



Contra Costa School of Performing Arts

Board Meeting

Date and Time

Tuesday November 28, 2023 at 5:30 PM PST

Location

CCSPA Conference Room

Download options [More](#)

Share As: Draft Final Packet Ready

[PUBLIC](#)

Contra Costa School of Performing Arts

Board Meeting

Date and Time:

Tuesday November 28, 2023 at 5:30 PM PDT

Location:

2730 Mitchell Dr.
Walnut Creek, CA 94598

The public may address the Board regarding any item within the jurisdiction of the Board of Directors of ChartHouse Public Schools. To ensure an orderly meeting and an equal opportunity for each speaker, persons wishing to address the Board must fill out a speaker's card. Cards should be turned into the Board Chair/Vice Chairperson prior to the Call to Order. Speakers will be given three minutes for items on the agenda, and two minutes for items not on the agenda. When translation services are utilized to support the participation of a

primary Speaker, the translator will be afforded the same duration of time as the primary Speaker. Time may not be yielded to other speakers. In compliance with the Brown Act, the Board may listen to comments from speakers and provide direction to staff, but may not engage in discussion or take action on items that are not already on the agenda.

All Board agendas and minutes will be published at cocospa.org. Any disclosable public records related to an open session Board meeting agenda item and distributed by staff to a majority of the Board of Directors shall be available for public inspection.

Zoom: <https://us06web.zoom.us/j/82316354168>

The Board of Directors will provide reasonable accommodations for persons with disabilities planning to attend Board meetings so long as notice is provided at least one hour prior to the start of the meeting by contacting the Executive Director’s Office at (925) 235-1130.

Agenda

	Purpose	Presenter	Time
I. Opening Items			5:30 PM
A.	Call the Meeting to Order	Heather Vega	1 m
B.	Record Attendance	Callie Tirlia	1 m
C.	Establish a Quorum	Heather Vega	1 m
D.	Agenda Review and Adoption	Heather Vega	1 m

The Board will review the agenda and adopt as presented or take action to change the order of items.

II. PUBLIC COMMENTS 5:34 PM

The public may address the Board regarding any item within the jurisdiction of the Board of Directors of ChartHouse Public Schools. To ensure an orderly meeting and an equal opportunity for each speaker, persons wishing to address the Board must fill out a speaker’s card. Cards should be turned into the Board Chair/Vice Chairperson prior to the Call to Order.

Speakers will be given three (3) minutes for items *on* the agenda, and two (2) minutes for items *not* on the agenda. When translation services are utilized to support the participation

	Purpose	Presenter	Time
--	---------	-----------	------

of a primary Speaker, the translator will be afforded the same duration of time as the primary Speaker. Time may not be yielded to other speakers. In compliance with the Brown Act, the Board may listen to comments from speakers and provide direction to staff, but may not engage in discussion or take action on items that are not already on the agenda.

<p>A. Items on the Agenda</p> <p>Public Comment regarding items on the agenda.</p>	FYI	Heather Vega	5 m
---	-----	--------------	-----

<p>B. Items Not on the Agenda</p> <p>Public Comment regarding items not on the agenda.</p>	FYI	Heather Vega	5 m
---	-----	--------------	-----

III. CONSENT AGENDA 5:44 PM

Items listed under consent agenda are considered routine and will be approved/adopted in one single motion. There will be no separate discussion of these items; however, any item may be removed from the consent agenda upon request by any member of the Board and acted upon separately.

<p>A. Approve Minutes</p>	Approve Minutes	Callie Tirlia	2 m
----------------------------------	--------------------	---------------	-----

Board will consider approval of minutes from October 24, 2023.

Approve minutes for Board Meeting on October 24, 2023

IV. FINANCE 5:46 PM

<p>A. Financial Report</p>	FYI	Candice Phillips	15 m
-----------------------------------	-----	------------------	------

<p>B. EPA Spending Plan</p>	Vote	Candice Phillips	5 m
------------------------------------	------	------------------	-----

V. OTHER BUSINESS 6:06 PM

<p>A. Enrollment Update</p>	FYI	Catherine Foster, Miguel Soza	20 m
------------------------------------	-----	----------------------------------	------

<p>B. Executive Summary</p>	Discuss	Catherine Foster	10 m
------------------------------------	---------	------------------	------

<p>C. Facilities Update</p> <p>Presentation from real estate broker. Possible discussion and vote on agreement.</p>	Vote	Candice Phillips	20 m
--	------	------------------	------

<p>D. Executive Director Contract Date Adjustment</p> <p>DMS needs contract dates to mirror the fiscal year for STRS reporting purposes.</p>	Vote	Candice Phillips	5 m
---	------	------------------	-----

	Purpose	Presenter	Time
E. Salary Schedule Review Salary Schedule	Vote	Candice Phillips	5 m
F. Salary Survey	Vote	Heather Vega	10 m
VI. CLOSED SESSION			7:16 PM
Heather Vega			
A. Public Employee Employment/Discipline/Dismissal Release (§ 54957)	FYI	Catherine Foster	5 m
Board will be updated regarding personnel hired and approve any Public Employee Discipline/Dismissal/Releases.			
B. Executive Director Evaluation Board will discuss the evaluation of the Executive Director.	Discuss	Heather Vega	30 m
VII. RECONVENE TO OPEN SESSION			7:51 PM
A. Report Out	FYI	Heather Vega	5 m
The Board will report out on actions taken in Closed Session, if any.			
VIII. Closing Items			7:56 PM
A. Adjourn Meeting	Vote		

Coversheet

Approve Minutes

Section: III. CONSENT AGENDA
Item: A. Approve Minutes
Purpose: Approve Minutes
Submitted by:
Related Material: Minutes for Board Meeting on October 24, 2023

APPROVED



Contra Costa School of Performing Arts

Minutes

Board Meeting

Date and Time

Tuesday October 24, 2023 at 5:30 PM

Location

CCSPA Conference Room

Download options [More](#)

Share As: Draft Final Packet Ready

[PUBLIC](#)

Contra Costa School of Performing Arts

Board Meeting

Date and Time:

Tuesday October 24, 2023 at 5:30 PM PDT

Location:

2730 Mitchell Dr.
Walnut Creek, CA 94598

The public may address the Board regarding any item within the jurisdiction of the Board of Directors of ChartHouse Public Schools. To ensure an orderly meeting and an equal opportunity for each speaker, persons wishing to address the Board must fill out a speaker's card. Cards should be turned into the Board Chair/Vice Chairperson prior to the Call to Order. Speakers will be given three minutes for items on the agenda, and two minutes for items not on the agenda.

When translation services are utilized to support the participation of a primary Speaker, the translator will be afforded the same duration of time as the primary Speaker. Time may not be yielded to other speakers. In compliance with the Brown Act, the Board may listen to comments from speakers and provide direction to staff, but may not engage in discussion or take action on items that are not already on the agenda.

All Board agendas and minutes will be published at cocospa.org. Any disclosable public records related to an open session Board meeting agenda item and distributed by staff to a majority of the Board of Directors shall be available for public inspection.

Online:

Mackenzie Ayers

1870 Pacific Ave. Apt 705

San Francisco, CA 94109

Zoom: <https://us06web.zoom.us/j/84711225639>

The Board of Directors will provide reasonable accommodations for persons with disabilities planning to attend Board meetings so long as notice is provided at least one hour prior to the start of the meeting by contacting the Executive Director's Office at (925) 235-1130.

Directors Present

A. Mbonisi, C. Hill, D. Wendt, G. Ponikvar, H. Vega, L. McPhatter-Harris, M. Hennessy (remote)

Directors Absent

None

Ex Officio Members Present

C. Foster

Non Voting Members Present

C. Foster

Guests Present

C. Tirlia

I. Opening Items

A. Call the Meeting to Order

H. Vega called a meeting of the board of directors of Contra Costa School of Performing Arts to order on Tuesday Oct 24, 2023 at 5:36 PM.

B. Record Attendance

C. Establish a Quorum

Quorum Established at 5:36 by Heather Vega

D. Agenda Review and Adoption

D. Wendt made a motion to Approve the Agenda as is.

G. Ponikvar seconded the motion.

The board **VOTED** to approve the motion.

Roll Call

A. Mbonisi	Absent
M. Hennessy	Aye
G. Ponikvar	Aye
H. Vega	Aye
L. McPhatter-Harris	Absent
D. Wendt	Aye
C. Hill	Absent

II. PUBLIC COMMENTS

A. Items on the Agenda

There are no public speakers at the 10/24/2023 meeting.

B. Items Not on the Agenda

There are no public speakers at the 10/24/2023 meeting.

III. CONSENT AGENDA

A. Approve Minutes

D. Wendt made a motion to approve the minutes from Board Meeting on 09-26-23.

G. Ponikvar seconded the motion.

The board **VOTED** to approve the motion.

Roll Call

G. Ponikvar	Aye
H. Vega	Aye
A. Mbonisi	Absent
C. Hill	Absent
D. Wendt	Aye
M. Hennessy	Aye

Roll Call

L. McPhatter-Harris Absent

IV. FINANCE

A. Financial Report

Candice recorded a live presentation of the Financial Report for the board to view.

Heather requested that Candice include bond discussions in the Finance Report.

B. EPA Spending Plan

This topic is being tabled until the board covenants can be discussed with Candice. No action was given at this time.

V. OTHER BUSINESS

A. Enrollment Update

Catherine reviewed Enrollment numbers with the board. The school is using a new program for enrollment. The goal is 365 students, SPA is currently at 360.

The Instagram link and Youtube link on the CoCoSPA website need to be corrected.

The board discuss strategies to add more students to enrollment but also keep certain grades closed due to max student amount.

B. Executive Summary

Attendance - 94.5% overall average

Catherine reviewed her Executive Summary and presented it to the board.

C. Revision of School Calendar for Testing Days in December

D. Wendt made a motion to Change the school calendar to spread the iReady testing out to multiple days in December.

L. McPhatter-Harris seconded the motion.

The board **VOTED** unanimously to approve the motion.

Roll Call

A. Mbonisi	Aye
M. Hennessy	Aye
L. McPhatter-Harris	Aye
G. Ponikvar	Aye
H. Vega	Aye
C. Hill	Aye
D. Wendt	Aye

D. Facilities Update

There are no further updates on this at this time.

VI. RECONVENE TO OPEN SESSION

A. Report Out

No action taken at this time

VII. Closing Items

A. Adjourn Meeting

There being no further business to be transacted, and upon motion duly made, seconded and approved, the meeting was adjourned at 8:36 PM.

Respectfully Submitted,
H. Vega

Coversheet

Financial Report

Section:	IV. FINANCE
Item:	A. Financial Report
Purpose:	FYI
Submitted by:	
Related Material:	Nov 2023 CBO Report.pdf CoCoSpa FY2023-24 October v2.pdf

Contra Costa School of Performing Arts
CBO Report
November 2023

S T A T U S	<ul style="list-style-type: none">● Prop 39 application<ol style="list-style-type: none">① Submitted Nov 1② Pros and Cons - What's next? ● Potential for listing the building January 2024<ol style="list-style-type: none">① Intro to Brokers (Resumes included)② Potential Timeline③ Feedback④ Sample Agreements⑤ Pros and Cons - What's next? ● Business Credit Card 100k and LOC application 250k ● FY 2023 Audit + EdTech ● Insurance provider comparative analysis ● District meeting recap
--	---



ALEX PECK

Principal

COMMERCIAL
BROKERAGE
WALNUT CREEK, CA

O 925.239.1414

C 650.787.1535

apeek@lee-associates.com
lee-associates.com

1407 Oakland Boulevard, Suite 103
Walnut Creek, CA 94596
License ID: 01981426

PARTIAL CLIENT LIST

- ▶ Sunstate Equipment Rentals
- ▶ Davita, Inc.
- ▶ ZL Construction Corp
- ▶ S.B. Pacific Group
- ▶ SAGE Veterinary Hospitals
- ▶ Scannell Properties
- ▶ Ethan Allen Furniture
- ▶ California DMV
- ▶ Walnut Creek Leshner Center
- ▶ Premier RV Storage
- ▶ Eco Building Systems
- ▶ TNGEC, Inc.
- ▶ The Bundy Family Trust
- ▶ Lafayette Land Co
- ▶ LSTC California, LLC
- ▶ Demiris Law Firm
- ▶ BASS Medical Group
- ▶ Pinwheel Pediatrics
- ▶ IPM Medical Group
- ▶ AgJuction, Inc.
- ▶ Contra Costa Sleep Center
- ▶ United Business Bank

PROFILE

Alex's skills in investigation and analysis support clients in making insightful business decisions. Alex's creativity, relationship building, market knowledge and implementation of successful leasing and sales strategies employ multiple resources across a broad network. Additionally, he offers strong underwriting capabilities, including forecasting and trending for acquisitions, dispositions, and debt restructure.

