Agenda Report

DATE: November 16, 2010

TO: The Mayor and City Council

FROM: Sean P. Quinn, City Manager
       Curt Johnston, Economic Development Division Manager
       Charles Ching, Economic Development Specialist

SUBJECT: Resolution of the City Council Approving the Lease By and Between the City of Fairfield and Balfour Beatty Infrastructure Inc. for 7,045 Square Feet of Space on the Second Floor of the Cordelia Library

RECOMMENDED ACTION
Adopt resolution.

STATEMENT OF ISSUE
The resolution approves and directs the City Manager to execute and implement a five year lease agreement between the City and Balfour Beatty Infrastructure Incorporated ("Balfour") for 7,045 square feet of space on the second floor of the Cordelia Library.

DISCUSSION
The Cordelia Library second floor space has been vacant since the building was constructed. Balfour desires to use the space for a regional office and is proposing a five year lease with a three year option. The lease rate is $1.48, gross with annual increases. The lease term will commence no later than February 1st, 2011.

Balfour was founded in 1909 and established a regional office in Fairfield in 2005. Balfour has 50,000 employees worldwide and 20 employees in Fairfield involved in infrastructure services. Recent projects by Balfour include the Freeport Regional Water Authority intake structure in Sacramento ($120 million), the Folsom South Canal pumping plant in Clement ($93 million) and the Vineyard surface water treatment plant in Sacramento ($207 million).

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Currently, $120,000 is budgeted annually for the library, of which approximately $85,000 is regularly scheduled maintenance and assessments. Executing the lease will net the City approximately $115,000 in annual lease revenue. The expenses for the City include up to $295,800 ($42 per sq. ft.) for the tenant improvements, plus a real estate commission of $30,518.94 paid to Colliers International per the approved brokerage contract. Currently the space is a cold shell, which means that there is no ceiling, lights, HVAC distribution ducts, electrical outlets, or finished walls and doors (except for the main hallway). Balfour will be responsible for the construction of the tenant improvements under prevailing wage law, and will pay any cost overruns. Should Balfour move out of the building in the future, the City will retain ownership of improvements. This will allow the City to release the space at a relatively low cost for future tenant improvements.

FINANCIAL IMPACT
The total cost to the City for executing the lease is $326,318.94. This includes $295,800 in tenant improvements and $30,518.94 in broker’s commission. Funding would be provided by the Loan Fund. The annual net revenue from lease payments to the City is approximately $115,000. This revenue will offset annual maintenance expenses, provide a repayment source for the tenant improvements, and help grow a reserve account for future repairs.

PUBLIC CONTACT/ADVISORY BODY RECOMMENDATION
N/A

ALTERNATIVE ACTION
The City Council may elect to renegotiate the lease terms or leave the space vacant.

DOCUMENTS ATTACHED
Attachment 1: Proposed Resolution
Attachment 2: Lease Agreement

STAFF CONTACT
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CITY OF FAIRFIELD

RESOLUTION NO. 2010 - 309

RESOLUTION OF THE CITY COUNCIL APPROVING A LEASE BY AND BETWEEN THE CITY OF FAIRFIELD AND BALFOUR BEATTY INFRASTRUCTURE, INC. FOR 7,045 SQUARE FEET OF SPACE ON THE SECOND FLOOR OF THE CORDELIA LIBRARY

WHEREAS, the City of Fairfield owns and operates the approximately 32,000 sq. ft. building at 5050 Business Center Drive in Fairfield California housing the Fairfield Cordelia Branch Library on the ground floor and containing 7,045 sq. ft. of vacant office space on the second floor; and

WHEREAS, the City has marketed the second floor vacant space within the building for office tenants, and Balfour Beatty Infrastructure, Inc. desires to lease the 7,045 sq. ft. space for general office and administrative functions; and

WHEREAS, the lease will generate the City approximately $115,000 in annual lease revenue to offset tenant improvements, maintenance expenses, and help grow a reserve account for future building repairs; and

WHEREAS, the total cost to the City for executing the lease is approximately $326,318.94. This includes $295,800.00 in tenant improvements and $30,518.94 in brokerage commission to Colliers International.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF FAIRFIELD HEREBY RESOLVES:

Section 1. The proposed lease by and between the City of Fairfield and Balfour Beatty Infrastructure, Inc. for 7,045 square feet of space on the second floor of the Cordelia Library is hereby approved, including expenditures from the Loan Fund to implement the lease.

Section 2. The City Manager is hereby authorized and directed to execute the lease and do all things necessary to implement this resolution.
PASSED AND ADOPTED this 16th day of November, 2010, by the following vote:

AYES: COUNCILMEMBERS: ________________________________

NOES: COUNCILMEMBERS: ________________________________

ABSENT: COUNCILMEMBERS: ________________________________

ABSTAIN: COUNCILMEMBERS: ________________________________

__________________________________________________________
MAYOR

ATTEST:

__________________________________________________________
CITY CLERK
STANDARD MULTI-TENANT OFFICE LEASE - GROSS
AIR COMMERCIAL REAL ESTATE ASSOCIATION

1. Basic Provisions ("Basic Provisions").
   1.1 Parties: This Lease ("Lease"), dated for reference purposes only September 28, 2010,
is made by and between ____________________________ ("Lessor")
   and ____________________________________________ ("Lessee").
(collectively the "Parties", or individually a "Party").

   1.2a Premises: That certain portion of the Project (as defined below), known as Suite Number(s) N/A.
   second floor(s), consisting of approximately 7,045 rentable square feet and approximately 7,045
   usable square feet ("Premises"). The Premises are located at: 5050 Business Center Drive
   in the City of Fairfield, County of Solano, State of California, with zip code 94534. In addition to Lessee's rights to use and occupy the
   Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter
   specified, but shall not have any rights to the roof, the exterior walls, the area above the dropped ceilings, or the utility raceways of the building
   containing the Premises ("Building") or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which
   they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." The Project consists of
   approximately 29,290 rentable square feet. (See also Paragraph 2)

   1.2b Parking: 28 unreserved and 0 reserved vehicle parking spaces at a monthly cost of
   $ __________ per unreserved space and $ __________ per reserved space. (See Paragraph 2.8)

   1.3 Term: Five (5) years and __________ months ("Original Term")
   commencing on or about __________ ("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: $10,426.60 per month ("Base Rent"), payable on the first day of each month
   commencing August 1, 2011. (See also Paragraph 4)

   1.6 Lessee's Share of Operating Expenses Increase: Twenty-four and no/100th percent (24.00%) ("Lessee's Share")
   in the event that the size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall re-calculate Lessee's Share
   to reflect such modification.

   1.7 Base Rent and Other Monies Paid Upon Execution:
   a) Base Rent $10,426.60 for the period August 1, 2011 - August 31, 2011
   b) Security Deposit $10,000.00 ("Security Deposit"). (See also Paragraph 5)
   c) Parking: $ __________ for the period
   d) Other: $ __________ for
   e) Total Due Upon Execution of this Lease: $20,426.60

   1.8 Agreed Use: General office and administrative functions.

   ____________________________ ("Insuring Party"). (See also Paragraphs 4.2 and 8)

   1.10 Real Estate Brokers: (See also Paragraph 15)
   a) Representation: The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check
   applicable boxes):
   ■ Colliers Parrish International, Inc. represents Lessor exclusively ("Lessor's Broker");
   ■ McNeill Real Estate Services represents Lessee exclusively ("Lessee's Broker"); or
   ■ represents both Lessor and Lessee ("Dual Agency").
   b) Payment to Brokers: Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers for the brokerage
   services rendered by the Brokers the fees agreed to in the attached separate written agreement or if no such agreement is attached, the sum of
   or __________% of the total Base Rent payable for the Original Term, the sum of __________% or __________% of the total Base
   Rent payable during any period of time that the Lessee occupies the Premises subsequent to the Original Term, and the sum of __________
or __________% of the purchase price in the event that the Lessee or anyone affiliated with Lessee acquires Lessee's interest in the Premises.

   1.11 Guarantor: The obligations of the Lessee under the Lease shall be guaranteed by
   ("Guarantor"). (See also Paragraph 37)

   1.12 Business Hours for the Building: unrestricted a.m. to 12 p.m., Mondays through Fridays (except Building Holidays)
   and __________ a.m. to __________ p.m. on Saturdays (except Building Holidays). "Building Holidays" shall mean the dates of observation of New Year's
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 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 in a clean condition on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), and all other items which the Lessor is obligated to construct pursuant to the Work Letter attached hereto, if any, 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 the Unit shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law.

2.3 Compliance. Lessor warrants to the best of its knowledge that the improvements comprising the Premises and the Common Areas comply with the building codes that were in effect at the time that each such improvement, or portion thereof, was constructed, and also with all applicable laws, caveats or restrictions of record, regulations, and ordinances ("Applicable Requirements") in effect on the Start Date. 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 49), 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 zoning and other Applicable Requirements 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, remedy the same. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition or an alteration of the Premises, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Premises ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subparagraphs (a) through (d) 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, Lessor may instead terminate this Lease unless Lessee removes such capital expenditure, in writing, within notice that the Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects to terminate, Lessor shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessee 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 Lessor 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, governmental mandated seismic modifications), then Lessor shall pay for such Capital Expenditure, and Lessee shall only be obligated to pay for 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 4/144 of the portion of such costs reasonably attributable to Lessor. Lessor 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 economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 30 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessee's termination notice that Lessor will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, the Lessor may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs have been fully paid. If Lessor is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of the Lease is not sufficient to fully reimburse Lessor on an offset basis, Lessor shall have the right to terminate this Lease upon 30 days notice to Lessor.

2.4 (Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to nonvoluntary, unexpected, and new Applicable Requirements. If the Capital Expenditure 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 herein, 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 have any right to terminate this Lease.

