now or hereafter applicable to the Landlord, Tenant or the Premises.

3. The following sentence is added at the end of Section 4(b)(i) of the Lease: “Hazardous Materials also includes Medical Waste; and Hazardous Materials Laws includes federal, state and local laws, ordinances, rules and regulations relating to or governing the use, storage, transportation and disposal of Medical Waste.”

4. Tenant shall, at its sole cost and expense, comply with all Laws in connection with the disposal of Medical Waste from the Premises, including contracting with a licensed medical disposal carrier to remove Medical Waste from the Premises and the Property, and to dispose of the same in accordance with applicable Laws.

5. Without limiting the generality of Tenant’s obligation pursuant to Section 4(a) of the Lease to comply with Laws, Tenant shall, at Tenant’s cost and expense, comply with the Standards for Privacy of Individually Identifiable Health Information of the Health Insurance Portability and Accountability Act of 1996 (i.e., so-called “HIPAA”), as it may be amended.

[End of Addendum]