Prior to joining the Lee & Associates Walnut Creek office, Alex worked in Oakland with Marcus & Millichap Investment Brokerage where he gained valuable real estate investment experience.

Alex grew up in Lafayette and attended Acalanes High School. He's an East Bay native with an acute awareness of changes and market trends in the surrounding areas. Alex graduated from California State University, Sacramento where he studied business marketing.

NOTABLE RECENT TRANSACTIONS INCLUDE

• Sale	28,900 SF +87,000 SF YARD	Nustard Trust	Fairfield
• Sale	22,753 SF	Naggar Family Trust	Concord
• Sale	18,000 SF	Moraga Properties	Pacheco
• Sale	11,570 SF	Wachter Enterprises LLC	Pleasant Hill
• Sale	13,979 SF	John & Beverly Levy	Walnut Creek
• Sale	8,050 SF	ZL Construction Corp	Concord
• Sale	4,740 SF + 30,000 SF YARD	Swenson's Fleet Repair	Martinez
• Sale	5,364 SF	Corazza Family Trust	Martinez
• Sale	11,107 SF	Harmony Concord LLC	Concord
• Sale	12,276 SF	Jacobs Family Trust	Walnut Creek
• Sale	36,201 SF	United Business Bank	Oakland
• Sale	16,260 SF	SAGE Veterinary Hospitals	Concord
• Sale	36,649 SF	DMV/Placer County	Auburn
• Sale	16,808 SF	Davita Dialysis, Inc.	Walnut Creek
• Sale	5,593SF	JDS Farm Investments	San Ramon
• Sale	20,682 SF	Big 5 Sporting Goods	Auburn
• Sale	9,500 SF	Lampert Management LLC	Danville
• Sale	10,000 SF	Bundy Family Trust	Castro Valley
• Sale	10,313 SF	Wachter Enterprises LLC	San Ramon
• Sale	4,912 SF	Lafayette Land Co	Walnut Creek
• Sale	7,108 SF	Cianfichi Family Trust	Antioch
• Lease	54,000 SF + 40,000 SFYard	Eco Building Systems	Pittsburg
• Lease	14,000 SF + 85,788 SF Yard	Sunstate Equipment Rentals	Pacheco
• Lease	31,500 + 25,000 SF Yard	Outcast Concrete Products	Pittsburg
• Lease	63,162 SF	Premier RV Storage	Fairfield
• Lease	31,800 SF	TNGEC	Pittsburg
• Lease	76,840 SF	The Osman Family	Concord
• Lease	20,160 SF	EdStar Enterprises	Concord
• Lease	7,650 SF	The Dream Stager LLC	Walnut Creek
• Lease	6,913 SF	BASS Medical Group	Walnut Creek
• Lease	11,520 SF	Fellowship Church	Martinez

EDUCATION

- California State University, Sacramento | Bachelor of General Studies
 - Emphasis in Business Marketing

COMMUNITY INVOLVEMENT

- East Bay Brokers Association
- Lee & Associates Corporate Solutions Group
- Walnut Creek Chamber of Commerce



DANIEL P. MOYLAN

1407 Oakland Blvd. #103
Walnut Creek, CA 94596
(925) 932-7885 (home)
(925) 239-1427 (office)
(925) 963-1969 (cell)

dmoylan@lee-associates.com
dan.moylan@sbcglobal.net

EDUCATION Bachelor of Science in Business Administration/Economics, St Mary's College, Moraga, California 1981.
Licensed California Real Estate Broker (1982).

CAREER

January 2019 – Present

Commercial Real Estate Broker
Lee & Associates – Walnut Creek Commercial Real Estate Services, Inc.
Walnut Creek, CA

November 2011 – December 2018

Commercial Real Estate Broker
Cushman & Wakefield as successor to
DTZ - Cassidy Turley Northern California
Walnut Creek, CA

Areas of specialization include the representation of landlords and tenants in the leasing of commercial office and industrial properties and the representation of buyers and sellers in the underwriting of commercial property investment sales and acquisitions. Assisted companies in their pursuit of owner/user facilities with the underwriting, financing and acquisition of properties throughout Northern California and providing client advisement in their acquisition of suitable 1031 exchange properties.

June 2002 – November 2011

Commercial Real Estate Broker
MCC Realty Group, Inc.
Walnut Creek, CA

Commercial real estate broker specializing in landlord and tenant representation in the leasing of commercial office, industrial and retail property throughout the greater I-680 corridor in Contra Costa County. Represented commercial property owners in the valuation and disposition of various commercial properties. Represented buyers in the underwriting, budgeting and economic feasibility analysis of commercial property acquisitions.

April 2000 – May 2002

Commercial Real Estate Broker
Cushman and Wakefield of California, Inc.
Walnut Creek, CA

Commercial real estate broker specializing in the leasing and sales of commercial office space in Central Contra Costa County. Performed underwriting and financial analysis of commercial real estate prior to the marketing and disposition of the properties. During 2000, involved in the disposition of the 1,125,000 square foot Bernal Corporate Park in Pleasanton, California.

April 1997– March 2000
Senior Project Manager
DivcoWest Group, LLC
San Jose, California

Complete management oversight for a portfolio of commercial, retail and industrial properties comprising a total of 890,000 square feet located in Concord, Hayward and San Ramon California. Responsibilities included the annual budgeting, forecasting and leasing. Complete oversight for tenant and capital improvement projects, day to day facility and property management responsibilities.

September 1992 – March 1997
Senior Project Manager
Pacific Gateway Properties, Inc.
Walnut Creek, California

On-site property/facility management and leasing responsibility for a 435,000 square foot suburban commercial office building project consisting of twelve campus style office buildings. Responsibilities included the day-to-day operations and supervision of the on-site maintenance engineers, tenant improvement contractors, third party vendors, budgeting and oversight of capital improvement projects. Leased 128,817 square feet to Airtouch in 1994.

October 1990 – September 1992
Assistant Vice President – Asset Manager
American Real Estate Group
Stockton, California

Assistant vice president/asset manager for a portfolio of office and retail properties owned by American Savings and Loan. Responsibilities included asset management and valuation, re-leasing and marketing the properties for sale. The properties were located in California, Arizona, Colorado, Wyoming and Minnesota.

February 1989 – October 1990
Independent Real Estate Consultant

Oversaw the acquisition, renovation and leasing of four downtown San Francisco properties; uses included retail, residential, office and hotel uses.

February 1987 – January 1989
Vice President – Asset Manager
SysVest Investments
Danville, CA

Vice-President, Asset Management; Supervision of the restructure/repurchase of a \$100 million portfolio of REO condominiums in California and Arizona. Responsibilities included management and leasing, direction and supervision of on-site facility management and maintenance personnel. Prepared budgets and directed capital improvement projects. Interfaced directly with Savings and Loan representatives during loan workout period. Homeowners Association representation experience.

July 1982 – December 1986
Acquisitions / Dispositions Manager
Triton Financial Corporation
Danville, CA

July 1984 - December 1986; prepared the market feasibility analysis and directed the acquisitions and sales for a \$400 million privately owned real estate syndication company.

July 1982 - June 1984; Portfolio Manager, Allstate Investors; Asset and Property Manager for a \$23 million portfolio of REO single-family homes and condominiums throughout California. Implemented a computerized leasing, sales and budgeting program.

Lease Transactions

The transactions listed below are a partial list of lease transactions that have been negotiated on behalf of both landlords and tenants. In many instances, tenant improvement construction and project management/supervision were services supplied on behalf of the Landlord.

<u>Landlord</u>	<u>Tenant</u>	<u>Square Feet</u>	<u>City</u>
RO Properties, LLC	The Barrel Shoppe	2,900	Lafayette
Kinson, LLC	Acertus	1.65 acres	Antioch
Rose Family Properties, LLC	Deals on Wheels	14,000	Antioch
Rose Family Properties, LLC	VinFaat	17,500	Richmond
Railroad Center Associates	Mechanics Bank	4,900	Danville
Reynolds and Brown	Enterprise Car Rental	42,000	Concord
187 Arthur Road, LLC	Contra Costa Diesel	5,670	Martinez
Dere Investment Company	Seegene Technologies	3,898	Walnut Creek
3160 Crow Canyon LLC	Tri Valley Bank	3,171	San Ramon
Sunset Land Company, LLC	Enterprise Rent-A-Car Company, SF	30,217	San Ramon
TNHYIF REIV Quebec LLC	Comstock Homes	1,960	Pleasant Hill
Frederick D. Wertheim Trust	Walnut Creek Mercedes Benz	16,260	Walnut Creek
Benn Family Trust	Lithia Motors, Inc.	5,600	Walnut Creek
Natalie A. Benn Trust	North State Auto Sales	5,300	Walnut Creek
Railroad Center Associates	J.P. Morgan Chase	4,900	Danville
Frederick D. Wertheim Trust	Walnut Creek Mercedes Benz	16,260	Walnut Creek
Magnum LLC	Mike's Auto Body, Inc.	18,000	Lafayette
Laura Baxter	Mike's Auto Body, Inc.	7,200	Napa
Leonard Nomora	Mike's Auto Body, Inc.	6,000	Richmond
P.A.R. Enterprises	Khalcom Motors, Inc.	3,800	Walnut Creek
Cache Investments	North State Auto Sales	5,300	Walnut Creek
Zocchi Brothers	City of Walnut Creek Police Department	1,829	Concord
Hofmann 1987 Revocable Trust	Diefenbach & Barrett	4,285	Pleasant Hill
Eleanor J. Pean Trust	G & G Clothing, Inc.	2,975	Concord
Sun Life of Canada	Superior Financial Group	3,955	Walnut Creek
PERA Urban West Corporation	Steele Foundation	4,750	Walnut Creek
C.E.C. A California LP	Law Office of Thomas McKenna	1,200	Walnut Creek
Robert & Mark Day Co.	Concord Audi	12,100	Concord
Benn Family Trust	Cache Investments	5,300	Walnut Creek
SRS	Whiting, Fallon & Ross	8,216	Walnut Creek
Space Building Partnership	O & M Inc.	3,100	Walnut Creek
Cardoza Properties	Petrush / Elek, DDS	1,800	Pleasant Hill
Marin PERS	Contra Costa ARC	12,000	Richmond
Cranbrook Realty Fund	Contra Costa ARC	7,200	Martinez
Soureh & Jochemri	Contra Costa ARC	10,000	Pittsburg
Park Professional Center	Bayside Medical Group	2,650	Walnut Creek
Scott Family Trust	My Daughter's Wish	2,495	Pleasant Hill
Pacific Equities	Thimble Creek	4,214	Concord
Pacheco Commercial Properties	BRG Racing	3,000	Concord
Pacific Coast Carpet, LLC	Diablo Valley Federal Credit Union	3,500	Concord
2055 N. Broadway	Madsen & Wolch LLP	2,300	Walnut Creek
AMB	Caffino	3,600	Concord
Sleepy Hollow Investments	Steele Foundation	5,616	Pleasant Hill
Private Party	March of Dimes / CA Birth Defects	8,455	Emeryville
Wilcox Family Trust	Bisnet	8,699	Concord
Flagg Family Trust	Law Offices of Michael Cardoza	2,835	Walnut Creek
2266 Stanwell Drive	Hire Check	10,537	Concord
Colorado PERS	Patricia Tanner & Associates	2,119	Walnut Creek
Ron Elvidge	Orinda Pediatric Dental Group	1,500	Orinda
Shaw Foundation Properties	Whiting, Rubenstein, Fallon & Ross	6,547	Walnut Creek