2.5 Acknowledgement. Lessor hereby acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) Lessee 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 their suitability for Lessee's intended use, (c) Lessor has been aware of such inspections and has deemed them satisfactory, (d) it is not relying on any representations as to the size of the Premises made by Lessor or Lessee, (e) the square footage of the Premises was material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to the size of the Premises, or any other term or condition of this Lease.

Lessee as Prior Owner/Occupant. The warranties made by Lessor in Paragraph 2 shall be of no force or effect 4 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.

2.6 Vehicle Parking. It being understood that the Lessee is not in default, and subject to the Rules and Regulations attached hereto, and as established by Lessor from time to time, Lessee shall be entitled to rent and use the number of parking spaces specified in Paragraph 1.2(b) at the rental rate applicable from time to time to monthly parking as set by Lessor and/or its licensee.

(a) If Lessee commits, permits or allows any of the prohibited activities described in the Lease or the rules then in effect, then Lessor shall have the right, without notice, in addition to all other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost thereof to Lessee, which charge shall be immediately payable upon demand by Lessor.

(b) The monthly rent per parking space specified in Paragraph 1.2(b) is subject to change upon 30 days prior written notice to Lessee. The rent for the parking is payable one month in advance prior to the first day of each calendar month.

2.7 Common Areas - Definition. The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility easements and installations within the Premises that are provided and designated by the Lessor from time to time for the common use and benefit of the Lessee and the other tenants of the Project and their respective employees, suppliers, shippers, customers and other invitees, including, but not limited to common entrances, lobbies, corridors, stairwells, public restrooms, elevators, parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 Common Areas - Rights. Lessee for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the nonexclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessee under the terms hereof or under the

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terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor’s designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 Common Areas - Rules and Regulations. Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to adopt, modify, amend and enforce reasonable rules and regulations ("Rules and Regulations") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. The Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors, and invitees to be so reasonable. Lessee shall not be responsible for the noncompliance of any other tenants or occupants of the Building or Project.

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 hereof 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 Lessee’s Share of the Operating Expenses) shall be in full force and effect during such period. Any such Early Possession shall not affect the Commencement Date.

3.3 Delay in Possession. Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date, if, despite said efforts, Lessor is unable to deliver possession by such date, Lessee 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 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 discharged from all obligations hereunder. If such written notice is not received by Lessee within 10 days 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. Lessee may, in writing, demand that possession of the Premises be delivered within 10 days of such demand. In the event the Premises are not deliverable as of said date, Lessee shall be entitled to terminate this Lease and Lessor shall pay to Lessee damages for any losses or expenses incurred by Lessee as a result of such termination.

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 Operating Expenses Increase. Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee’s Share of any amount by which the Operating Expenses for each Comparison Year exceed the amount of all Operating Expenses for the Base Year, such excess being hereafter referred to as the “Operating Expenses Increase”; in accordance with the following provisions:

(a) "Base Year" is as specified in Paragraph 1.3.

(b) "Comparison Year" is defined as each calendar year during the term of this Lease subsequent to the Base Year, provided, however, Lessee shall have no obligation to pay a share of the Operating Expenses Increase attributable to the first 12 months of the Lease Term (other than as may be mandated by a governmental authority); as to which governmental mandated expenses Lessee shall pay Lessee’s Share, notwithstanding the occurrence during the Lessee’s Share of the Operating Expenses Increase for the first 12 months of the Lease Term, and as set forth in Paragraph 1.3.

(c) The Operating Expenses Increase for each Comparison Year shall be equal to the Operating Expenses for such Year minus the Operating Expenses for the Base Year.

(d) The Operating Expenses Increase for each Comparison Year shall be apportioned among the Premises and any other space occupied by a tenant, as follows:

(i) The cost of trash disposal, janitorial and security services, post-office service, and the costs of any environmental inspections;

(ii) The cost of any service to be provided by Lessor that is elsewhere in this Lease stated to be an "Operating Expense;"

(iii) The cost of the premium for the fire insurance policies maintained by Lessor pursuant to paragraph 8 and any deductible portion of an insurance loss concerning the Building or the Common Areas;

(iv) The amount of the Landlord’s Share of the Premiums payable by Lessor pursuant to paragraph 10;

(v) The cost of water, sewer, gas, electricity, and all publicly mandated services not separately metered;

(vi) Labor, salaries, and applicable fringe benefits and costs, materials, supplies and tools, used in maintaining and/or cleaning the Premises and the Common Areas;

(vii) The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided, however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay any increase in Base Rent attributable to any such capital improvement until the end of the 12 year period, and such Base Rent shall be increased by such amount not more than one time for each such Capital Improvement in any given year;

(viii) The cost to replace equipment or improvements that cause a useful life for accounting purposes of 5 years or less;

(ix) The cost to replace equipment, repair and/or to replace the Common Area improvements and equipment;

(x) Any item of Operating Expenses that is specifically attributable to the Premises, the Building or to any other building in the Project or the operation, repair and maintenance thereof, shall be allocated entirely to such Premises, Building, or other building. However, any such item that is not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be allocable
(a) The maintenance of the improvements, facilities and services set forth in Subparagraph 4.2(c) shall not be deemed to impose an obligation upon Lessor to either: 
- to incur and control the costs of any improvements, facilities and services set forth in Subparagraph 4.2(c) that are required by governmental authority or any third party in connection with the use, manufacture, disposal, transportation, or release of any hazardous substances.
- to bear the cost of any maintenance, maintenance costs, or any expense of any kind or nature arising from the use, manufacture, disposal, or transportation of any hazardous substances.

(b) The payments referred to in subparagraph (a) above shall be payable monthly on the same date as the Base Rent is due hereunder.

4.3 Payments. Lessor shall be paid at the address provided by Lessor hereunder.

5. Security Deposit.

(a) Lessor shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessor's faithful performance of its obligations under this Lease. If Lessor shall be in default of any or all of its obligations under this Lease, Lessor shall be liable for any damages, interest, or other expenses incurred by Lessor as a result of such default.

(b) The Security Deposit shall be held in trust by Lessor and shall be applied only as required by law, or as may be required by Lessor to comply with any terms of this Lease. Lessor shall return the Security Deposit to Lessee upon the expiration of the term of this Lease, unless any damage or expenses have been incurred by Lessor as a result of Lessor's failure to comply with any terms of this Lease.


(a) Reportable Uses. The term "Hazardous Substances" shall mean any substance or product, or any component of any hazardous substance, or waste, that is either: 
- potentially injurious to the public health, safety, or environment, or is regulated or monitored by any governmental authority, or is a hazardous substance as defined by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

(b) Hazardous Substances. Lessor shall not engage in the processing, use, manufacture, disposal, transportation, or release of any hazardous substances or waste.

7. Indemnification.

(a) Lessor Indemnification. Lessor shall indemnify, defend and hold harmless Lessee, its agents, employees, and successors, from and against any and all claims, losses, expenses, or damages, whether or not formally found to be actionable, that may arise as a result of the occurrence of any hazardous substance or waste, or as a result of any breach of this Lease.

(b) Lessee Indemnification. Lessee shall indemnify, defend, and hold harmless Lessor, its agents, employees, and successors, from and against any and all claims, losses, expenses, or damages, whether or not formally found to be actionable, that may arise as a result of the occurrence of any hazardous substance or waste, or as a result of any breach of this Lease.
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 may not be limited to, the cost of investigation, removal, remediation and restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(9) Investigations and Remediation. Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities to the existence of hazardous substances on the Premises pursuant to Lessor'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. Lessor shall cooperate fully in any such activity, and at the request of Lessor, including allowing access to the Lessor's agents to reasonably inspect the Premises in order to carry out Lessor's investigative and remedial researches.

(10) Lessee Termination Option. If a Hazardous Substance Condition (as defined in 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: (a) terminate this Lease and remedy such Hazardous Substance Condition, if required by Lessor's insurance or Lessee's insurance, in which case Lessor shall cease the Remediation; or (b) if the estimated cost to remediate such condition exceeds 12 times the then current 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 Lessee's desire to terminate this Lease as of the closing date following the closing date for 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 current 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 provide such notice and 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 requirements of Lessor's engineers and consultants which relate in any manner to the Premises, without regard to whether said requirements are now in effect or become effective after the Start Date. Lessor shall, within 10 days after receipt of Lessor's written request, provide Lessee with copies of all permits and other documents, and other information evidencing Lessor's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessee in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, caution, warning, notice or report pertaining to or involving the failure of Lessor 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 any condition conducive to the production of mold or (ii) any mustiness or other odors that might indicate the presence or mold in the Premises.

6.4 Inspection, Compliance. Lessor and Lessor’s "Lender" (as defined in Paragraph 20) and consultants shall have the right to enter into Premises at any time, in time to inspect, or to perform the purpose of an inspection, and otherwise, provided that the inspection is for the purpose of the inspection and for 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 5.1f) is found to exist or be imminent, or the inspection is requested and ordered by a governing or regulatory authority. In such cases, Lessor shall promptly require such inspection to be made, and such inspection, unless otherwise specifically limited by Lessor, is reasonable related to the violation or contamination. In addition, Lessee shall provide copies of all relevant materials safety data sheets (MSDS) to Lessor within 10 days of the receipt of written request therefor.

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

7.1 Lessee's Obligations. Notwithstanding Lessor's obligation to keep the Premises in good condition and repair, Lessee shall be responsible for payment of the cost thereof to Lessor as additional rent for that portion of the cost of any maintenance and repair of the Premises, or any equipment (wherever located) the failure of which to the extent such cost is attributable to Lessee's actions or any part thereof, either damage or misuse. Lessor shall have the right to make prompt repair, or to cause prompt repair by Lessee, of any part of the Premises, or any equipment, which may affect Lessor or any of its lessees or occupants, or any part of the Premises, or any equipment, which may affect any of its employees or any third party.