PAAC II, General Partnership	Pacific Precious Metals	1,127	Walnut Creek
PAAC II, General Partnership	Lindamood-Bell Learning Processes	3,881	Walnut Creek
PAAC II, General Partnership	Dr. Kouroush Moazemi	735	Walnut Creek
PAAC II, General Partnership	The Coder School	769	Walnut Creek
PAAC II, General Partnership	Dr. Tim Jennings, Chiropractor	497	Walnut Creek
Sebanc Family Trust	B & N Auto Service	2,688	Walnut Creek
Sebanc Family Trust	Pacific Power Motorsports	2,688	Walnut Creek
Sebanc Family Trust	Walnut Creek Customs	6,166	Walnut Creek
1550 Parkside Drive Associates	Red Top Electric	3,900	Walnut Creel
1550 Parkside Drive Associates	CGI Federal	2,332	Walnut Creek
1550 Parkside Drive Associates	Protected Investors	2,162	Walnut Creek
1550 Parkside Drive Associates	SunPoint Public Adjusters	2,496	Walnut Creek
1550 Parkside Drive Associates	Linn Mediation	1,101	Walnut Creek
1550 Parkside Drive Associates	Rise Physical Therapy and Pilates	2,115	Walnut Creek
1550 Parkside Drive Associates	Everett Financial dba Supreme Lending	2,106	Walnut Creek
1550 Parkside Drive Associates	Interwest Insurance	4,563	Walnut Creek
1550 Parkside Drive Associates	Fidelity National Law Group	11,289	Walnut Creek
1550 Parkside Drive Associates	Vasquez, Benisek & Lindgren	1,817	Walnut Creek
1550 Parkside Drive Associates	Red Top Electric, Inc.	1,814	Walnut Creek
1550 Parkside Drive Associates	Knowland Group	1,453	Walnut Creek
1550 Parkside Drive Associates	Lee & Ro Consulting Engineers	3,413	Walnut Creek
1550 Parkside Drive Associates	Jewish Community Center	1,817	Walnut Creek
1550 Parkside Drive Associates	Bong, Hillberg, Lewis, Fischesser LLP	2,162	Walnut Creek
1550 Parkside Drive Associates	Growers Secret	1,814	Walnut Creek
1550 Parkside Drive Associates	First Star Capital	4,563	Walnut Creek
1550 Parkside Drive Associates	Ares Project Management	1,495	Walnut Creek
1550 Parkside Drive Associates	Hicks Consulting Group, Inc.	2,332	Walnut Creek
1550 Parkside Drive Associates	Pacific Coast Title/Lawyers Title	2,106	Walnut Creek
1550 Parkside Drive Associates	Overland Solutions, Inc.	1,444	Walnut Creek
1550 Parkside Drive Associates	State Farm Insurance	748	Walnut Creek
1550 Parkside Drive Associates	Trilogy Financial Services	2,496	Walnut Creek
1550 Parkside Drive Associates	Spring Ahead	2,115	Walnut Creek
1550 Parkside Drive Associates	Santa Maria Insurance	2,365	Walnut Creek
1550 Parkside Drive Associates	Audit File	1,024	Walnut Creek
1550 Parkside Drive Associates	Municipal Plan Check Associates	868	Walnut Creek
Beretta Investment Group	Securitas Security Services, USA	2,637	Fremont
Beretta Investment Group	United Compliance and Investigations	1,025	Fremont
Beretta Investment Group	Washington Township Hospital	5,455	Fremont
Beretta Investment Group	On Lok Senior Health Care	7,391	Fremont
Beretta Investment Group	Latitude 36, Inc.	6,254	Fremont
Beretta Investment Group	Mercenary Technology	3,608	Fremont
Beretta Investment Group	Chicago Title Company	1,084	Fremont
Beretta Investment Group	GMCC Mortgage	3,161	Fremont
Beretta Investment Group	Renaissance Learning, Inc.	2,707	Fremont
Beretta Investment Group	Charlene Pien	952	Fremont
Beretta Investment Group	Portia Bell Hume Behavioral Center	7,058	Fremont
Beretta Investment Group	CentroSolar AG	6,677	Fremont
Beretta Investment Group	Canvas Info Tech	3,161	Fremont
Beretta Investment Group	First American Title Company	4,602	Fremont
Beretta Investment Group	Bee Cube	2,231	Fremont
Beretta Investment Group	MasTech	2,601	Fremont
Beretta Investment Group	Calsoft Labs	6,702	Fremont
Beretta Investment Group	Ranger Pipelines	1,382	Fremont
Beretta Investment Group	Jacobs Engineering	6,280	Fremont
Beretta Investment Group	Alliance Title Company	7,514	Fremont
Beretta Investment Group	Wireless VGA	2,662	Fremont

Beretta Investment Group	Inview Imaging	3,540	Fremont
Beretta Investment Group	US Investigative Services	3,351	Fremont
Beretta Investment Group	Citi Group	1,382	Fremont
Beretta Investment Group	Nelson Staffing	1,840	Fremont
Beretta Investment Group	Hilltop Financial	6,702	Fremont
Beretta Investment Group	Green Valley Funding	2,231	Fremont
Beretta Investment Group	Harman International / Margi Systems	12,938	Fremont
Beretta Investment Group	Tri-City Health	12,938	Fremont
Beretta Investment Group	Progressive Insurance	6,280	Fremont
Beretta Investment Group	First American Title Company	4,712	Fremont
Lennon Lane Joint Venture LLC	Associates in Excellence	6,566	Walnut Creek
Lennon Lane Joint Venture LLC	Longs Drugs	50,810	Walnut Creek
Greenville Properties, LLC	Dr. Sam Zamani	4,493	Walnut Creek
Greenville Properties, LLC	Armstrong, Bonn & Feeney	4,549	Walnut Creek
Greenville Properties, LLC	Cravens, Leffler, McCormick	2,955	Walnut Creek
Greenville Properties, LLC	Detector Engineering	2,543	Walnut Creek
Greenville Properties LLC	Raymundo Engineering	4,918	Walnut Creek
Greenville Properties LLC	Alvarion	8,638	Walnut Creek
Greenville Properties LLC	Scriptworks	2,288	Walnut Creek
Greenville Properties LLC	JDH Corrosion Control	2,403	Walnut Creek
Greenville Properties LLC	DaVita Corporation	9,436	Walnut Creek
Greenville Properties LLC	GSA – Alcohol, Tobacco & Trade	9,252	Walnut Creek
Greenville Properties LLC	BriteSmile	14,162	Walnut Creek
M&S Canyon Commons LP	Right Hemisphere	5,054	San Ramon
M&S Canyon Commons LP	Bank of Commerce Mortgage	20,165	San Ramon
M&S Canyon Commons LP	First Republic Bank	3,300	San Ramon
M&S Canyon Commons LP	American Compensation	1,091	San Ramon
M&S Canyon Commons LP	Draper Dentistry	2,400	San Ramon
M&S Canyon Commons LP	Financial Title Company	3,379	San Ramon
M&S Canyon Commons LP	Roundhill Securities	2,300	San Ramon
M&S Canyon Commons LP	K & B Landscape	3,600	San Ramon
M&S Canyon Commons LP	Bank of Walnut Creek	3,300	San Ramon
M&S Canyon Commons LP	Financial Title Company	20,165	San Ramon
M&S Canyon Commons LP	Ipsos / Vantis	11,111	San Ramon
M&S Canyon Commons LP	BWC Mortgage	10,000	San Ramon
M&S Canyon Commons LP	Merrill Lynch	3,950	San Ramon
M&S Canyon Commons LP	Olson Company	8,990	San Ramon
Canyon Commons, LLC	Legacy Mechanical & Environmental	5,776	San Ramon
Canyon Commons, LLC	Edward Jones	1,124	San Ramon
Canyon Commons, LLC	Sparus Holdings	3,438	San Ramon
Canyon Commons, LLC	First Responders Network Authority	5,054	San Ramon
Canyon Commons, LLC	PSC Environmental Engineering	2,667	San Ramon
Canyon Commons, LLC	Onstad Insurance	3,457	San Ramon
Canyon Commons, LLC	Prudential Realty	7,533	San Ramon
Canyon Commons, LLC	Hanson Law Center	950	San Ramon
Canyon Commons, LLC	Applied Property Services	833	San Ramon
Canyon Commons, LLC	Device Lock	2,812	San Ramon
Madison OFC Canyon Commons	Healthtell	5,054	San Ramon
Madison OFC Canyon Commons	Landsea Holdings	3,900	San Ramon
Muller Trust	Roebelen Construction	3,000	Concord
Muller Trust	Crossfit Adventure	3,000	Concord
Muller Trust	Buy Baby	3,000	Concord
Muller Trust	Lloyd's Cabinets	12,000	Concord
Muller Trust	Sonic – Walnut Creek Mercedes	2,500	Walnut Creek

Carr America	Standard Pacific Homes	18,000	Pleasanton
Sierra Pacific Properties	Reliance Standard Life	5,500	Walnut Creek
Nexgenix (subtenant)	Terraspan	2,682	San Ramon
WCSI Properties, LLC	Bright Trading	1,540	Walnut Creek
WCSI Properties, LLC	Electrade	2,071	Walnut Creek
WCSI Properties, LLC	Cella, Lange, Cella	687	Walnut Creek
Delta Hayward, LP	Pillsbury (Haagendazs Ice Cream)	26,000	Hayward
Delta Hayward, LP	Kontes Glass	13,500	Hayward
Delta Hayward, LP	Tully Wihr	18,000	Hayward
Delta Hayward, LP	Electronic Recovery	24,000	Hayward
Delta Hayward, LP	Fluoresco Lighting and Signs	4,638	Hayward
Delta Hayward, LP	Instashred	26,000	Hayward
Diablo Properties, LLC	Atkinson Construction	15,000	Hayward
Diablo Properties, LLC	D&E Marble	8,000	Hayward
Diablo Properties, LLC	Yuasa Exide Batteries	7,800	Hayward
Diablo Properties, LLC	Big Joe California	12,500	Hayward
Diablo Properties, LLC	Bandwidth Unlimited	3,300	Hayward
Diablo Properties, LLC	Signet Testing Labs	24,000	Hayward
Diablo Properties, LLC	CJ Machine Works	10,000	Hayward
Diablo Properties, LLC	Federal Mogul	8,400	Hayward
Diablo Properties, LLC	Superior Coffee	11,000	Hayward
Diablo Properties, LLC	Pureland Corporation	8,400	Hayward
Diablo Properties, LLC	The Sign Factory	12,000	Hayward
Diablo Properties, LLC	Coffee Biz	3,782	Hayward
Diablo Properties, LLC	Harris Wholesale	7,000	Hayward
Diablo Properties, LLC	Knudsen Candies	16,000	Hayward
Diablo Properties, LLC	Envisioneering	15,000	Hayward
Diablo Properties, LLC	Pacific Office Scape	5,000	Hayward
Mason Industrial Properties, LLC	Rolly White Electric	2,500	Concord
Mason Industrial Properties, LLC	Sherman D's	1,250	Concord
Mason Industrial Properties, LLC	Ireland Direct Mail	6,250	Concord
Mason Industrial Properties, LLC	Green's Painting	2,500	Concord
Mason Industrial Properties, LLC	Hydrex Pest Control	2,560	Concord
Mason Industrial Properties, LLC	Munters Moisture Control	5,120	Concord
Mason Industrial Properties, LLC	Roberts Design Build	2,500	Concord
Mason Industrial Properties, LLC	Western Photography	5,113	Concord
Mason Industrial Properties, LLC	Horizon Electric	2,500	Concord
Mason Industrial Properties, LLC	HomeShark	8,440	Concord
Mason Industrial Properties, LLC	Western Temporary Services	5,301	Concord
Mason Industrial Properties, LLC	Dobberpuhl	2,500	Concord
Mason Industrial Properties, LLC	AirCraft Mechanical	2,916	Concord
Mason Industrial Properties, LLC	Digitron Electronics	2,160	Concord
Mason Industrial Properties, LLC	Bay Area Delivery	5,832	Concord
Mason Industrial Properties, LLC	Wine Concepts	8,000	Concord
Mason Industrial Properties, LLC	Certified Auto Recovery	5,000	Concord
Mason Industrial Properties, LLC	Contra Costa Water District	5,000	Concord
Concord North Properties, LLC	VNA & Hospice	6,135	Concord
Concord North Properties, LLC	Contra Costa Builders Exchange	4,400	Concord
Concord North Properties, LLC	Automotive Machinists Union	4,400	Concord
Concord North Properties, LLC	Mark Group (Harza)	4,400	Concord
Concord North Properties, LLC	St. Francis Medical Devices	3,320	Concord
Concord North Properties, LLC	Protection One	2,300	Concord
Concord North Properties, LLC	Respironics	6,795	Concord
Concord North Properties, LLC	Advanced Stent Technologies	2,160	Concord

Concord North Properties, LLC	AC Engineering and Construction	1,980	Concord
Concord North Properties, LLC	Qcon	1,800	Concord
Concord North Properties, LLC	Dennco Electric	1,980	Concord
Concord North Properties, LLC	Pulse Systems	1,695	Concord
Concord North Properties, LLC	Baker Petrolite	3,600	Concord
Concord North Properties, LLC	Tru-Tec	6,809	Concord
Concord North Properties, LLC	Total Office Systems	4,634	Concord
Concord North Properties, LLC	The Avagaddro Group	4,634	Concord
Concord North Properties, LLC	Pot Belly Deli	2,317	Concord
Concord North Properties, LLC	Santa Fe Pacific Pipeline	4,633	Concord
Concord North Properties, LLC	Western Staff Services	3,316	Concord
Concord North Properties, LLC	Inacom	13,902	Concord
Concord North Properties, LLC	Ram Mobile Data	2,324	Concord
Concord North Properties, LLC	Avon Refinery Federal Credit Union	4,648	Concord
Pacific Gateway Properties	AirTouch Communications	128,817	Walnut Creek
Pacific Gateway Properties	Integral Systems	23,000	Walnut Creek
Pacific Gateway Properties	Kaiser Permanente	32,000	Walnut Creek
Pacific Gateway Properties	Wells Fargo Bank	32,000	Walnut Creek
Pacific Gateway Properties	Old Republic Title Company	9,090	Walnut Creek
Pacific Gateway Properties	SAIC	23,000	Walnut Creek
Pacific Gateway Properties	Teradyne	9,000	Walnut Creek
Pacific Gateway Properties	ValueNet Internet Services	3,500	Walnut Creek
Pacific Gateway Properties	Onsite Systems	7,394	Walnut Creek
Pacific Gateway Properties	Farrow, Bramson, Baskin, Chavez	7,394	Walnut Creek
Pacific Gateway Properties	Rolf Jensen & Associates	7,459	Walnut Creek
Pacific Gateway Properties	Pacific Gas and Electric Company	9,000	Walnut Creek
Pacific Gateway Properties	Law Offices of Charles O'Brien	2,175	Walnut Creek
Pacific Gateway Properties	Space Control Systems	2,800	Walnut Creek
Pacific Gateway Properties	Research Center	5,000	Walnut Creek
Pacific Gateway Properties	Sherwin Williams Paint Company	3,000	Walnut Creek
Pacific Gateway Properties	John Muir Medical Group	3,400	Walnut Creek
Pacific Gateway Properties	Environmental Solutions	5,000	Walnut Creek
Pacific Gateway Properties	Phoenix Resources	3,800	Walnut Creek

Sales Transactions

3430-3434 Mt. Diablo Blvd	Lafayette	\$8,160,000	August 2023
35,000 SF Four Bldg Industrial Property			
2600 Old Crow Canyon Road	San Ramon	\$4,400,000	March 2023
10,000 SF Office Building			
1011-1021 Detroit Avenue	Concord	\$4,250,000	September 2021
23,000 SF (2 Bldg) Industrial			
800 Ellinwood Way	Pleasant Hill	\$3,255,000	August 2021
15,875 SF (2 Story) Office			
1982 Concord Avenue	Concord	\$927,000	August 2021
2,400 SF Building			
408 O Street	Antioch	\$850,000	June 2021
7,108 SF Bldg.			
1280 Diamond Way	Concord, CA	\$1,900,000	January 2021
7,207 sf Industrial Bldg			
5287-5299 Neroly Road	Oakley, CA	\$1,950,000	August 2020
10,286 sf Industrial Bldg			
1027 Detroit Avenue	Concord, CA	\$1,540,000	December 2019
8,050 SF Industrial Bldg			
1.25 Acres of Land	Vallejo, CA	\$1,697,880	November 2019
(future DaVita Clinic)			

20.23 Acres of Land Main Street, Oakley	Oakley, CA	\$5,300,000	August 2019
89 Davis Road 16,000 sf Office Bldg	Orinda, CA	\$6,590,000	September 2017
3737 Valley Vista Road 6.3 Acre Sports Complex	Walnut Creek, CA	\$6,630,000	January 2017
3211-3229 Sonoma Blvd. 12,500 SF Auto Repair Facility	Vallejo, CA	\$1,700,000	August 2016
3130 Crow Canyon Place 79,147 sf office building	San Ramon, CA	\$17,000,000	July 2016
3230 Auto Plaza Drive 26,400 sf auto dealership on 3.25 acres of land	Richmond, CA	\$2,955,000	December 2014
2222 San Ramon Valley Blvd 30,971 sf vacant land parcel	San Ramon, CA	\$950,000	May 2014
1126 Meadow Lane 2,382 sf Office Building	Concord, CA	\$390,000	October 2013
2640 Shadelands Drive 153,000 sf vacant bldg.	Walnut Creek, CA	\$7,250,000	September 2013
2401 Willow Pass Road Vacant Bank Branch Sale	Concord, CA	\$880,000	April 2013
2655 Stanwell Drive 56,000 sf vacant Office Bldg.	Concord, CA	\$2,750,000	December 2013
3100 Clayton Road 1,800 sf Office Building	Concord, CA	\$319,000	November 2012
2266 Camino Ramon 4,512 SF Office Condominium	San Ramon, CA	\$810,000	August 2012
885 Beck Avenue Industrial/Automotive Bldg	Fairfield, CA	\$1,800,000	August 2012
1655 N. Main Street 50,000 sf Office Building	Walnut Creek, CA	\$11,900,000	February 2012
9850 Kitty Lane Industrial Bldg	Oakland, CA	\$1,475,000	January 2012
Rabobank Retail Bank Branch	Chico, CA	\$4,200,000	September 2012
1982 Concord Avenue Retail Building	Concord, CA	\$371,000	May 2011
1250 Arroyo Way Office Building Sale	Walnut Creek, CA	\$3,000,000	December 2010
2.19 Acres Future VW Dealership	Walnut Creek, CA	\$6,350,000	June 2010
1401 Cypress Street Retail Sales Building	Walnut Creek, CA	\$1,050,000	May 2010
Hillcrest Professional Center; office condo sale	Antioch, CA	\$992,000	December 2006
580 Lennon Lane, 5,800 sf office building	Walnut Creek, CA	\$1,100,000	August 2006
575 Lennon Lane, 98,923 sf Office Building	Walnut Creek, CA	\$12,300,000	October 2005
1600 Somersville Road	Antioch, CA	\$1,050,000	August 2005

2.86 acre site 1772 East Street, 7,800 sf Automotive Repair Bldg	Concord, CA	\$775,000	February 2004
301 Lennon Lane, 15,000 sf office building	Walnut Creek, CA	\$2,000,000	December 2003
GM Plaza 78,000 sf Office Building	Fremont, CA	\$6,000,000	July 2003
Kaiser Center, 880,000 sf bldg & parking structure	Oakland, CA	\$65,600,000	March 2003
Westaff Office Building 50,000 sf 3 building office complex	Walnut Creek, CA	\$7,350,000	December 2002
Walgreen's Sale; 25 year NN lease for new 15k sf building	Lancaster, CA	\$4,800,000	August 2002
Industrial Property Sale 2.3 acres	Benicia, CA	\$1,400,000	July 2002
Trident Plaza, 48,000 sf storage facility	San Ramon, CA	\$1,900,000	June 2002
Shadelands Business Park 87,982 sf Office Park	Walnut Creek, CA	\$11,450,000	May 2002
Rivermark; 3 multi family apartment sites	Santa Clara, CA	\$52,000,000	November 2001
Vacant Restaurant Bldg, 10,000 sf	Pleasant Hill, CA	\$2,400,000	October 2001
Bernal Corporate Park, 1,125,000 sf office park	Pleasanton, CA	\$231,000,000	December 2000

Leasing and Asset Management Representation

Chippendale Office Park Sacramento, California	46,000 square feet	Sold 1991
Valley South Office Building Minneapolis, Minnesota	40,000 square feet	Sold 1992
651 Brannan Street San Francisco, California	135,000 square feet	
1600 Riviera Walnut Creek, California	120,000 square feet	Sold 1992
901 Campisi Campbell, California	48,000 square feet	
Century Centre San Jose, California	100,000 square feet	Sold 1992
Retail Shopping Center and Office Bldg Longmont, Colorado	125,000 square feet	
Aspen Office Building Cheyenne, Wyoming	30,000 square feet	Sold 1991
One West Madison Phoenix, Arizona	25,000 square feet	Sold 1991

Olive Square (Retail and Office) Glendale, Arizona	150,000 square feet	
Walnut Creek Executive Park Walnut Creek, CA	435,000 square feet	
Concord North Office Park Concord, CA	120,000 square feet	Sold 1999
Mason Industrial Park Concord, CA	125,000 square feet	Sold 1999
Diablo Industrial Park Hayward, CA	392,000 square feet	Sold 1999
Delta Industrial Park Hayward, CA	216,000 square feet	Sold 1999
Magnolia Square Shopping Center San Ramon, CA	42,000 square feet	Sold 1999

Professional and Personal References

Mr. Mike Rose, Owner 925-766-8656
MIKE ROSE'S AUTO BODY, INC.
2260 Via De Mercados
Concord, CA

J. Othon Benavente 925-934-7778
STUDIO BENAVENTE ARCHITECTS
580 Lennon Lane
Walnut Creek, CA 94598

Mr. David Woodworth 415-291-1810
BESSEMER TRUST COMPANY
101 California Street, #1925
San Francisco, CA 94111

Mr. Rod Adams, President 925-256-5900
WCI-GC
101 Ygnacio Valley Road, #105
Walnut Creek, CA 94596

Mr. David A. Brown, Esq. 925-930-0998
DAVID A. BROWN, ATTORNEY AT LAW
2855 Mitchell Drive, #120
Walnut Creek, CA 94598

Mr. Steven Huntley, Principal 916-761-0539
HUNTLEY, MULLANEY, SPARGO, SULLIVAN
3001 Douglas Blvd. #330
Roseville, CA 95661

Mr. David Beretta, President 510-797-5880
BERETTA INVESTMENT GROUP
39650 Stevenson Place, #215
Fremont, CA 94539



COMMERCIAL REAL ESTATE SERVICES

EXCLUSIVE AUTHORIZATION TO SELL

RM Acre Walnut Creek CA, LLC (the "Owner") hereby grants to **Lee & Associates Walnut Creek Commercial Real Estate Services, Inc.** (the "Broker") the exclusive right to sell the subject Property for a period commencing on December 1st, 2023 and ending at midnight on June 30th, 2024 (the "Expiration Date")(the "Authorization Term"). The Property is located at 2730 Mitchell Drive in the City of Walnut Creek, County of Contra Costa, and State of California and further described as a one-story commercial building on One (1) parcel (the "Property"). The price and terms of the sale(s) shall be as follows:

Subject to Owner's sole discretion and approval.

In consideration of this **EXCLUSIVE AUTHORIZATION TO SELL** (the "Authorization") and Broker's agreement to diligently pursue the procurement and retention of purchaser(s) for all of the Property, Owner agrees to pay Broker a commission as set forth in the attached **SCHEDULE OF COMMISSIONS**.

Owner shall pay the commission to Broker if; (a) the Property or any interest therein is sold, transferred, or conveyed by or through the Broker, Owner, or any other party prior to the Expiration Date of this Authorization, or any extension thereof; or (b) purchaser is procured or introduced who is ready, willing, and able to purchase the subject Property on the terms above stated, or other terms acceptable to Owner prior to the Expiration Date of this Authorization, or any extension thereof, whether procured or introduced by Broker or by the Owner or by or through anyone else; or (c) any contract for the sale, transfer or conveyance of the subject Property or any interest therein is made directly or indirectly by the Owner prior to the Expiration Date of this Authorization, or any extension thereof; or (d) the subject Property is withdrawn from the market for sale without the written consent of Broker, or made unmarketable by Owner's voluntary act during the Authorization Term or any extension thereof; or (e) within One Hundred and Eighty (180) days after the Termination Date of this Authorization, as defined below, any portion of the subject Property or any interest therein is sold, transferred, or conveyed to any person or entity with whom Broker has negotiated or to whom Broker has submitted the Property to prior to the Termination Date, as defined below, in an effort to effect a transaction, and whose name appears on any list of persons or entities which Broker shall have delivered to Owner, at the addresses stated below, at any time within thirty (30) days immediately following the Termination Date, as defined below; provided, however, that if Broker has submitted a written offer to purchase, then it shall not be necessary to include the potential buyer(s)'s name on the list.

If, during the Authorization Term of this Authorization or any extension thereof; an escrow is opened or negotiations involving the sale, transfer, conveyance of the Property have commenced and are continuing beyond the Termination Date, then the Authorization Term of this Authorization shall be extended for a period through the closing of such escrow and/or the termination of such negotiations and/or the consummation of such transaction, provided this Authorization would otherwise have terminated during such period. If the Owner desires to terminate this Authorization on or after the Expiration Date, the Owner must deliver to Broker, at the addresses stated below, a written notice terminating this Authorization (the "Termination Notice") stating that this Authorization shall terminate thirty (30) days after Broker receives the Owner's Termination Notice (the "Termination Date"). If the Owner does not deliver a Termination Notice to Broker this Authorization remains binding even after the Expiration Date as an extension thereof.