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, fire alarm and/or smoke detection systems, fire hydrants, and the Common Areas. Lessor expressly waives the benefits of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) Definitions. The term "Utility Installations" refers to all floor and window coverings, air lines, vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, and plumbing 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 alteration.

(b) Consent. Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessor 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 Lessee, as long as they do not involve moving, relocating or removing structural elements or the existing interior finishing materials, do not exceed $200,000.00, are not visible from the outside, do not require new interior finishing, or involve replacing or repairing. If the existing existing walls, will not affect the electrical, plumbing, HVAC, and/or fire safety systems, and the cumulative cost thereof during this Lease as extended does not exceed $200,000.00. Notwithstanding the foregoing, Lessor shall not make or permit any roof penetrations and/or install anything on the roof without first obtaining written authorization from Lessor, prior to granting such approval, require Lessee to bear the cost of such alterations and/or improvements and/or utility installations, and approve by Lessor. Any Alterations or Utility Installations that Lessor 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 condition upon Lessee's: (i) acquiring all applicable governmental permits; (ii) furnishing Lessee with complete and detailed drawings of both the permits 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 complete construction and furnish such plans and specifications as the Lessor may require. For work which costs an amount in excess of one month's Base Rent, Lessee may condition its consent upon Lessee providing a lien 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, or about the Premises, and Lessee shall have the right to give such notice to Lessor. If Lessee shall contest the same, Landlord or any other right to privacy, or any assignment, change of tenancy, 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, Lessor shall pay Lessor's attorneys' fees and costs.

7.4 Ownership; Removal; Surrender; and Restoration. Lessor's ownership of the Premises shall be preserved at all times, and in all events, and in no event, including the termination of this Lease, shall this lease include any damage or deterioration incurred on the Premises as a result of the termination of this Lease.
that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessor shallsummarize in a report, the direct and/or overhead costs, which are to be the amount of any current and/or future damages to the Premises as provided in this Section. Lessor shall not be required to repair any damage occasioned by the installation, maintenance or repair of Trade Fixtures, Lessor owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessor. Lessor shall also completely remove from the Premises, Lessor owned Alterations and/or Utility Installations, Building and/or Project, and/or any personal premium rate increase. Said costs shall not, however, include any premium increase resulting from the nature of the occupancy of any other tenant of the Building. If the Premises was not insured for the entirety of the Base Term, then the base premium shall be the lowest annual premium rate for such coverage of the Premises as the Start Date, assuming the same coverage at the time of issuance as of the Base Term, is to be renewed or reissued at the same level of coverage as of the Base Term, is to be renewed or reissued at the same level of coverage of the Building and/or Project. In no event, shall Lessor be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of $10,000,000 procured under Paragraph 8.2(b).

8. Insurance; Indemnity

8.1 Insurance Premiums. The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 are included as Operating Expenses (see paragraph 4.2(c) above). Said costs shall include increases in the premiums resulting from additional coverage required under the terms of the Premises: Building and/or Project, Building alteration, replacement, and/or any personal premium rate increase. Said costs shall not, however, include any premium increase resulting from the nature of the occupancy of any other tenant of the Building. If the Premises was not insured for the entirety of the Base Term, then the base premium shall be the lowest annual premium rate for such coverage of the Premises as the Start Date, assuming the same coverage at the time of issuance as of the Base Term, is to be renewed or reissued at the same level of coverage as of the Base Term, is to be renewed or reissued at the same level of coverage of the Building and/or Project. In no event, shall Lessor be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of $10,000,000 procured under Paragraph 8.2(b).

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 and coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. 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 Lessor's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessor 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. Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessee, and to any Lessor insuring loss or damage to the Building and/or Project. The amount of such insurance shall be equal to the full replaceable replacement cost of the Building and/or Project, so the same shall exist from time to time, or the amount required by any Lessor, 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 Lessor not by Lessee. If the coverage is available and commercially reasonable, then Lessor shall acquire a policy or policies shall be acquired on behalf of Lessor to protect Lessee from the following: (a) Risk of direct physical loss or damage to the Building and/or Project, (b) loss due to fire or act of God, (c) the loss due to the following: (i) an earthquake unless required by a Lessor, 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 such extended coverage beyond the usual limits of such a policy, as the parties may, in their sole discretion, agree upon. Such 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.

(b) Rental Value. Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lessor, insuring the loss of the Full Rent for any period 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 co-insurance 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.

(c) Adjacent Premises. Lessee shall pay for any increase in the premiums for the insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) Lessor's Improvements. Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessor Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

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 deductibles 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. Lessee shall provide Lessor with written evidence that such insurance is in force.

(b) Worker's Compensation Insurance. Lessee shall obtain and maintain Worker's Compensation insurance in such amount as may be required by Applicable Requirements.

(c) 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 any peril commonly insured against by prudent lessees in the business of Lessee attributable to prevention of access to the Premises as a result of such peril.

8.5 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.

8.6 Insurance Policies. Insurance required herein shall be carried by Lessor during the policy term a "General Policyholders Rating" of at least A-,-, as set forth in the most current issue of "Best's Insurance Guide", or such other rating may be required by Lessor. Lessor 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 insurance policies or 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 susceptible to modification except after 90 days prior warning in writing and thereafter except as to any issuance of to be maintained for at least 90 days prior to the expiration of such policies, furnish Lessor with evidence of renewal or "Insurance binders" evidencing renewal thereof, or Lessee may order such insurance 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 fails 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.

8.7 Indemnity. Except for Lessor's negligence or willful misconduct, Lessor shall indemnify, protect, defend and hold harmless the Premises, Lessee, Lessee's insurers, contractors, Lessor's insurers and Lenders, from and against any and all claims, loss of rents and/or damages, losses, judgments, penalties, attorneys' and consultant's fees, expenses and/or liabilities arising out of, involving, in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessor shall promptly and without expense to Lessor, defend such action or proceeding. Lessor's defense expense by careful and reasonable satisfactory to Lessor and Lessor shall cooperate with Lessor in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 Exemption of Lessor's Liability and Lessee's Indemnification. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable for any: (i) injury or damage to the premises, Lessee's personal property, Lessor's property or any other property of Lessor, Lessee's employees, contractors, invitees, customers, or any other person or in 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 breakdown, leakage, collision, explosion or occurrence of the heat shall or theイベント of any other perils or causes, or (ii) injury or damage arising from, or arising out of, mop-up, ventilation, HVAC or lighting fixtures, or other similar equipment, or (iii) injury or damage resulting from conditions arising upon the Premises or any other portions of the Building, or from any other sources or places, (i) any damages arising from any act or neglect of any tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (ii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessor's sole recourse in

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the event of such damages or injury to be a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 6.

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 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 months' Base Rent. Lessee 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 Damage" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which cannot be reasonably repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 months' Base Rent. 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 Losses" shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, 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.

9.2 Partial Damage - Insured Loss. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessee's expense, repair such damage only to the extent of the damage to Lessee Owned Alterations and Utility Installations as has been estimated by an expert, and this lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repairs and restoration the total cost to repair of which is $5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee for a reasonable basis for such repairs or restoration. Notwithstanding the foregoing, if the repairs or restoration were not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortages in proceed as and when required to complete such 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 available, Lessee shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessor provides Lessee with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request thereof. If Lessee receives said funds or adequate assurance thereof within said 10 day period, or after 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 repairs and restoration as is commercially reasonable with Lessee bearing any shortage in proceeds. In either case, this lease shall continue 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 Lessor 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 proceeds of any such insurance shall be made available for the repairs or 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 Premises Partial Damage shall be subject to Paragraph 9.3, and this lease shall continue in full force and effect), in which event Lessee shall notify Lessor 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 notice is tendered to Lessor of the Premises to terminate this lease, 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 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 Lessee'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 6 months' 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 written notice to Lessee within 30 days after the date of occurrence or damage. Notwithstanding the foregoing, if Lessor at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessor may preserve the Lease by: (a) exercising such option and (b) providing Lessee with such damage in insurance proceeds (or adequate assurance thereof) needed to make the repairs and restoration as soon as reasonably possible following the date which is 10 days after Lessee's receipt of Lessor's written notice to terminate this lease, lessee to remain in full force and effect, and the day prior to the date upon which such option expires. If Lessor does not exercise such option during such period and provides Lessee 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 Lessor 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 Lessor, 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 damage occurs, Lessor may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor to 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 Lessor 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. "Commercial" 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.
10.2 Payment of Taxes. Except as otherwise provided in Paragraph 10.3, Lessee shall pay the Real Property Taxes applicable to the Project, and all other Taxes and assessments, and shall be liable for and shall pay all costs and expenses incurred in the calculation of Operating Income and Operating Expenses under Paragraph 10.3.

10.3 Additional Payments. Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessors or by Lessor for the exclusive enjoyment of such other lessors. Notwithstanding Paragraphs 10.2 hereof, Lessee shall, however, pay to Lessor at the time Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request, or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the date of occupancy of the Lessor's interest in the Premises by the Parties.

10.4 Joint Assessment. If the Building is not separately assessed, Real Property Taxes allocated to the Building 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 determined by Lessor after consultation with the respective valuations and appraisals assigned to the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 Personal Property Taxes. Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utilities in accordance with Paragraphs 11.2 and 11.3. If it becomes necessary to have a Personal Property Tax return prepared and filed on the Premises, 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.