The Authorization period shall continue automatically for thirty (30) days from and after the end date of the Initial Authorization Period and thereafter be extended again for additional thirty (30) day increments until the Authorization is expressly revoked by Client in writing. Client agrees to provide thirty (30) days' notice to Broker before such express revocation shall be effective. In this Agreement, "Authorization Period" shall refer to the period of time from the start date to the end of the last extension of the Authorization Period.

Owner agrees that Broker shall be included as a party to any escrow opened for the sale of the Property, and the terms of said escrow shall provide that Broker shall have the right to request the escrow holder to make payment to Broker in the amount of Broker's commission as set forth in the **SCHEDULE OF COMMISSIONS** attached hereto from any sale proceeds and/or deposits held in escrow.

Owner agrees to cooperate with Broker in effecting a sale of the Property and immediately refer to Broker all inquiries of any party interested in the Property. All negotiations are to be through Broker. Owner agrees to pay all customary escrow, title, and revenue charges and to execute such documents as may be necessary to affect a sale of the Property. Broker is authorized to deliver to Owner a deposit from any prospective purchaser. Broker is further authorized to advertise the Property and shall have the exclusive right to place a sign or signs on the Property, if, in Broker's opinion, such would facilitate the sale thereof.

It is understood that it is illegal for either Owner or Broker to refuse to present or sell to any person because of race, color, religion, national origin, sex, marital status or physical disability.

Owner warrants that the undersigned is the owner of record of the Property and has the legal authority to execute this Authorization. Owner agrees to hold Broker harmless from any liability, or damages arising from any incorrect information supplied by Owner or any information, which Owner fails to supply. Owner acknowledges receipt of a copy of this Authorization and the attached **SCHEDULE OF COMMISSIONS**, each of which Owner has read and understands.

ARBITRATION OF DISPUTES

Broker and Owner agree that any claim or controversy will be resolved by submission to binding arbitration at the offices of Judicial Arbitration & Mediation Services, Inc. (JAMS) in the county where the Property is located. The parties may agree on a retired judge from the JAMS panel. If they are unable to agree, JAMS will provide a list of three (3) available judges and each party may strike one. The remaining judge will serve as the arbitrator. The award of the arbitrator shall be a final and non-appealable result. The arbitration award may be entered as a judgment in any court of competent jurisdiction. Such binding arbitration shall be conducted by JAMS in accordance with the California Code of Civil Procedures Section 1280 ET SEQ. and California Rules of Court Sections 1600 to 1617. The parties further agree that the prevailing party of such arbitration shall be entitled to be awarded its costs of suit, including, but not limited to, reasonable attorney's fees, expenses, and the costs of arbitration.

NOTICE: By initialing the space below, you are agreeing to have any dispute arising out of the matters included in the "Arbitration of Disputes" provision decided by neutral arbitration as provided by California Law and you are giving up any rights you may possess to have the dispute litigated in a court or by jury trial. By initialing the space below, you are giving up your judicial rights of discovery and appeal, unless those rights are specifically included in the "Arbitration of Disputes" provision. If you refuse to submit to arbitration after agreeing to this provision, you may be compelled to arbitrate under the authority of the California Code of Civil Procedure. Your agreement to this "Arbitration of Disputes" provision is voluntary and by initialing the space below, you acknowledge that you have read the undergoing and the foregoing and agree to its contents.

OWNER: (_____) (_____) BROKER: (_____) (_____)
Initial Initial Initial Initial

This Authorization may only be amended, supplemented or otherwise altered with the express written consent of all parties hereto and this Authorization embodies the entire understanding of the parties with regard to the subject matter hereof.

Receipt of a copy hereof is acknowledged.

Dated: _____

Dated: _____

OWNER:

BROKER: Lee & Associates – Walnut Creek

By: _____
Name:

By: _____
Name:

By: _____
Name:
E-Mail:
Address:

By: _____
Name:
E-Mail:
Address: 1407 Oakland Boulevard Suite
103, Walnut Creek, CA 94596
Main: (925) 239-1414
FAX: (925) 460-6210



STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE - NET (DO NOT USE THIS FORM FOR MULTI-TENANT BUILDINGS)

1. Basic Provisions ("Basic Provisions").

1.1 **Parties.** This Lease ("Lease"), dated for reference purposes only _____, is made by and between _____ ("Lessor") and _____ ("Lessee"), (collectively the "Parties," or individually a "Party").

1.2 **Premises:** That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known as (street address, city, state, zip): _____ ("Premises"). The Premises are located in the County of _____, and are generally described as (describe briefly the nature of the property and, if applicable, the "Project," if the property is located within a Project): _____. (See also Paragraph 2)

1.3 **Term:** _____ years and _____ months ("Original Term") commencing _____ ("Commencement Date") and ending _____ ("Expiration Date"). (See also Paragraph 3)

1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing _____ ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** _____ per month ("Base Rent"), payable on the _____ day of each month commencing _____. (See also Paragraph 4)

If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph _____.

1.6 Base Rent and Other Monies Paid Upon Execution:

- (a) **Base Rent:** _____ for the period _____.
- (b) **Security Deposit:** _____ ("Security Deposit"). (See also Paragraph 5)
- (c) **Association Fees:** _____ for the period _____.
- (d) **Other:** _____ for _____.
- (e) **Total Due Upon Execution of this Lease:** _____.

1.7 **Agreed Use:** _____. (See also Paragraph 6)

1.8 **Insuring Party.** Lessor is the "Insuring Party" unless otherwise stated herein. (See also Paragraph 8)

1.9 **Real Estate Brokers.** (See also Paragraph 15 and 25)

(a) **Representation:** Each Party acknowledges receiving a Disclosure Regarding Real Estate Agency Relationship, confirms and consents to the following agency relationships in this Lease with the following real estate brokers ("Broker(s)") and/or their agents ("Agent(s)"): _____

Lessor's Brokerage Firm _____ License No. _____ Is the broker of (check one): the Lessor; or both the Lessee and Lessor (dual agent).

Lessor's Agent _____ License No. _____ is (check one): the Lessor's Agent (salesperson or broker associate); or both the Lessee's Agent and the Lessor's Agent (dual agent).

Lessee's Brokerage Firm _____ License No. _____ Is the broker of (check one): the Lessee; or both the Lessee and Lessor (dual agent).

Lessee's Agent _____ License No. _____ is (check one): the Lessee's Agent (salesperson or broker associate); or both the Lessee's Agent and the Lessor's Agent (dual agent).

(b) **Payment to Brokers.** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of _____ or _____ % of the total Base Rent) for the brokerage services rendered by the Brokers.

1.10 **Guarantor.** The obligations of the Lessee under this Lease are to be guaranteed by _____ ("Guarantor"). (See also Paragraph 37)

1.11 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

- an Addendum consisting of Paragraphs _____ through _____;
- a plot plan depicting the Premises;
- a current set of the Rules and Regulations;
- a Work Letter;
- other (specify): _____.

2. Premises.

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver the Premises to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), loading doors, sump pumps, if any, and all other such elements in the Premises, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of any buildings on the Premises (the "Building") shall be free of material defects, and that the

INITIALS

INITIALS

Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with said warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Building. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense. Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("**Applicable Requirements**") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 50), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("**Capital Expenditure**"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and an amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not, however, have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

3. Term.

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay In Possession.** Lessor agrees to use commercially reasonable efforts to deliver exclusive possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be

INITIALS

INITIALS

discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("**Rent**").

4.2 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent, Insurance and Real Property Taxes, and any remaining amount to any other outstanding charges or costs.

4.3 **Association Fees.** In addition to the Base Rent, Lessee shall pay to Lessor each month an amount equal to any owner's association or condominium fees levied or assessed against the Premises. Said monies shall be paid at the same time and in the same manner as the Base Rent.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall upon written request provide Lessee with an accounting showing how that portion of the Security Deposit that was not returned was applied. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease. THE SECURITY DEPOSIT SHALL NOT BE USED BY LESSEE IN LIEU OF PAYMENT OF THE LAST MONTH'S RENT.

6. **Use.**

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 **Hazardous Substances.**

(a) **Reportable Uses Require Consent.** The term "**Hazardous Substance**" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, byproducts or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "**Reportable Use**" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

INITIALS

INITIALS

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from adjacent properties not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. **No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.**

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of a written request therefor. In addition, Lessee shall provide Lessor with copies of its business license, certificate of occupancy and/or any similar document within 10 days of the receipt of a written request therefor.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants authorized by Lessor shall have the right to enter into Premises at any time in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting and/or testing the condition of the Premises and/or verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see paragraph 9.1(e)) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of a written request therefor. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations.

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fire protection system, fixtures, walls (interior and exterior), foundations, ceilings, roofs, roof drainage systems,

INITIALS

INITIALS

floors, windows, doors, plate glass, skylights, landscaping, driveways, parking lots, fences, retaining walls, signs, sidewalks and parkways located in, on, or adjacent to the Premises. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. Lessee shall, during the term of this Lease, keep the exterior appearance of the Building in a first-class condition (including, e.g. graffiti removal) consistent with the exterior appearance of other similar facilities of comparable age and size in the vicinity, including, when necessary, the exterior repainting of the Building.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler, and pressure vessels, (iii) fire extinguishing systems, including fire alarm and/or smoke detection, (iv) landscaping and irrigation systems, (v) roof covering and drains, and (vi) clarifiers. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance but may prepay its obligation at any time.

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 9 (Damage or Destruction) and 14 (Condemnation), it is intended by the Parties hereto that Lessor have no obligation, in any manner whatsoever, to repair and maintain the Premises, or the equipment therein, all of which obligations are intended to be that of the Lessee. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions.** The term "**Utility Installations**" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "**Trade Fixtures**" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "**Alterations**" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "**Lessee Owned Alterations and/or Utility Installations**" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, do not trigger the requirement for additional modifications and/or improvements to the Premises resulting from Applicable Requirements, such as compliance with Title 24, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing and the provisions of Paragraph 7.1(a), if the Lessee occupies the Premises for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) to the level specified in Applicable Requirements. Trade

INITIALS

INITIALS

Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. Insurance; Indemnity.

8.1 Payment For Insurance. Lessee shall pay for all insurance required under Paragraph 8 except to the extent of the cost attributable to liability insurance carried by Lessor under Paragraph 8.2(b) in excess of \$2,000,000 per occurrence. Premiums for policy periods commencing prior to or extending beyond the Lease term shall be prorated to correspond to the Lease term. Payment shall be made by Lessee to Lessor within 10 days following receipt of an invoice.

8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence, and Lessee shall be liable for such deductible amount in the event of an Insured Loss.

(b) **Rental Value.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period. Lessee shall be liable for any deductible amount in the event of such loss.

(c) **Adjacent Premises.** If the Premises are part of a larger building, or of a group of buildings owned by Lessor which are adjacent to the Premises, the Lessee shall pay for any increase in the premiums for the property insurance of such building or buildings if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

8.4 Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a "Waiver of Subrogation" endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(d) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 Insurance Policies. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may increase his liability insurance coverage and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 Waiver of Subrogation. Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties,

INITIALS

INITIALS

attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, a Breach of the Lease by Lessee and/or the use and/or occupancy of the Premises and/or Project by Lessee and/or by Lessee's employees, contractors or invitees. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 Exemption of Lessor and its Agents from Liability. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 Failure to Provide Insurance. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 Definitions.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 Partial Damage - Insured Loss. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds (except as to the deductible which is Lessee's responsibility) as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 Partial Damage - Uninsured Loss. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 Total Destruction. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 Damage Near End of Term. If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage

INITIALS

INITIALS

in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 Abatement of Rent; Lessee's Remedies.

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 Termination; Advance Payments. Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. Real Property Taxes.

10.1 Definition. As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Premises or the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Building address. Real Property Taxes shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Premises, and (ii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2 Payment of Taxes. In addition to Base Rent, Lessee shall pay to Lessor an amount equal to the Real Property Tax installment due at least 20 days prior to the applicable delinquency date. If any such installment shall cover any period of time prior to or after the expiration or termination of this Lease, Lessee's share of such installment shall be prorated. In the event Lessee incurs a late charge on any Rent payment, Lessor may estimate the current Real Property Taxes, and require that such taxes be paid in advance to Lessor by Lessee monthly in advance with the payment of the Base Rent. Such monthly payments shall be an amount equal to the amount of the estimated installment of taxes divided by the number of months remaining before the month in which said installment becomes delinquent. When the actual amount of the applicable tax bill is known, the amount of such equal monthly advance payments shall be adjusted as required to provide the funds needed to pay the applicable taxes. If the amount collected by Lessor is insufficient to pay such Real Property Taxes when due, Lessee shall pay Lessor, upon demand, such additional sum as is necessary. Advance payments may be intermingled with other moneys of Lessor and shall not bear interest. In the event of a Breach by Lessee in the performance of its obligations under this Lease, then any such advance payments may be treated by Lessor as an additional Security Deposit.