11.1 Services Provided by Lessor. Lessor shall provide heating, ventilation, air conditioning, reasonable amounts of electricity for normal lighting and office machines, water for reasonable and normal drinking and lavatory use in connection with an office, and replacement light bulbs and/or fluorescent tubes and ballasts for standard overhead fixtures. Lessor shall also provide janitorial services to the Premises and Common Area, for use 5 times per week, excluding building holidays, or pursuant to the attached janitorial schedule, if any. Lessor shall not, however, be required to provide janitorial services to kitchens or storage areas included within the Premises.

11.2 Services Exclusive to Lessee. Lessee shall pay for all water, gas, light, power, telephone and other utilities and services exclusively supplied and/or metered exclusively to the Premises or to Lessee, together with any taxes thereon. If a service is deleted by Paragraph 11.3 and such service is not separately metered to the Premises, Lessee shall pay at Lessor's option, either Lessee's Share of a reasonable proportion to be determined by Lessor of all charges for such jointly metered service.

11.3 Hours of Service. Said services and utilities shall be provided during times set forth in Paragraph 11.1. Utilities and services required at times other than those required for advance request and reimbursement by Lessee to Lessor of the cost thereof.

11.4 Excess Usage by Lessee. Lessee shall not make connection to any service or the utilities except in such manner as to prevent overuse and ensure Lessor and Lessor's agents, contractors and employees are not unduly burdened and not required to make more than their fair share of the services available for the Premises.

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 in 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 the occurrence of any 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(c), or a noncancellable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncancellable 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 be: (i) effective without the written express authorization by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) after the primary liability of Lessee for Taxes and 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 equivalent 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 and 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 therefore 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. Lessor agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 39.)

(f) No assignee, 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 hereof in the same manner and to the same extent as if such assignee or sublessee, 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.)

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee of any or all of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated herein: (a) Lessee shall assign all of its interest in and rights under this Lease and any assignment or subletting to Lessor and any subsequent assignee and/or sublessee, and Lessee shall be required to 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 amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall, 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 statement from Lessor stating that a Default 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.
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 to make any prepaid rents or security deposit refundable for any prior Defaults or Breaches of such sublessee.

(c) Any matter requiring the consent of the sublessee 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 Lessor for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default. 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 failure of Lessee to pay any amount 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 Lessor. 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.

(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 Lessor. 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 Lessor.

(d) The failure by Lessor to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the insurance policies and/or other required insurance, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material data safety 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 Lessor.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice to Lessee of such Default, provided, however, that if that Default is such that more than 30 days are reasonably not provided for to cure, then such Default shall not be deemed to be a Breach if Lessee cures such Default 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" under the bankruptcy statute thereof, unless, in the event of a filing of a petition against 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 the Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial process of substantially all of Lessee’s assets located at the Premises or of Lessee’s Interest in the Lease, including, but not limited to, such execution not being 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) If the occurrence of any of the events described in subparagraphs (d) through (f), above, where any such failure continues for a period of 30 days following written notice to Lessor.

(h) If the performance of Lessor’s obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of the 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 obligations in any respect.

(i) The failure of Lessor immediately to 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, and (ii) the excess of the amount of the award of the amount by which the unpaid rent 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 wages, salaries, and bonuses of all employees of Lessee employed by Lessee or on behalf of Lessee and paid by Lessee for any period of time during which the Lessee fails to perform its obligations under this Lease or which in the ordinary course of business would be reasonably incurred, (iv) all amounts which, if paid to the Lessor immediately prior to the expiration of the Lease, the value of which is not fixed or determinable or which equal the combined financial resources of Lessor 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 or 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 15% of the costs and liabilities 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 and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessor’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, and (ii) the excess of the amount of the award of the amount by which the unpaid rent 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, and (iv) any other amount which, if paid to the Lessor immediately prior to the expiration of the Lease, the value of which is not fixed or determinable or which equal the combined financial resources of Lessor and the Guarantors that existed at the time of execution of this Lease.

(b) To the extent of the use or occupation of the Premises and any improvements thereon, and any interest in the Term created thereby, Lessor shall have the right to recover from any proceeding in which any rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit.

(c) As hereunder, or to recover damages for rent and for any other breach of the covenants, terms, rights, or duties imposed by this Lease. The Lessor shall have the right to recover from any proceeding in which any rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit.

(d) To recover an award of such amount as the Lessor shall have determined in good faith to be the full and equitable amount of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Indemnity Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charges, Lessor’s or Guarantor’s costs or expenses or damages caused by the Breach or any default of either Lessor or Lessee under such Indemnity Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent care of said Breach by Lessor. The acceptance by Lessor of rent or the cure of the breach which initiated the operation of this paragraph shall not constitute a waiver of Lessor of the provisions of this paragraph unless written notice of such acceptance is given to Lessor or to any Guarantor, and such Indemnity Provision shall be worthless to Lessor due to such overture 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 as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payments, shall be charged interest from the 31st day after it was due as to non-scheduled payments. 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.

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 written demand by Tenant, or such longer time as may be reasonably required by Lessor to cure said breach, if then Lessor may elect to cure such breach at Lessor's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that if such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessor's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessor 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 rentable floor area of the Premises, or more than 25% of Lessor's Percentage Interest in the Parking Spaces, if any, are taken by Condemnation, Lessor may, at Lessor's option, to be exercised in writing within 10 days after Lessor shall have given Lessor 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 Lessor 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 Lessor shall be entitled to any compensation paid by the condemnor for Lessor'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 by Lessor, for purposes of Condemnation only, shall be removed by Lessor, at Lessor's expense, and the Premises shall be restored to their condition existing prior to the date of Condemnation. Lessor 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. If a separate brokerage fee agreement is attached then in addition to the payments owed pursuant to Paragraph 10.1 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessor exercises any Option, (b) if Lessor or anyone affiliated with Lessor acquires from Leasing or person or premises owned by Lessor and located within the Project, (c) if Lessor 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 schedule attached to such brokerage fee agreement.

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 11.0, 15.22 and 31. If Lessor fails to pay to Brokers any amounts due as to for brokerage fees pertaining to this Lease when due, such amounts shall accrue interest. In addition, Lessor shall pay to any amounts to Lessee's Broker when due. Lessee's Broker may send written notice to Lessee and Lessor of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessor shall pay said amounts to its Broker and offset such amounts against Rent. In addition, Lessee shall be deemed to be the third party beneficiary of any commissions generated in connection with the transaction, whether to or from the Broker paid for the limited purpose of collecting any brokerage fee owed.

15.3 Representations and Indemnities of Broker Relationships. Lessor and Lessee each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessor and Lessee 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 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 form similar to the then most current "Estoppel Certificate" form published by the AirCommercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party fails to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no unredressed 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.

(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 Lessor's financial statements for the past 3 years. All such financial statements shall be received by Lessee and such lender and shall be used only for purposes in connection with the purchase or refinancing in such transaction.

17. Definition of Lessee. The term "Lessee" 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 the lease to the prior lease or in the Premises, Lessee shall deliver to the transferor or assignee (in cash or by credit) any unused Security Deposit held by Lessee. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessee shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessee. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessee shall be binding only upon the Lessee as hereinafter defined.

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 Lessor shall look to the Project, 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 from Lessor's鳙ures, members, directors, officers or shareholders, any of the 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 that the Brokers that it has engaged has conducted an investigation as to the nature, quality and character of the Premises, and has no other than the Brokers is entitled to any commission or finder's fee in connection herewith. Lessor and Lessee 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 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.


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 registered mail or by courier, or may be sent by regular mail or U.S. Postal Service Express or overnight mail or registered mail or by facsimile transmission, 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 Lessor's taking possession of the Premises, Lessor shall have the right to change such address. 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.
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 provisions or restrictions 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 moneys or damages due Lessee, not otherwise due, to conform to the terms and conditions of this Lease, and shall not be deemed a waiver of the Default or Breach from which such payment is made.

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 be aware from the outset that 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 Broker 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. A fiduciary duty of utmost care, integrity, honesty, and loyalty in the dealings with either the Lessor or Lessee. b. 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 Lessee. 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 an 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 on behalf of a Lessee has the following affirmative obligations: To the Lessee: a. A fiduciary duty of utmost care, integrity, honesty, and loyalty in the dealings with either the Lessor or Lessee. b. A duty of exercising reasonable skills and care in performance of the agent’s duties. c. A duty of honest and fair dealing and good faith. d. 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 Lessee. 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) Agents Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licenses, can legally act on behalf of both the Lessor and the Lessee in a transaction, but only with the written consent and 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 the Lessor or Lessee. b. Other duties to the Lessor and the Lessee as stated in paragraphs (i) and (ii) above. In representing both Lessee and Lessor, the agent may not without the express consent of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of an agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. In addition, if the agent is acting for both Lessor and Lessee, the agent must act within the scope of the dual agency 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.

(b) The Parties agree to abide by the law in any transaction involving an breach of duty. Any omission or breach relating to this 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 proceedings 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. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing herein contained shall be construed to permit such holding over by Lessee, whereas upon this Lease and such Options shall be deemed to terminate prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

27. Subordination. This Lease and any Option granted hereby shall be subject and subordinate to 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 “Lenders”) 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 any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessor, whereby upon this Lease and such Options shall be deemed to terminate prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

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 by the Parties as a whole, as if both Parties had prepared this Lease.