10.3 Joint Assessment. If the Premises are not separately assessed, Lessee's liability shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be conclusively determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available.

10.4 Personal Property Taxes. Lessee shall pay, prior to delinquency, all taxes assessed against and levied upon Lessee Owned Alterations, Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. Utilities and Services.

11.1 Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered or billed to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered or billed. There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

11.2 Within fifteen days of Lessor's written request, Lessee agrees to deliver to Lessor such information, documents and/or authorization as Lessor needs in order for Lessor to comply with new or existing Applicable Requirements relating to commercial building energy usage, ratings, and/or the reporting thereof.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a non-curable Breach

INITIALS

INITIALS

without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a non-curable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

- (e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.
- (f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.
- (g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, i.e. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

- (a) Regardless of Lessor's consent, no assignment or subletting shall : (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.
- (b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.
- (c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.
- (d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.
- (e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)
- (f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.
- (g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

- (a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.
- (b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.
- (c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.
- (d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.
- (e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default; Breach. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

- (a) The abandonment of the Premises; the vacating of the Premises prior to the expiration or termination of this Lease without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism; or failure to deliver to Lessor exclusive possession of the entire Premises in accordance herewith prior to the expiration or termination of this Lease.
- (b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.
- (c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.
- (d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any

INITIALS

INITIALS

guaranty and/or Guarantor, (vii) any document requested under Paragraph 42, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 40 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The Parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

INITIALS

INITIALS

13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the Building, or more than 25% of that portion of the Premises not occupied by any building, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

15.1 **Additional Commission.** In addition to the payments owed pursuant to Paragraph 1.9 above, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires any rights to the Premises or other premises owned by Lessor and located within the same Project, if any, within which the Premises is located, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed. The provisions of this paragraph are intended to supersede the provisions of any earlier agreement to the contrary.

15.2 **Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.9, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue Interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 **Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker, agent or finder (other than the Brokers and Agents, if any) in connection with this Lease, and that no one other than said named Brokers and Agents is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "**Responding Party**") shall within 10 days after written notice from the other Party (the "**Requesting Party**") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published by AIR CRE, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. Definition of Lessor. The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

INITIALS

INITIALS

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. **Notices.**

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

23.3 **Options.** Notwithstanding the foregoing, in order to exercise any Options (see paragraph 39), the Notice must be sent by Certified Mail (return receipt requested), Express Mail (signature required), courier (signature required) or some other methodology that provides a receipt establishing the date the notice was received by the Lessor.

24. **Waivers.**

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. **Disclosures Regarding The Nature of a Real Estate Agency Relationship.**

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) **Lessor's Agent.** A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) **Lessee's Agent.** An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) **Agent Representing Both Lessor and Lessee.** A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not, without the express permission of the respective Party, disclose to the other Party confidential information, including, but not limited to, facts relating to either Lessee's or Lessor's financial position, motivations, bargaining position, or other personal information that may impact rent, including Lessor's willingness to accept a rent less than the listing rent or Lessee's willingness to pay rent greater than the rent offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. Both Lessor and Lessee should strongly consider obtaining tax advice from a competent professional because the federal and state tax

INITIALS

INITIALS

consequences of a transaction can be complex and subject to change.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. At or prior to the expiration or termination of this Lease Lessee shall deliver exclusive possession of the Premises to Lessor. For purposes of this provision and Paragraph 13.1(a), exclusive possession shall mean that Lessee shall have vacated the Premises, removed all of its personal property therefrom and that the Premises have been returned in the condition specified in this Lease. In the event that Lessee does not deliver exclusive possession to Lessor as specified above, then Lessor's damages during any holdover period shall be computed at the amount of the Rent (as defined in Paragraph 4.1) due during the last full month before the expiration or termination of this Lease (disregarding any temporary abatement of Rent that may have been in effect), but with Base Rent being 150% of the Base Rent payable during such last full month. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions; Construction of Agreement. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located. Signatures to this Lease accomplished by means of electronic signature or similar technology shall be legal and binding.

30. Subordination; Attornment; Non-Disturbance.

30.1 Subordination. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 Attornment. In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 Non-Disturbance. With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 Self-Executing. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. Attorneys' Fees. If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. Lessor's Access; Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

INITIALS

INITIALS

33. Auctions. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. Signs. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "for sublease" signs, Lessee shall not place any sign upon the Premises without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. All requests for consent shall be in writing. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor, at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. Guarantor.

37.1 Execution. The Guarantors, if any, shall each execute a guaranty in the form most recently published by AIR CRE, and each such Guarantor shall have the same obligations as Lessee under this Lease.

37.2 Default. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. Options. If Lessee is granted any Option, as defined below, then the following provisions shall apply.

39.1 Definition. "Option" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 Options Personal To Original Lessee. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 Multiple Options. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 Effect of Default on Options.

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. Multiple Buildings. If the Premises are a part of a group of buildings controlled by Lessor, Lessee agrees that it will abide by and conform to all reasonable rules and regulations which Lessor may make from time to time for the management, safety, and care of said properties, including the care and cleanliness of the grounds and including the parking, loading and unloading of vehicles, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessee also agrees to pay its fair share of common expenses incurred in connection with such rules and regulations.

41. Security Measures. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

42. Reservations. Lessor reserves to itself the right, from time to time, to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate any such easement rights, dedication, map or restrictions.

43. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there

INITIALS

INITIALS

was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

44. Authority; Multiple Parties; Execution.

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

45. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

46. Offer. Preparation of this Lease by either Party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

47. Amendments. This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

48. Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS LEASE.

49. Arbitration of Disputes. An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease is is not attached to this Lease.

50. Accessibility; Americans with Disabilities Act.

(a) The Premises:

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

have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential.

have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential except as necessary to complete repairs and corrections of violations of construction related accessibility standards.

In the event that the Premises have been issued an inspection report by a CASp the Lessor shall provide a copy of the disability access inspection certificate to Lessee within 7 days of the execution of this Lease.

(b) Since compliance with the Americans with Disabilities Act (ADA) and other state and local accessibility statutes are dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in compliance with ADA or other accessibility statutes, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY AIR CRE OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

- 1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.**
- 2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.**

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: _____

Executed at: _____

INITIALS

INITIALS

© 2019 AIR CRE. All Rights Reserved.

Last Edited: 11/14/2023 3:41 PM

STN-27.30, Revised 10-22-2020

Page 15 of 16

On: _____

On: _____

By LESSOR:

By LESSEE:

By: _____

By: _____

Name Printed: _____

Name Printed: _____

Title: _____

Title: _____

Phone: _____

Phone: _____

Fax: _____

Fax: _____

Email: _____

Email: _____

By: _____

By: _____

Name Printed: _____

Name Printed: _____

Title: _____

Title: _____

Phone: _____

Phone: _____

Fax: _____

Fax: _____

Email: _____

Email: _____

Address: _____

Address: _____

Federal ID No.: _____

Federal ID No.: _____

BROKER

BROKER

Attn: _____

Attn: _____

Title: _____

Title: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

Fax: _____

Fax: _____

Email: _____

Email: _____

Federal ID No.: _____

Federal ID No.: _____

Broker DRE License #: _____

Broker DRE License #: _____

Agent DRE License #: _____

Agent DRE License #: _____

AIR CRE * <https://www.aircre.com> * 213-687-8777 * contracts@aircre.com
NOTICE: No part of these works may be reproduced in any form without permission in writing.

INITIALS

INITIALS



SCHEDULE OF COMMISSIONS

In consideration of this **SCHEDULE OF COMMISSIONS** which is made apart of the Authorization for the Property defined and located at **2730 Mitchell Dr** in the City of **Walnut Creek**, County of **Contra Costa**, and State of **California** and further described as a one-story commercial building located on One (1) parcel. Broker's agreement to diligently pursue the procurement of purchaser(s) for all of the Property, Owner agrees to pay Broker a commission as set forth herein:

A. SALES, EXCHANGES, AND OTHER TRANSFERS:

- 1. **Improved Property:** Four percent (4%) of the gross sales price. Commission shall be split 50/50 if an outside procuring broker is involved.

B. PAYMENT OF EARNED COMMISSIONS:

- 1. Commissions shall be paid through escrow upon the closing of sales and exchange transactions; absent an escrow; commissions shall be paid upon recordation of a deed or upon delivery of such deed or other conveyance if recordation is deferred more than one month thereafter. In the event of a contract or agreement of sales, joint venture agreement, business opportunity or other transaction not involving the delivery of a deed, commissions shall be paid upon execution and delivery of the instrument of conveyance or establishment of the entitlement of ownership.

C. MISCELLANEOUS:

- 1. This SCHEDULE OF COMMISSIONS and the Agreement to which it is attached are binding on Broker only when executed by both parties without modification of the printed terms; provided that any such unauthorized modifications will be enforceable by Broker at its option, provided further that any office of Broker is authorized to modify such terms by executing such Agreement or by initialing such modifications.
- 2. This SCHEDULE OF COMMISSIONS shall be used only for transactions in which **Lee & Associates Walnut Creek** is involved and shall not be distributed to any other party.

This SCHEDULE OF COMMISSIONS may only be amended, supplemented or otherwise altered with the express written consent of all parties hereto and this SCHEDULE OF COMMISSIONS embodies the entire understanding of the parties with regard to the subject matter hereof.

The undersigned hereby acknowledges receipt of a copy of this SCHEDULE OF COMMISSIONS and agrees to pay a commission(s) as provided herein.

Dated: _____

Dated: _____

OWNER:

BROKER: Lee & Associates Walnut Creek

By: _____
Name:

By: _____
Name:

By: _____
Name:

By: _____
Name:

By: _____
Name:
E-Mail:
Address:

By: _____
Name:
E-Mail:
Address: 1407 Oakland Blvd, Suite 103
Walnut Creek, CA 94596
Main: (925) 239-1425

Main:



Contra Costa School of Performing Arts

DMS Monthly Update Actuals through: October 31, 2023





SUMMARY NARRATIVE

This report is intended to provide a financial update comparing the Original Budget with actuals through October 31st. Along with an update on the financial health of the organization, these updates are a means to review and detect coding and budgeting issues and to make corrections throughout the year. Reviewing and collaborating together on a monthly basis to thoughtfully address these issues, especially early in the year, are the key to successful financial reporting.

It is important to keep in mind that State and Federal revenues do not flow evenly throughout the year and for this reason, YTD results are not a valuable measure of the financial performance.

At this point with 33% of the year (4 months) completed, compensation and benefits are on track with where we would expect them to be. Books, Materials, and Supplies are trending slightly higher than to be expected this time of year and will be monitored closely and adjusted during the First Interim Budget cycle as warranted.

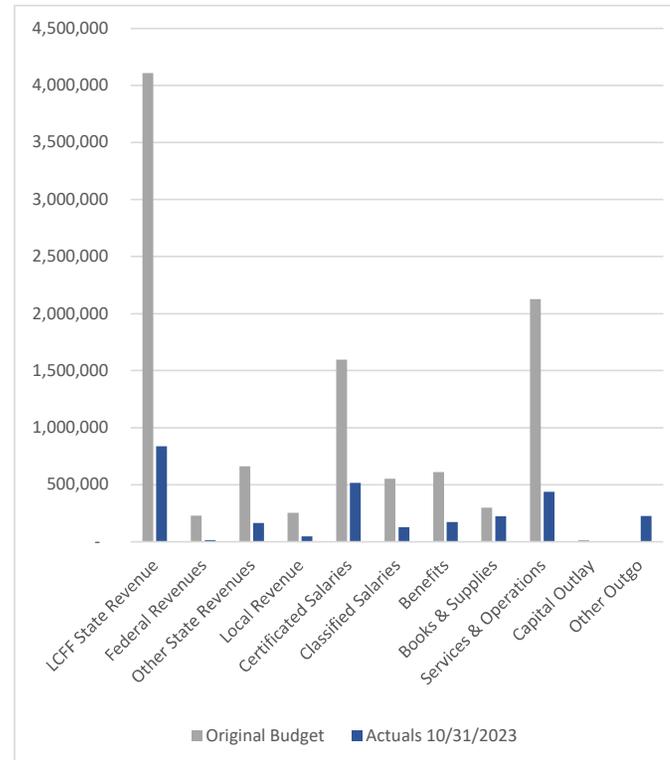
Cash Flow - Contra Costa School of Performing Arts is projected to end the year with 37 days cash on hand. This cash flow reflects actual revenues and expenditures through October 2023 and projected revenues and expenditures November 2023 through June 2024. **Please note: This cash flow and ending cash projection will change with anticipated First Interim Budget adjustments to both revenues and expenses.**

DMS and Contra Costa School of Performing Arts (CoCoSPA) management are currently working on First Interim Budget updates and will be presenting the revised budget at the December board meeting

CoCoSPA is projected to meet all obligations this fiscal year. DMS and school management continue to monitor the political and economic landscape in an effort to anticipate potential impacts on the school.