29. Breach; 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.

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 any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessor, whereby upon this Lease and such Options shall be deemed to terminate 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, provisions of the Lessor shall, subject to the non-disturbance provisions of Paragraph 30.3, allot 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 Lessor and such new owner. (b) Lessor shall elect to terminate hereunder and such new owner shall assume all of Lessor’s obligations thereunder, 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 Lessor 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 the Lease, Lessor’s subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a “Non-Disturbance Agreement”) from the Lessor under which Non-Disturbance Agreement provides that Lessor shall not, within the term of this Lease, enter into any Option Agreement providing that Lessor shall not, within the term of this Lease, enter into any Option Agreement providing the Subordination, and if so provided, the Subordination Agreement shall be effective 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 hereinafter 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 defends the relief sought, whether such relief is characterized as a defense, a declaration of rights, an injunction, or the abandonment by the other Party or Broker of its claims or defenses. 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 or in connection with the enforcement of this Lease, or the termination thereof, 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 event of an emergency, and otherwise for reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lessors, tenants, or others, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the entry, using and maintaining all utilities, services, apps and conducting business through the Premises and/or other premises for as long as there is no material adverse effect on Lessor’s use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

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 or prohibit such conduct.

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. Lessor may not place any sign on the exterior of the Building that covers any of the windows of the Premises. Except for ordinary “For Sale” or “For Lease” signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project 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 thereof, 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 subtenances. Lessor’s failure within 10 days following any 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.** 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 attorneys’, engineers’, and other consultants’ fees incurred in the consideration of, or response to, a request by Lessor for any Lessor consent, including but not limited to costs to an assignment, a subleasing 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 Default exists, or that for 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 or appropriate with respect to the carrying out of the transaction being consummated, and in the event that any such condition is not complied with as to the making of the 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 Guarantor.** If any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association.

37.2 **Default.** It shall constitute a Default of the Lessee if 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 the board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Esop plan, (d) current certificate, or (e) written confirmation that the guaranty is still in effect.

38. **Occupancy.** 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 an 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; (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 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 thereof 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 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 Lessor commits a Breach of this Lease.

40. **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 and security of the Premises, Lessee, its agents and invitees and their property from the acts of third parties. In the event, however, that Lessor should elect to provide security services, then the cost thereof shall be an Operating Expense.

41. **Reservations.** (a) Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessor may also: change the name, address or title of the Building or Project upon at least 90 days prior written notice; provide and install, at Lessor’s expense, Building standard graphics on the door of the Premises and such portions of the Common Areas as Lessor shall reasonably deem appropriate, grant to any lessee the exclusive right to conduct any business as long as such exclusive right does not conflict with any rights expressly given herein; and to place such signs, notices or displays as Lessor reasonably deems necessary or advisable upon the roof, exterior of the Building or the Project or signs in the Common Areas. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights. The obligations hereinabove, as the Prevailing Party’s view, as to the use of appurtenant air, or light by any structure erected in the vicinity of the Building, whether by Lessor or third parties, shall in no way affect this Lease or impose any liability upon Lessor.

(b) Lessee also reserves the right to move Lessee to other space of comparable size in the Building or Project. Lessor must provide at least 45 days prior written notice of such move, and the new space must contain comparable equity to that contained within the Premises. Lessor shall pay the outstanding cost of moving expenses and necessary stationary relocation costs in no event, however, shall Lessee be required to pay an amount in excess of two months. Base Rent. Lessor and Lessee shall be responsible for utilities associated with said move more than once during the term of this Lease.

(c) Lessee shall not: (i) use a representation (photographic or otherwise) of the Building or Project or their name(s) in connection with Lessee’s business; (ii) suffer or permit anyone, except in emergencies, to go upon or into the Building.

42. **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 be made as a voluntary payment and they 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 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 institute suit for the recovery of sums paid “under protest” within 30 days of their receipt shall have waived its rights to protest such payment.

43. **Authority; Multiple Parties; Execution...\n
INITIALS FORM OFG-9-3/10E ©1999 - AIR COMMERCIAL REAL ESTATE ASSOCIATION PAGE 12 OF 14
(a) If either Party hereof is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents 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.

44. 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.

45. 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 hereof.

46. 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. Lessor agrees to make such reasonable nonmonetary modifications to this Lease as may be reasonably required by a Lessor in connection with the obtaining of normal financing or refinancing of the Premises.

47. 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 AGREEMENT.

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

49. Americans with Disabilities Act. Since compliance with the Americans with Disabilities Act (ADA) is 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 ADA compliance, 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 COMMERCIALLy REASONABLE and EFFECTUATE the INTENT and PURPOSE of LESSOR and LESSEE with RESPECT to the PREMISES.

ATTENTION: NO REPRESENTATION or RECOMMENDATION is MADE by the AIR COMMERCIAL REAL ESTATE ASSOCIATION 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 ADVISE 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 and SIZE of the PREMISES, the STRUCTURAL INTEGRITY, the CONDITION of the ROOF and OPERATING SYSTEMS, COMPLIANCE with the AMERICANS with DISABILITIES ACT 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: ________________________________
On: ________________________________

By LESSOR:

City of Fairfield

By: ________________________________
Name Printed: Sean Quinn
Title: City Manager

By: ________________________________
Name Printed: ________________________________
Title: ________________________________
Address: 1000 Webster Street
Fairfield, California 94533

Telephone: (707) 428-7461
Facsimile: ________________________________
Email: ________________________________
Federal ID No. ________________________________

LESSEE'S BROKER:

Colliers Parrish International, Inc.
dba Colliers International

Attn: Eric Dakin & Brooks Pedder
Address: 360 Campus Lane, Suite 101
Fairfield, California 94534

Telephone: (707) 863-0188
Facsimile: (707) 863-0181
Email: eric.dakin@colliers.com
Broker/Agent DRE License #: Eric Dakin-01816124 & Brooks Pedder-00902154

By LESSEE:

Balfour Beatty Infrastructure, Inc.

By: ________________________________
Name Printed: Bill Ogil
Title: VP-WE MANG

By: ________________________________
Name Printed: ________________________________
Title: ________________________________
Address: 19435 West Valley Highway
Kent, Washington 98032

Telephone: (425) 252-0153
Facsimile: ________________________________
Email: ________________________________
Email: ________________________________
Federal ID No. ________________________________

LESSEE'S BROKER:

McNeill Real Estate Services

Attn: Jose McNeill
Address: Fairfield, California 94534

Telephone: (916) 718-5659
Facsimile: ________________________________
Email: ________________________________
Email: ________________________________
Broker/Agent DRE License #: 01138862

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01999 - AIR COMMERCIAL REAL ESTATE ASSOCIATION
FORM OFG-9-310E

INITIALS

INITIALS
NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form. AIR Commercial Real Estate Association, 800 W 6th Street, Suite 800, Los Angeles, CA 90017. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616. ©Copyright 1999 By AIR Commercial Real Estate Association. All rights reserved. No part of these works may be reproduced in any form without permission in writing.
Addendum
To
Standard Multi-Tenant Office Lease-Gross

This Addendum to the Standard Multi-Tenant Office Lease – Gross (the “Addendum”) is attached to, made a part of, and incorporated into that certain Standard Multi-Tenant Office Lease – Gross (the “Standard Lease”) dated September 28, 2010 by and between the CITY OF FAIRFIELD (“Lessor”) as Lessor, and BALFOUR BEATTY INFRASTRUCTURE, INC. (“Lessee”) as Lessee, covering the premises known as 5050 Business Center Drive, City of Fairfield, County of Solano, State of California.

If any portion of the Standard Lease should conflict with the terms of Addendum, the terms of this Addendum shall control.

Defined terms not otherwise defined in this Addendum shall have the meanings ascribed to such terms in the Standard Lease.

All references to the “Lease” in the Standard Lease and Addendum shall mean, collectively the Standard Lease as modified by the Addendum.

50. Rent Schedule:

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</tr>
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<tr>
<td>49-60</td>
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<td>$11,765.15</td>
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</table>

51. Option to Renew:

51.1 Notice of Exercise: Lessee shall be granted one (1) option to renew the Primary Lease Term for one (1) additional and consecutive period of three (3) years (the “Extended Term”) upon the same terms and conditions as stated herein, except for minimum monthly Rent and the establishment of a new “base year” provided that Lessee is not then in default beyond any applicable notice and cure period of any of the provisions of this Lease. Failure to timely exercise the extension option hereunder shall cause the extension option to immediately become null and void. Lessee must exercise its right, if at all, by written notification (the “Notice of Exercise”) to Lessor not less than one hundred eighty (180) days prior to the Expiration Date.

51.2 Fair Market Rental: If Lessee exercises the right to extend the term, all of the terms and conditions of this Lease shall apply to the Extended Term except that the Base Year shall be the calendar year in which the Extended Term commences and the Base Rent shall be adjusted to the Fair Market Rental for the Premises as of the date of the commencement of such Extended Term, pursuant to the procedures hereinafter set forth. The term “Fair Market Rental” means the Base Rent chargeable for Premises based upon the following factors applicable to the Premises or any comparable premises.

a) Rental rates charged for comparable premises in Solano County.
b) The relative locations of the comparable premises.
c) Improvements or allowance provided for improvements, or to be provided.
d) Rental adjustments, if any, or rental concessions.
e) Services and utilities provided or to be provided.

f) Use limitations or restrictions.
51.3 Determination of Fair Market Rental: Upon exercise of the right to extend the term, and included within the Notice of Exercise, Lessor shall notify Lessee of its opinion of Fair Market Rental as above defined for the Extended Term. If the parties are unable to agree upon a Minimum Monthly Rent for the Extended Term within thirty (30) days after Lessor’s receipt of the Notice of Exercise then, within ten (10) days after the expiration of such 30 day period; either party at its own cost and expense and by giving notice to the other party in writing, may appoint a real estate appraiser who is a member of the Appraisal Institute, or Society of Real Estate Appraisers, or an equivalent professional organization, with at least five (5) years experience appraising properties devoted to the same general type of use (e.g. retail, office) as the Premises in the county in which the Premises are located ("Qualified Appraiser"), to set the Base Rent for the Extended Term. The terms “Base Rent” and “Fair Market Rental” as used in this article shall be interchangeable. If a party does not appoint a qualified Appraiser within ten (10) days after the first party has given notice of the name of a Qualified Appraiser, the single Qualified Appraiser, appointed shall be the sole appraiser and shall set the Base Rent for the Extended Term. If two (2) Qualified Appraisers are appointed by the parties, they shall meet promptly, on five (5) days’ notice to the parties, to take such evidence and other information as the parties may deem reasonable to submit to the Qualified Appraisers to be appointed by the parties. The Qualified Appraisers shall render their opinions of the Fair Market Rental of the Premises. If the higher of the two valuations is within ten percent (10%) of the lower valuation, the valuations shall be averaged and the average of the two shall be the Base Rent for the Extended Term. If only one appraisal is timely submitted, that appraisal shall constitute the Minimum Monthly Rent for the Extended Term. If the higher of the two valuations is greater than ten percent (10%) of the lower valuation, then the two Qualified Appraisers shall, within ten (10) days following the last date for submission of the two appraisals of Fair Market Rental, appoint a third Qualified Appraiser.

51.4 Decision of the Third Qualified Appraiser: The third Qualified Appraiser shall, within thirty (30) days after his appointment, state in writing his determination as to whether the Fair Market Rental stated by Lessor’s Qualified Appraiser or the Fair Market Rental stated by Lessee’s Qualified Appraiser, most closely approximates his own. The third Qualified Appraiser shall have the right to consult experts and competent authorities with factual information or evidence pertaining to a determination of Fair Market Rental, but any such consultation shall be made in the presence of both parties with full right to cross examine. The third Qualified Appraiser shall have no right to propose a middle ground or any modification of either of the proposed valuations. The decision of the third qualified Appraiser shall be final and binding upon the parties absent fraud or gross error, which decision shall be rendered in writing, with counterpart copies to each party. Judgment may be entered thereon in any court or competent jurisdiction.

51.5 Successor Appraiser / Fees and Expenses: In the event of failure, refusal, or inability of any Qualified Appraiser to act in a timely manner, a successor shall be appointed in the same manner as such Qualified Appraiser was first chosen hereunder. The fees and expenses of the third Qualified Appraiser shall be divided equally between the parties. Each party shall bear its own attorney’s fees and other expenses including fees of witnesses in presenting evidence, and the fees and cost of its own Qualified Appraiser.

52. Signage:
Lessee, at Lessee’s sole cost and expense, shall be permitted building standard signage. Any and all signage is subject to Lessor’s review and approval.

53. Lessee Improvement Allowance:
Lessor shall provide up to $295,800.00 Lessee Improvement Allowance in accordance with the provisions of this section. Space plan, design, and all finishes to be mutually approved by Lessee and Lessor and will be performed in a workmanlike manner as outlined in Exhibit B (Lessee Work Letter) attached hereto and made a part hereof. Said improvements shall include, but not be limited to, fees for permitting, space planning / architectural, construction costs, and contractor’s overhead and profit. Lessor shall pay said Allowance to Lessee upon (1) completion of Lessee Improvements, (2) issuance of a Certificate of Occupancy, and (3) receipt of release of any and all liens from any and all contractors.
54. Prevailing Wages:
Lessee shall comply with the requirements of California Labor Code 1771 for the payment of prevailing wages on all work for which Lessee receives reimbursement from the Lessee Improvement Allowance provided for in Section 53 above. Lessee shall submit copies of certified payrolls and supporting documentation reasonably requested by Lessor with respect to the payment of such prevailing wages. In addition, Lessor shall have the right to audit the records of Lessee and its contractor, and to interview employees of contractor or subcontractors, to verify payment of prevailing wages.

55. Supplementary Lessee Improvement Costs:
Lessee, at Lessee’s sole cost and expense, shall responsible for any and all Lessee improvement costs that exceed $295,800.00.

56. Lessee Improvements:
Lessee shall perform and manage Lessee Improvement construction.

57. No Discrimination:
Lessee, its employees and agents, shall not discriminate against any person because of race, age, religion, color, ancestry, sex, disability, marital status, sexual orientation or national origin in the use of the Premises.

58. No Relocation Benefits:
Lessee shall not be entitled to relocation benefits under the Uniform Relocation Act or any similar statute or ordinance due to the expiration or earlier termination of this Lease in accordance with its terms.

59. Lessor Default:
Lessor shall be considered to be in default of this Lease if it breaches any of its responsibilities under this Lease. In the event of such a default, Lessee shall be entitled to any remedies available to it under the law or in equity.

60. Lessee’s Obligations Personal:
The obligations of Lessee under this Lease shall not constitute personal obligations of Lessee or its partners, members, directors, officers or shareholders, and Lessor shall not seek recourse against Lessee’s partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

61. Lessor’s Obligations as Covenants and Conditions:
All provisions of this Lease to be observed or performed by Lessor are both covenants and conditions.

62. Lessee’s Waiver:
No waiver by Lessee of the default or breach of any term, covenant or condition hereof by Lessor shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent default or breach by Lessor of the same or of any other term, covenant or condition hereof.

**LESSOR:** City of Fairfield

**LESSEE:** Balfour Beatty Infrastructure, Inc.

By: ______________________________  By: ______________________________
Name: Sean Quinn  Name: Bill Ogle
Title: City Manager  Title: C.P. VP- MANAGED
Date: ______________________________  Date: 05 NOVEMBER-2010
EXHIBIT B

LESSEE WORK LETTER

This Lessee Work Letter is attached to and forms a part of the Lease dated as of September 28, 2010 (the "Lease"), by and among the CITY OF FAIRMOUNT ("Lessor"), and BALFOUR BEATTY INFRASTRUCTURE, INC. ("Lessee") pertaining to that certain premises located at 5050 Business Center Drive, Fairfield, California. Except where clearly inconsistent or inapplicable, the provisions of the Lease are incorporated into this Lessee Work Letter shall have the meanings given them in the Lease.

The purpose of this Lessee Work Letter is to set forth the respective responsibilities of Lessor and Lessee with respect to the design and construction of the Building and all alterations, additions and improvements which Lessee may deem necessary or appropriate to prepare the Premises for occupancy by Lessee under the Lease.

Lessor and Lessee agree as follows:

1. **Definitions.** Wherever used in the Lease or this Lessee Work Letter, the following terms are defined as follows:

   1.1 "Lessee Improvements" means the alterations, additions and improvements which Lessee may deem necessary or appropriate to prepare the Premises for occupancy by Lessee under the Lease.

   1.2 "Lessor's Work" None

   1.3 "Lessee Improvement Work" means the work of constructing the Lessee Improvements.

2. **Delivery of Premises.**

   2.1 **Lessee Early Entry.** On reasonable prior notice, Lessor will permit Lessee and Lessee's agents (as defined below) to enter the Premises from time to time as may be reasonably necessary or appropriate. Lessee shall indemnify, protect, defend and hold Lessor and the other Indemnitees harmless from and against any and all claims, losses, liability, damages, costs or expenses (including, without limitation, attorneys' fees and costs) suffered or incurred by the Indemnified Parties arising from such entry.

3. **Design and Approval of the Lessee Improvements.**

   3.1 **Selection of Lessee's Architect/Construction Drawings.**

      (a) Lessee shall retain an architect/design professional ("Lessee's Architect") to prepare the Construction Drawings. Lessee's Architect shall be subject to the written approval of Lessor, which approval will not be unreasonably withheld, conditioned or delayed; provided however, Lessor approves Lessee's Architect. Lessee shall retain engineering consultants (the "Engineers") approved by Lessor, which approval will not be unreasonably withheld, conditioned or delayed to prepare all plans and engineering working drawings relating to the structural, mechanical, electrical, plumbing, HVAC, life safety, and sprinkler work of the Lessee Improvements. The plans and drawings to be prepared by Lessee's Architect and the Engineers hereunder shall be known collectively as the "Construction Drawings".

      (b) All Construction Drawings shall be subject to Lessor's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Lessor's sole interest in reviewing and approving the Construction Drawings is to protect the Building and Lessor's interests, and no such review or approval by Lessor shall be deemed to create any liability of any kind on the part of Lessor, or constitute a representation on the part of Lessor or any person consulted by Lessor in connection with such review and approval that the Construction Drawings are correct or accurate, or are in compliance with any applicable Laws. Prior to execution of the Lease, Lessor has supplied Lessee with a set of drawings of the Building which Lessee may use in connection with the preparation of the Construction Drawings, but Lessee agrees that Lessor shall have no liability for the completeness or accuracy of such drawings.

   3.2 **Space Plans.** Prior to drafting any Construction Drawings, Lessee shall furnish Lessor with Lessee's final space plans for the Premises ("Space Plans"). The Space Plans shall show locations of all proposed improvements, including partitions,
cabinetry, equipment and fixtures, shall indemnify materials and finishes by location, and shall specify the location of any proposed structural floor penetrations, any special HVAC requirements, the location and description of any special plumbing requirements, and any special electrical requirements. In addition, the Space Plans shall show telephone and telecommunications facilities, and computer and electronic data facilities. Lessor shall approve or disapprove the Space Plans by written notice given to Lessee within ten (10) business days after receipt of the Space Plans. Lessor shall not unreasonably withhold or condition its approval of the Space Plans. If Lessor disapproves the Space Plans, Lessor shall return the Space Plans to Lessee with a statement of Lessor's reasons for disapproval, or specifying any required corrections and/or revisions. Lessor shall approve or disapprove of any revisions to the Space Plans by written notice given to Lessee within ten (10) business days after receipt of such revisions. This Procedure shall be repeated until Lessor approves the Space Plans.