Contra Costa School of Performing Arts FY2023-24 Financial Update

Budget vs Actuals	Original Budget	Actuals 10/31/2023	% of Budget
Revenues			
LCFF State Revenue	4,108,231	837,709	20.39%
Federal Revenues	228,843	13,102	5.73%
Other State Revenues	659,381	163,612	24.81%
Local Revenue	254,576	47,234	18.55%
TTL Revenues	5,251,031	1,061,657	20.22%
Expenditures			
Certificated Salaries	1,595,846	515,329	32.29%
Classified Salaries	551,703	129,371	23.45%
Benefits	612,541	172,398	28.14%
Books & Supplies	298,833	223,824	74.90%
Services & Operations	2,127,772	436,505	20.51%
Capital Outlay	14,539	-	0.00%
Other Outgo	-	226,239	0.00%
Total Expenditures	5,201,234	1,703,665	32.76%
Operating Income/(Loss)	49,797	(642,009)	33%



**Contra Costa School of Performing Arts
FY2023-24 Financial Update**

Budget vs Actuals	Code	Description	Original Budget	Actuals 10/31/2023	% of Budget	Comments
Revenue						
LCFF Revenue						
	8011	LCFF Current Year	2,205,521	392,588	17.80%	
	8012	Education Protection Account State Aid Current Year	68,600	15,843	23.09%	
	8096	In-Lieu-Of Property Taxes	1,834,110	429,278	23.41%	
Total LCFF Revenue			4,108,231	837,709	20.39%	
Federal Revenue						
	8181	Special Education Entitlement	42,625	-	0.00%	
	8220	Child Nutrition Programs	127,020	13,102	10.31%	
	8290	All Other Federal Revenue	59,198	-	0.00%	
Total Federal Revenue			228,843	13,102	5.73%	
Other State Revenue						
	8381	State Special Education	447,690	109,001	24.35%	
	8520	Child Nutrition	15,695	24,251	154.51%	
	8550	Mandated Cost Reimbursements	11,091	-	0.00%	
	8560	State Lottery Revenue	84,905	17,753	20.91%	
	8590	All Other State Revenue	100,000	12,607	12.61%	
Total Other State Revenue			659,381	163,612	24.81%	
Local Revenue						
	8660	Interest	-	14,245	0.00%	
	8693	Field Trips	68,416	-	0.00%	
	8694	Student Production/Event Revenue	30,000	-	0.00%	
	8695	CTEIG - Local Revenue	115,000	-	0.00%	
	8696	Donations - Private (Foundation Grants)	-	50	0.00%	
	8697	Fundraising (School Site)	41,160	-	0.00%	
	8698	Other Revenue (Suspense)	-	1,360	0.00%	Revenue to be re-coded once back-up rcvd
	8699	All Other Local Revenue	-	31,578	0.00%	
Total Local Revenue			254,576	47,234	18.55%	
Total Revenue			5,251,031	1,061,657	20.22%	
Expenditures						
Certificated Compensation						
	1100	Certificated Teachers' Salaries	1,109,053	385,495	34.76%	
	1130	Substitute Teacher Salaries	35,000	4,715	13.47%	
	1150	Certificated Extra Duty	-	1,002	0.00%	
	1200	Certificated Pupil Support Salaries	257,752	31,080	12.06%	
	1300	Certificated Supervisors' and Administrators' Salaries	194,041	73,054	37.65%	
	1900	Other Certificated Salaries	-	19,984	0.00%	Cert. position other than teacher or admin; Prjt Mgr
Total Certificated Compensation			1,595,846	515,329	32.29%	
Classified Compensation						
	2100	Classified Instructional Salaries	416,936	20,041	4.81%	

**Contra Costa School of Performing Arts
FY2023-24 Financial Update**

2130 Classified Substitute Salaries	7,350	1,679	22.85%	
2150 Classified Extra Duty	-	2,353	0.00%	
2200 Classified Support Salaries	34,410	-	0.00%	Will realign budget w/coding at First Interim
2300 Classified Supervisors' and Administrators' Salaries	-	32,984	0.00%	Will realign budget w/coding at First Interim
2400 Clerical, Technical, and Office Staff Salaries	84,607	49,759	58.81%	Will realign budget w/coding at First Interim
2450 Classified Extra Time	-	3,562	0.00%	Will realign budget w/coding at First Interim
2900 Other Classified Salaries	8,400	18,991	226.09%	Enrollment/Family Eng. Super
Total Classified Compensation	551,703	129,371	23.45%	
Employee Benefits				
3101 State Teachers' Retirement System, certificated positions	333,604	103,431	31.00%	
3301 OASDI Medicare Alternative, certificated positions	55,997	15,232	27.20%	
3401 Medical Cert	170,236	31,165	18.31%	
3402 Medical Classified	-	10,932	0.00%	Will realign budget w/coding at First Interim
3501 State Unemployment Insurance, certificated positions	17,866	2,890	16.18%	
3601 Workers' Compensation Insurance, certificated positions	32,213	7,275	22.58%	
3602 Workers' Compensation Insurance, classified positions	-	1,473	0.00%	Will realign budget w/coding at First Interim
3901 Other Benefits, certificated positions	2,625	-	0.00%	
Total Employee Benefits	612,541	172,398	28.14%	
Books, Materials, & Supplies				
4200 Books and Other Reference Materials	5,985	-	0.00%	
4300 Materials and Supplies	30,000	30,142	100.47%	Category outpacing budget - monitor closely
4310 Materials and Supplies Software	-	6,638	0.00%	
4315 Instructional Materials & Supplies	23,178	1,078	4.65%	
4320 Educational Software	37,095	26,038	70.19%	Category outpacing budget - monitor closely
4390 Materials - Suspense	-	12,451	0.00%	
4400 Noncapitalized Equipment	27,375	20,002	73.07%	Category outpacing budget - monitor closely (14k Fixed asset)
4410 Classroom Furniture, Equip, & Supplies	18,250	-	0.00%	
4420 Non-Classroom Furn, Equip, & Supplies	10,950	2,332	21.29%	
4700 Student Food	146,000	125,143	85.71%	Contract should be revisited spending is too high
Total Books, Materials, & Supplies	298,833	223,824	74.90%	
Outside Services & Other Operating Costs				
5100 SpEd Contractors	140,000	30,500	21.79%	Category outpacing budget - monitor closely
5200 Travel and Conferences	11,119	1,085	9.76%	
5300 Dues and Memberships	26,250	31,969	121.79%	
5400 Insurance	86,466	24,599	28.45%	
5500 Operations and Housekeeping Services	-	20,734	0.00%	
5510 Utilities	149,350	51,803	34.69%	
5520 Water/Sewer/Waste	-	10,642	0.00%	
5535 Custodial, Janitorial, Gardening Services	120,000	45,483	37.90%	contract termed 25% savings
5610 Facilities Rents and Leases	1,046,711	1,000	0.10%	See note below in 7438 - Interest
5615 Other Space Rental	1,000	12,825	1282.50%	
5620 Equipment Leases	21,102	8,255	39.12%	
5630 Maintenance & Repairs	50,000	20,825	41.65%	Category outpacing budget - monitor closely
				Category overbudget - to be addressed at FIB (CCOE, Alfa Electric, Charter CFO, Dora Ramos, Brandy Beyers, RTS Systems, Energy Etc.)
5800 Professional Services - Non-instructional	25,661	49,949	194.65%	
5810 Legal	63,000	4,639	7.36%	
5820 Audit & CPA	-	950	0.00%	
5825 Business Services	128,721	64,544	50.14%	Category outpacing budget - to be addressed at FIB
5835 Field Trips	39,445	1,921	4.87%	

**Contra Costa School of Performing Arts
FY2023-24 Financial Update**

5836 Fundraising Expenses	8,345	600	7.19%	
5840 Advertising & Recruitment	20,000	8,580	42.90%	Category outpacing budget - monitor closely
5850 Oversight Fees	45,236	-	0.00%	
5855 Short Term Interest Expense	2,167	-	0.00%	
5860 Other Service Fees	502	1,006	200.48%	Category overbudget - to be addressed at FIB (bank fees)
5872 SpEd Encroachment	12,689	-	0.00%	
5880 Professional Services - Instructional	10,070	38,850	385.80%	Category overbudget - to be addressed at FIB
5881 Software	31,938	95	0.30%	
5887 Technology Services	73,000	-	0.00%	
5900 Communications	15,000	5,653	37.69%	
Total Outside Services & Other Operating Costs	2,127,772	436,505	20.51%	
Capital Expenditures				
6900 Depreciation Expense	14,539	-	0.00%	
Total Capital Expenditures	14,539	-	0.00%	
Other Outgo				
7438 Interest Expense - Long Term	-	226,239	0.00%	Will realign coding at First Interim. Bond schedule reflects interest-only payments through May 2024.
Total Other Outgo	-	226,239	0.00%	
Total Expenditures				
	5,201,234	1,703,665	32.76%	
Operating Income/Loss				
	49,797	(642,009)	33%	% of Year

Debt Convenent calculations as filed for Quarter 1 FY2023-24:

Rolling 12-months
7/1/2022-6/30/2023

Revenue	5,555,961.71
Expenses	6,282,006.21
Operating Income	(726,044.50)

Rent Payments	704,950.08
Rent expense non-cash	1,308,315.00
Depreciation	16,414.04

Operating Income (excluding rent payments and depreciation) 598,684.54

Debt Service Coverage Ratio	0.85
------------------------------------	-------------

Coversheet

EPA Spending Plan

Section:	IV. FINANCE
Item:	B. EPA Spending Plan
Purpose:	Vote
Submitted by:	
Related Material:	EPA Spending Plan (2).pdf

Contra Costa School of Performing Arts

Estimated Expenditures July 1, 2023 - June 30, 2024

Education Protection Account (Object Code 8012, Resource Code 1400-0)

	Object Codes	CCSPA
Amount Available for this Fiscal Year		
Education Protection Account	8012	\$68,600
Expenditures		
Certificated Salaries	1000s	
Teacher Salaries	1100	\$68,600
Administrator Salaries	1300	\$0
Classified Salaries	2000s	\$0
Employee Benefits	3000s	\$0
Books and Supplies	4000s	\$0
Services and Other Operating Expenses	5000s	\$0
Capital Outlay	6000s	\$0
Total Expenditures		\$68,600

*Estimated EPA Spending based on FCMAT LCFF assumptions per the May Revision of the State Budget. Actual amount and expenses may be different than stated. Per Proposition 30 and as extended by Proposition 55, EPA funds may not be used for salaries or benefits of administrators or any other administrative costs.

Coversheet

Executive Summary

Section: V. OTHER BUSINESS
Item: B. Executive Summary
Purpose: Discuss
Submitted by:
Related Material: Executive Summary November 2023 (2).pdf

Executive Summary

Prepared by Catherine Foster

November 28, 2023

Enrollment

Goal 23-24: 365	Notes:
Current Total: 356 (-4) 6th: 64 (-1) 7th: 57 8th: 91 (-3) 9th: 34 (+2) 10th: 40 (-2) 11th: 27 (+1) 12th: 43	77 families have filled out the Intent to Return 30 families have filled out new enrollment forms
Goal 24-25: 400	
Enrollment Campaign Timeline: October 1st- system opens October 27th - open house at carnival November 8- info night 6 to 7, Campus (2 families) December 6 - info night 7 to 8, Zoom January 10 - info night 6 to 7, Zoom February 7 - info night 6 to 7, in person Lottery - February 14 March TBD - info night April TBD - info night May TBD - info nights	On-going: Brendan Theater Ads - November/December Veranda Kiosk - December Google Ads Campaign for positive reviews Updating the website Social Media Flyer distribution Diablo Magazine partnership Leshner Center partnership Community shows/booths

Update on December Enrollment Plans - from Miguel Soza

1. Elementary School Visit: We are coordinating a visit to Ygnacio Valley Elementary /Meadow Homes Elementary School/Oak Grove Middle School and other schools in the area. This visit will allow us to interact with parents, provide information about COCOSPAs, and answer any questions they may have.