3.3 Final Working Drawings. Following Lessor's approval of the Space Plans, Lessee shall cause Lessee's Architect and the Engineers to prepare and submit for Lessor's approval complete and detailed construction plans and specifications, including a fully coordinated set of architectural, structural, mechanical, fire protection, electrical and plumbing working drawings for the Lessee Improvement Work, in a form which is sufficiently complete to permit subcontractors to bid on the work, obtain all required Permits (as hereinafter defined) and commence construction (the "Final Working Drawings"). Lessee shall furnish Lessor with four (4) copies signed by Lessee of such Final Work Drawings. Lessor shall approve or disapprove of the final Working Drawings by giving written notice to Lessee within ten (10) business days after receipt thereof. Lessor shall not unreasonably withhold, condition or delay its approval of the Final Working Drawings, provided that, without limiting the generality of the foregoing, Lessor shall be entitled to withhold its consent to the Final Working Drawings if in Lessor's good faith judgment, the Final Working Drawings are inconsistent with, or do not conform to, the Space Plans. If Lessor disapproves the Final Working Drawings, Lessor shall return the Final Work Drawings to Lessee with a statement of Lessor's reasons for disapproval and/or specifying any required corrections or revisions. Lessor shall approve or disapprove of any such revisions to the Final Working Drawings within ten (10) business days after receipt of such revisions. This Procedure shall be repeated until Lessor approves the Final Working Drawings (as so approved, the "Approved Working Drawings").


4.1 Contracts with Lessee's Contractor and Subcontractors.

(a) Lessee shall retain a licensed general contractor as the contractor for the construction of the Lessee Improvements. Lessee's Contractor must be experienced in the performance of work comparable to the work of the Lessee Improvements in buildings comparable to the Building, and shall be subject to Lessor's prior approval, which approval shall not be unreasonably withheld, conditioned, or delayed. All subcontractors, laborers, material men and suppliers used by Lessee (such subcontractors, laborers, material men and suppliers, together with Lessee's Contractor, are collectively referred to herein as "Lessee's Agents") must be approved in writing by Lessor, which approval shall not be unreasonably be withheld, conditioned or delayed.

(b) Lessee shall furnish Lessor with true and correct copies of all construction contracts between or among Lessee, Lessee's Contractor and all subcontractors relating to the Lessee Improvement Work, provided that Lessor's review of such contracts shall not relieve Lessee from its obligations under this Lessee Work Letter nor shall such review be deemed to constitute Lessor's representation that such contracts comply with the requirements of this Lessee Work Letter. All such contracts shall expressly provide that (i) the work to be performed thereunder shall be subject to the terms and conditions of this Lessee Work Letter, and (ii) the Lessee Improvement Work (or in the case of a subcontractor, the portion thereof performed by such subcontractor) shall be warranted in writing to Lessee and Lessor to be free from any defects in workmanship and materials for a period of not less than one (1) year from the date of completion of the Lessee Improvement Work. Lessee agrees to give to Lessor any assignment or other assurances which may be necessary to permit Lessor to directly enforce such warranties (such warranties shall include, without additional charge, the repair of any portion of the Building or Common Areas which may be damaged as a result of the removal or replacement of the defective Lessee Improvements). Lessee shall cause Lessee's Agents to engage only labor that is harmonious and compatible with other labor
working in the Building. In the event of any labor disturbance caused by persons employed by Lessee or Lessee's contractor, Lessee shall immediately take all actions necessary to eliminate such disturbance. If at any time any of Lessee's Agents interferes with any other occupant of the Building, or performs any work which may or does impair quality, integrity or performance of any portion of the Building, including any building systems, Lessee shall cause such subcontractor, laborer, material man or supplier to leave the Building and remove all tools, equipment and materials immediately upon written notice delivered to Lessee, and, without limiting Lessee's indemnity obligations set forth in Section 11 of the Lease, Lessee shall reimburse Lessor for all costs, expenses, losses or damages incurred or suffered by Lessor resulting from acts of omission of Lessee's Agents in or about the Building.

4.2 Permits. Lessee shall obtain all building permits and other permits, authorizations and approvals which may be required in connection with, or to satisfy all applicable Laws applicable to, the construction of the Lessee Improvements in accordance with the Approved Working Drawings (the "Permits"). Lessee agrees that neither Lessor nor Lessor's consultants shall be responsible for obtaining any Permits or the certificate of occupancy for the Premises, and that obtaining the same shall be the Lessee's sole responsibility; provided, however, that Lessor will cooperate with Lessee in executing permit applications and performing other ministerial acts reasonably necessary to enable Lessee to obtain any such Permit or certificate of occupancy. Any amendments or revisions to the Approved Working Drawings that may be required by city officials or inspectors to comply with code rulings or interpretations, shall be prepared by Lessee's Architect, at Lessee's expense, and submitted to Lessor for Lessor's review and approval as a Change Order under Section 6 below. If Lessor disapproves of such amendments or revisions, Lessor shall return the same to Lessee with a statement of Lessor's reasons for disapproval, or specifying any required corrections. This procedure shall be repeated until Lessor approves the amendments or revisions and all Permits have been obtained for the Approved Working Drawings, as so amended.

4.3 Commencement of Work. At least ten (10) days prior to the commencement of construction of the Lessee Improvements, or the delivery of any construction materials for the Lessee Improvement Work of the Building, whichever is earlier, Lessee shall submit to Lessor a notice specifying the date Lessee will commence construction of the Lessee Improvements, the estimated date of completion of the Lessee improvements and the construction schedule provided by Lessee's Contractor. In addition, prior to the commencement of construction of the Lessee Improvements, or the delivery of any construction materials for the Lessee Improvement Work to the Building, whichever is earlier, Lessee shall submit to Lessor the following: (a) all Permits required to commence construction of the Lessee Improvements; (b) a certificate from Lessee stating the costs which have theretofore been incurred in connection with the design and construction of the Lessee Improvements, which costs of construction form a basis for the amount of the construction contract; and (c) original certificates of insurance policies obtained pursuant to this Lessee Work Letter, together with any endorsements referred to in Section 4.4 below, confirming to Lessor's reasonable satisfaction compliance with the insurance requirements of this Lessee Work Letter.

4.4 Performance of Work.

(a) Lessee shall be permitted to enter the Premises for the sole purpose of constructing the Lessee improvements, provided that Lessee's occupancy of the Premises prior to the Commencement Date shall be subject to all the terms, covenants and conditions of the Lease (including, without limitation, Lessee's under Section 11 (regarding Lessee's indemnity obligations). Notwithstanding any provisions of the Lease to the contrary, Lessee shall pay for all utility and other costs incurred by Lessor to the extent they relate to Lessee's work prior to Commencement Date. Further, if Lessee occupies any part of the Premises prior to the Commencement Date for purposes of doing business (as opposed to constructing the Initial Improvements), then Lessee shall pay Base Rent and Lessee's Proportionate Share of Operating Expenses and Real Property Taxes at the rate of the first Lease Year prorated for any partial month.

(b) Without limiting the provisions of Section 4.4 (a) above, all work performed by Lessee's Contractor shall strictly conform to the Approved Working Drawings, shall comply with all applicable Laws (including building codes) and all applicable standards of the American Insurance Association and the National Electrical Code and all building material manufacturer's specifications, shall comply with all reasonable non-arbitrary rules and regulations from time to time adopted by Lessor to govern construction in or about the Building, and shall be performed in a good and professional manner and so as not to interfere with the performance of any other work
within the Building, or with Lessor's maintenance or operation of the Building. At all times during construction of the Lessee Improvements, Lessor and Lessor's employees and agents shall deliver notice to Lessee at least two (2) business days prior to Lessor's closing-up of any Lessee Improvement Work affecting the life safety, telecommunications, heating, ventilation and air conditioning, plumbing, electrical or other building systems in the Premises, in order to give Lessor or Lessor's agents an opportunity to inspect and approve the same. No inspection or approval of Lessor of any such work shall constitute an endorsement thereof with any applicable Laws, and Lessee shall be fully responsible and liable therefore. Lessee shall reimburse Lessor for the cost of any repairs, corrections or restoration which must be made, in Lessor's good faith judgement, to the Premises or any other portion of the Building, if caused by Lessee's Contractor or any other of Lessee's Agents.

4.5 Outside Opening Date. Lessee agrees to complete the Lessee Improvement Work and open for business in the Premises on or before the Outside Opening Date.

4.6 Insurance. At all times during the construction of the Lessee Improvements, in addition to the insurance required to be maintained by Lessee under the Lease, Lessee shall require all of Lessee's Agents to maintain (i) Commercial General Liability Insurance with limits of not less than $2,000,000.00 combined single limit for bodily injury and property damage, including personal injury and death, and Products and Completed Operations Coverage; (ii) Comprehensive automobile liability insurance with a policy limit of not less than $1,000,000.00 each accident for bodily injury and property damage, providing coverage at least as broad as the Insurance Services Office (ISO) Business Auto Coverage from covering Automobile Liability, code 1 "any auto", and insuring against all loss in connection with the ownership, maintenance and operation of automobile equipment that is owned, hired or non-owned; (iii) Worker's Compensation with statutory limits and Employer's Liability insurance with limits not less than $100,000.00 per accident, $500,000.00 aggregate disease coverage and $100,000.00 disease coverage per employee. In addition, Lessee shall carry "Builder's Risk" insurance on a replacement cost, agreed value basis, in an amount equal to at least the initial sum of the construction contract(s) for the construction of the Lessee Improvements, and shall include loss or damage to the work of Lessor's Contractor and any subcontractors (the amount of this insurance to be adjusted as needed to reflect any subsequent material changes), it being understood and agreed that the Lessee Improvements shall be insured by Tenant pursuant to Section 9 of the Lease immediately upon completion thereof. Lessee's liability insurance shall be written on an "occurrence" basis and shall name Lessor and Lessor's Mortgagee(s) as additional insureds (by endorsement reasonably acceptable to Lessor). The "Builder's Risk" insurance shall name Lessor and such other parties as Lessor may reasonably specify as the loss payee(s), as their interest may appear, with respect to all proceeds received therefrom. All of the insurance required to be carried by Lessee hereunder shall provide that Lessor shall receive thirty (30) days' written notice from the insurer prior to any cancellation or material reduction of coverage, and shall be placed with companies which are rated A:VII or better by Best's Insurance Guide and licensed to business in the State of California. All deductibles and self-insured retentions under Lessee's policies are subject to Lessor's reasonable approval, and all insurance, except Worker's Compensation, maintained by Lessee's Agents shall preclude subrogation claims by the insurer against anyone insured thereunder. Lessee's compliance with the provisions of this Section shall in no way limit Lessee's liability under any of the other provisions of the Lease.

4.7 Liens. Lessee shall keep the Premises and the Building free from any liens arising out of work performed, materials furnished or obligations incurred by Lessee; provided, however, Lessee shall have the right, at its sole cost and expense, to contest in good faith any such mechanics' or other liens so long as Lessee has posted a release bond in an amount equal to one hundred fifty percent (150%) of the amount of the lien and otherwise in accordance with applicable Laws. Should Lessee fail to remove such lien (or record a bond as provided above) within five (5) business days after notice to do so from Lessor, Lessor may, in addition to any other remedies, record a bond pursuant to California Civil Code Section 3143 and all costs and obligations incurred by Lessor in so doing shall immediately become due and payable by Lessee to Lessor as additional rent under the Lease. Lessor shall have the right to post and keep posted on the Premises any notices that may be required or permitted by applicable Laws, or which Lessor may deem to be proper, for the protection of Lessor and the Building from such liens. Promptly following completion of construction, Lessee shall provide Lessor a copy of a final unconditional lien release from Lessee's Contractor and each of Lessee's Agents who performed work or supplied materials for the Lessee Improvements. Upon completion of
construction, Lessee shall promptly record a Notice of Completion in accordance with California Civil Code Section 3093 and provide a copy thereof to Lessor.

4.8 Completion of Lessee Improvement Construction. For purposes of this Lease, "Completion of Lessee Improvements" shall mean the date the Lessee Improvements are completed in accordance with the plans and specifications therefore, except for punch list items that do not materially interfere with Lessee's intended use of the Premises and a Certificate of Occupancy permitting the occupancy of the Premises for the conduct of Lessee's business shall be issued for the Premises by the municipality having jurisdiction over the Premises.

5. Responsibility for Design and Construction Costs. Lessee Improvement Work shall be performed by Lessee at Lessee's sole cost and expense.

6. Change Orders. Lessor will not unreasonably withhold its approval of (a) any request by Lessee, or by Lessee's Contractor with Lessee's approval, to amend or change the Approved Working Drawings, or (b) any change or amendment to the Approved Working Drawings that may be necessary to obtain any Permits, or which may be required by city officials or inspectors to comply with code rulings or interpretations (any of the foregoing, a "Change Order"). No material changes or modifications to the Approved Working Drawings shall be made unless by written Change Order signed by Lessor and Lessee. Lessee shall pay all costs attributed to Change Orders, including reasonable costs incurred by Lessor in reviewing proposed Change Orders. Lessor agrees to respond to any request for approval for a Change Order within three (3) business days following Lessor's receipt of such request.

7. Ownership of Lessee Improvements. The Lessee improvements shall be deemed, effective upon installation, to be a part of the Premises and the Building and shall be deemed to be the property of Lessor (subject to Lessee's right to use the same during the Term of the Lease), and shall be surrendered at the expiration or earlier termination of the Term, unless Lessor shall have conditioned its approval of the Final Working Drawings or any Change Order on Lessee's agreement to remove any items thereof, in which event, prior to the expiration or termination of the Term, the specified items shall be removed at Lessee's expense, any damage caused by such removal shall be repaired, and the Premises shall be restored to their condition existing prior to the installation of the items in question, normal wear and tear excepted. The removal, repair and restoration described above shall, at Lessor's sole election, be performed either by Lessee or by Lessor; and if such work shall be performed by Lessor, Lessee shall pay to Lessor, within twenty (20) days following Lessor's demand, the reasonable cost and expense of such work.

8. Prevailing Wages. Prevailing Wages for Work Reimbursed by the Lessee Improvement Allowance. Lessee shall comply with the requirements of California Labor Code 1771 for the payment of prevailing wages on any portion of the Lessee Improvements for which Lessee receives reimbursement from the Lessee Improvement Allowance, in accordance with Sections 53 and 54 of the Lease Addendum.
EXHIBIT C

Rules and Regulations

[Attached]
RULES AND REGULATIONS FOR
STANDARD OFFICE LEASE

Dated: September 28, 2010

By and Between City of Fairfield ("Lessor") & Balfour Beatty Infrastructure, Inc. ("Lessee")

GENERAL RULES

1. Lessee shall not suffer or permit the obstruction of any Common Areas, including driveways, walkways and stairways.
2. Lessor reserves the right to refuse access to any persons Lessor in good faith judges to be a threat to the safety and reputation of the Project and its occupants.
3. Lessor shall not make or permit any noise or odors that annoy or interfere with other lessees or persons having business within the Project.
4. Lessee shall not keep animals or birds within the Project, and shall not bring bicycles, motorcycles or other vehicles into areas not designated as authorized for same.
5. Lessee shall not make, suffer or permit any noise, odors that annoy or interfere with other lessees or persons having business within the Project.
6. Lessee shall not alter any lock or install new or additional locks or bolts.
7. Lessee shall be responsible for the appropriate use of any toilet rooms, plumbing or other utilities. No foreign substances of any kind are to be inserted therein.
8. Lessee shall not deface the walls, partitions or other surfaces of the Premises or Project.
9. Lessee shall not suffer or permit anything in or around the Premises or Building that causes excessive vibration or floor loading in any part of the Project.
10. Furniture, significant freight and equipment shall be moved into or out of the building only with the Lessor's knowledge and consent, and subject to such reasonable limitations, techniques and timing, as may be designated by Lessor. Lessor shall be responsible for any damage to the Office Building Project arising from any such activity.
11. Lessee shall not employ any service or contractor for services or work to be performed in the Building, except as approved by Lessor.
12. Lessor reserves the right to close and lock the Building on Saturdays, Sundays and Building Holidays, and on other days between the hours of P.M. and A.M. of the following day. If Lessee uses the Premises during such periods, Lessee shall be responsible for securing locking any doors it may have opened for entry.
13. Lessee shall return all keys at the termination of its tenancy and shall be responsible for the cost of replacing any keys that are lost.
14. No window coverings, shades or awnings shall be installed or used by Lessee.
15. No Lessee, employee or invitee shall go upon the roof of the Building.
16. Lessee shall not suffer or permit smoking or carrying of lighted cigars or cigarettes in areas reasonably designated by Lessor or by applicable governmental agencies as non-smoking areas.
17. Lessee shall not use any method of heating or air conditioning other than as provided by Lessor.
18. Lessee shall not install, maintain or operate any vending machines upon the Premises without Lessor's written consent.
19. The Premises shall not be used for lodging or manufacturing, cooking or food preparation.
20. Lessee shall comply with all safety, fire protection and evacuation regulations established by Lessor or any applicable governmental agency.
21. Lessee reserves the right to waive any one of these rules or regulations, and/or as to any particular Lessee, and any such waiver shall not constitute a waiver of any other rule or regulation or any subsequent application thereof to such Lessee.
22. Lessee assumes all risks from theft or vandalism and agrees to keep its Premises locked as may be required.
23. Lessee reserves the right to make such other reasonable rules and regulations as it may from time to time deem necessary for the proper operation and safety of the Project and its occupants. Lessee agrees to abide by these and such rules and regulations.

PARKING RULES

1. Parking areas shall be used only for parking by vehicles no longer than full size, passenger automobiles herein called "Permitted Size Vehicles." Vehicles other than Permitted Size Vehicles are herein referred to as "Oversized Vehicles."
2. Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.
3. Parking identification devices shall be the property of Lessor and be returned to Lessor by the holder thereof upon termination of the holder's parking privileges. Lessee will pay such replacement charge as is reasonably established by Lessor for the loss of such devices.
4. Lessee reserves the right to refuse the sale of monthly identification devices to any person or entity that willfully refuses to comply with the applicable rules, regulations, laws and/or agreements.
5. Lessee reserves the right to relocate all or a part of parking spaces from floor to floor, within one floor, and/or to reasonably adjacent offsite location(s), and to reasonably allocate them between compact and standard size spaces, as long as the same complies with applicable laws, ordinances and regulations.
6. Users of the parking area will obey all posted signs and park only in the areas designated for vehicle parking.
7. Unless otherwise instructed, every person using the parking area is required to park and lock his own vehicle. Lessor will not be responsible for any damage to vehicles, injury to persons or loss of property, all of which risks are assumed by the party using the parking area.
8. Validation, if established, will be permissible only by such method or methods as Lessor and/or its licensee may establish at rates generally applicable to visitor parking.
9. The maintenance, washing, waxing or cleaning of vehicles in the parking structure or Common Areas is prohibited.
10. Lessee shall be responsible for seeing that all of its employees, agents and invitees comply with the applicable parking rules, regulations, laws and agreements.
11. Lessee reserves the right to modify these rules and/or adopt such other reasonable and non-discriminatory rules and regulations as it may deem necessary for the proper operation of the parking area.
12. Such parking use as herein provided is intended merely as a license only and no bailment is intended or shall be created hereby.

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current forms: AIR Commercial Real Estate Association, 800 W 6th Street, Suite 800, Los Angeles, CA 90017.

Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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FORM OF-1-999E