Dates: November 29th to December 15th

2. School Banners in the Community: We are in the process of designing eye-catching banners that will be placed strategically in the community. These banners will help create awareness about COCOSPAs school and its offerings.

3. Intent to Return, Enrollment, and Referrals: I will be reaching out to existing families through phone calls and emails to remind them about the deadline for submitting their

intent to return forms. Additionally, we will highlight the importance of referrals and encourage our current families to share their positive experiences with others.

4. Brenden Theatres Big Screen Advertising: We have secured advertising slots at Brenden Theatres, where we will showcase our school on the big screen. This initiative will allow us to reach a wider audience and generate curiosity about SPA school.

These initiatives are aimed at maximizing our visibility and engaging with both prospective and existing families. I believe that they will significantly contribute to the success of our enrollment campaign for December.

5. All Out Sport League (free Advertising)

6. SPA Host a table in community event to spread the word

7. Direct mail advertising (flyer)

8. 2024 Music & Market. Location: Todos Los Santos Plaza; 2175 Willow Pass Rd; Concord, CA 94520

Ask: Please let me know if you have any further suggestions or if there are any additional initiatives you would like to explore so we can ensure a successful enrollment campaign.

Website

- Our website was updated and is built on FinalSite. In August, Brandy renewed the contract for Finalsite for \$2700 annually.
- Kayla has tried to update the banner and look several times. I tried as well.
- I have reached out to a designer who informed me there is very little we can do with FinalSite and recommended moving over to Wix or Weebly.
- Brandy has also offered to do updates.

Ask: I would love some thought partnering around this. Do we know anyone with Finalsite experience?

Security Cameras

- I have looked into a few camera systems as we increasingly could use an upgrade specifically in the front area and outside the bathrooms. The current estimate is \$8,000. We are trying out a system and will see what we think.

Ask: Does anyone have experience with school security systems and what is reasonable?

Goals Update

1. **Increase academic performance to a similar level as the state (edit, district around us per the charter).**

School / District	English: Standard Met or Exceeded 2022	English: Standard Met or Exceeded 2023	English: Percentage Changed	Math: Standard Met or Exceeded 2022	Math: Standard Met or Exceeded 2023	Math: Percentage Changed
State of California	47.06%	46.66%	-0.4%	33.38%	34.62%	+1.24%
Contra Costa School of Performing Arts Walnut Creek, Contra Costa County	39.18%	32.27%	-6.91%	15.79%	17.13%	+1.34%
Mt. Diablo Unified School District Contra Costa County	45.9%	45.99%	+0.09%	35.32%	36.39%	+1.07%

Progress update:

- Taking iReady on Dec. 13th
- Teachers are not trained in using the data but are using the skill sets from iReady.

2. Retain and recruit teachers and students.

Progress update:

- Completed over half of my teacher observations and evaluations.
- Scheduling last group over the next two weeks.

3. Develop and implement instructional strategies to address the diversity of talents and needs.

Progress update:

- In meetings with teachers around observations, we are talking about strategies and changes to instruction driven by data as well as meeting needs of various learners.

4. Manage operations for fiscal sustainability.

Progress update:

- Working with Candice.
- Holding off on hiring outside need areas (Special Education).
- Working to cut down food service costs.

Events update (check the [Live Calendar](#)):

- Vocal Performance - December 3rd
- Romeo & Juliet - December 8th, 9th and 10th
- Holiday Spirit Week - December 11th - 15th
- Nutcracker - December 17th
- PBL night- December 19th

LCAPP Presentation to CCCOE

- Candice and I presented to the CCCOE on November 15th. We shared the LCAPP presentation linked [here](#).
- The board was very receptive and supportive.
- The only question was “to what do we contribute the increase in enrollment?” I outlined many of the things Miguel has been doing.

- The two student Trustees asked about getting tickets to the Nutcracker.
- One trustee asked about shortening Goal 1 which I agreed would help for the future.

Ask: Do we need a School Site Council? Many other schools have one and I didn't know if it is required for us.

Parent Harrassment of Staff Member:

- Parent who confronted staff member (our receptionist) is still asking for us to have staff member remove their keffiyeh.
- It has been unsettling for our staff member.
- Working on a policy for handling these types of situations.

Ask: Any best practices on handling this situation?

Draft Academic Calendar for 24-25

- [Linked here](#) and will be reviewed and discussed at the December meeting.

Ask: Please review for December.

Additional:

Contra Costa School of Performing Arts 3
 Run Date/Time: **11/28/23 12:01 AM**
 08/10/2023 to 11/17/2023 =68 days

All Students

Grade Level	Carry Fwd	Gain	Loss	Ending	Actual Days	OffTrack	Days N/E	Days Ineligible	Days Absent	Days Att'd	ADA	ADA %
6	0	65	1	64	4420	0	184	0	251.00	3985.00	58.60	94.07 %
SubTotal	0	65	1	64	4420	0	184	0	251.00	3985.00	58.60	94.07 %
7	0	63	6	57	4284	0	399	9	227.00	3649.00	53.66	94.14 %
8	0	100	9	91	6800	0	382	0	328.00	6090.00	89.56	94.89 %
SubTotal	0	163	15	148	11084	0	781	9	555.00	9739.00	143.22	94.61 %
9	0	39	5	34	2652	0	292	42	132.00	2186.00	32.15	94.31 %
10	0	45	5	40	3060	0	296	0	256.00	2508.00	36.88	90.74 %
11	0	32	5	27	2176	0	330	0	126.00	1720.00	25.29	93.17 %
12	0	43	0	43	2924	0	82	0	202.00	2640.00	38.82	92.89 %
SubTotal	0	159	15	144	10812	0	1000	42	716.00	9054.00	133.15	92.67 %
Grand Total	0	387	31	356	26316	0	1965	51	1522.00	22778.00	334.97	93.74 %

Project Manager Projects:

- Credentialing
- CNIPS
- All Arts support
- School Trips
- Social Media
- CTE Pathways
- CCEIS
- Safety Plan
- Master Scheduling
- Enrollment

Coversheet

Salary Schedule

Section: V. OTHER BUSINESS
Item: E. Salary Schedule
Purpose: Vote
Submitted by:
Related Material: SPA Salary Schedule 23-24 Teachers MODIFIED 10.19.2023.xlsx

Notice

The following file is attached to this PDF. You will need to open this packet in an application that supports attachments to pdf files, e.g. [Adobe Reader](#):

SPA Salary Schedule 23-24 Teachers MODIFIED 10.19.2023.xlsx

Coversheet

Salary Survey

Section: V. OTHER BUSINESS

Item: F. Salary Survey

Purpose: Vote

Submitted by:

Related Material:

SPA Executive Compensation Comparability Study July 2023 (4889-4945-4443.v2).docx

**Governing Board of ChartHouse Public Schools
Summary of Compensation and Benefits Survey Data for
Executive Director**

July 2023

Prior to Board action to approve any decisions regarding executive compensation (including approval of base salary increases, incentive compensation, bonuses, etc.), the Board must first exercise due diligence (review of comparable compensation practices) to ensure compliance with IRS restrictions on excess compensation for nonprofit executives, including a charter school Executive Director. The Board's review and approval of the executive compensation must occur: initially upon hiring the executive; whenever the term of employment, if any, is renewed or extended; and whenever the officer's compensation is modified.

In reviewing the reasonableness of compensation for nonprofit executives, the IRS considers "compensation" broadly and will look at the value of salary, as well as non-fixed compensation (incentive compensation/bonuses), and benefits. If the IRS determines compensation is not reasonable, severe consequences may result.

The following is a summary of findings following review and comparison of a sampling of total compensation levels received by educational leaders in Southern California. Compensation figures are from the State Controller's Office or from the Internal Revenue Service (Form 990) for the 2020 and 2021 calendar years (the most recent available). Student enrollment figures are from the California School Dashboard for the 2022 calendar year. The Executive Director of Contra Costa School of Performing Arts oversees one (1) charter school in Contra Costa County with a total population of approximately 440 students. Based on these facts, this study compared salary packages of similarly situated public school leaders. The three (3) charter schools, five (5) district schools, and one (1) school district surveyed in this summary have an average population of approximately 554 students.

Of the educational leaders sampled, the average total compensation package (base salary plus other compensation) is approximately \$188,761. The average base salary is approximately \$158,580. The range of base salary is \$141,869 to \$169,720. Salaries can range based on many factors such as experience, tenure at the school, student populations, staff size, and location of the charter school.

These salaries are from the 2020 and 2021 calendar years. As a result, conservatively adding 5% for each year to reach updated figures for the 2023-2024 school year would provide an average total compensation range of \$207,637 to \$217,075, and an average base salary range of \$174,438 to \$182,367.

Knightsen Elementary School District (Contra Costa County)	587 Students
Superintendent	
Total Compensation Package	\$176,204
Base Salary	\$151,441
Other Compensation (Benefits and Retirement)	\$24,763
Wagner Ranch Elementary (Contra Costa County)	420 Students
Principal	
Total Compensation Package	\$198,540
Base Salary	\$171,055
Other Compensation (Benefits and Retirement)	\$27,485
Vista Oaks Charter (Contra Costa County)	903 Students
Executive Director	
Total Compensation Package	\$209,406
Base Salary	\$161,300
Other Compensation (Benefits and Retirement)	\$48,106
Black Diamond Middle School (Contra Costa County)	343 Students
Senior Director	
Total Compensation Package	\$219,134
Base Salary	\$169,720
Other Compensation (Benefits and Retirement)	\$49,414
Lone Tree Elementary (Contra Costa County)	484 Students
Principal	
Total Compensation Package	\$186,935
Base Salary	\$155,020
Other Compensation (Benefits and Retirement)	\$31,915
Marina Vista Elementary (Contra Costa County)	575 Students
Principal	
Total Compensation Package	\$199,868
Base Salary	\$163,009
Other Compensation (Benefits and Retirement)	\$36,859
Happy Valley Elementary (Contra Costa County)	446 Students
Principal	
Total Compensation Package	\$195,386
Base Salary	\$165,394
Other Compensation (Benefits and Retirement)	\$29,992
Oakland School for the Arts (Alameda County)	791 Students
Interim Executive Director	
Total Compensation Package	\$164,965
Base Salary	\$141,869
Other Compensation (Benefits and Retirement)	\$23,096
Creative Arts Charter School (San Francisco County)	435 Students
Executive Director	
Total Compensation Package	\$148,413
Base Salary	\$148,413
Other Compensation (Benefits and Retirement)	\$0

Per the School’s request, we also sampled various continuation high schools throughout Northern California and performing arts schools throughout California.

Bidwell High School (Contra Costa County)	133 Students
Principal – Secondary	
Total Compensation Package	\$188,010
Base Salary	\$143,011
Other Compensation (Benefits and Retirement)	\$44,999
Island High (Continuation) (Alameda County)	72 Students
Continuation High Principal	
Total Compensation Package	\$175,785
Base Salary	\$145,606
Other Compensation (Benefits and Retirement)	\$30,179
Liberty High (San Joaquin County)	127 Students
Principal - Continuation High School	
Total Compensation Package	\$189,861
Base Salary	\$163,783
Other Compensation (Benefits and Retirement)	\$26,078
Plaza Robles High (San Joaquin County)	146 Students
Principal - Continuation High School	
Total Compensation Package	\$175,015
Base Salary	\$150,835
Other Compensation (Benefits and Retirement)	\$24,180
Duncan-Russel Continuation (San Joaquin County)	19 Students
Principal - Continuation High School	
Total Compensation Package	\$174,911
Base Salary	\$140,596
Other Compensation (Benefits and Retirement)	\$34,315
Julia Lee Performing Arts Academy (Riverside County)	370 Students
Executive Director	
Total Compensation Package	\$100,132
Base Salary	\$100,132
Other Compensation (Benefits and Retirement)	\$0
Creative Performing and Media Arts (San Diego County)	726 Students
Principal	
Total Compensation Package	\$210,496
Base Salary	\$160,862
Other Compensation (Benefits and Retirement)	\$49,634
El Sol Science and Arts Academy (Orange County)	936 Students
Executive Director	
Total Compensation Package	\$208,824
Base Salary	\$171,172
Other Compensation (Benefits and Retirement)	\$37,652
School of Arts and Enterprise (Los Angeles County)	698 Students
Executive Director	
Total Compensation Package	\$124,482
Base Salary	\$121,804

Other Compensation (Benefits and Retirement)	\$2,678
Los Angeles Academy of Arts and Enterprises (Los Angeles County)	296 Students
Principal	
Total Compensation Package	\$177,236
Base Salary	\$145,237
Other Compensation (Benefits and Retirement)	\$31,999