

April 13, 1994
Exbldgblm

Introduced by:

PETE VON REICHBAUER
RON SIMS

Proposed No.: 94-196

11477

ORDINANCE NO. _____

1
2 AN ORDINANCE authorizing the executive to
3 enter into a multi-year agreement for
4 office space for the Department of
5 Metropolitan Services located in council
6 district no. 5.

7 PREAMBLE:

8 In accordance with the provisions of Section 21(D) of
9 Ordinance No. 11032 and K.C.C. 4.04.040, the
10 Metropolitan King County council may adopt an
11 ordinance permitting the county to enter into lease
12 agreements requiring the payment of funds from the
13 appropriations of subsequent fiscal years.

14 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

15 SECTION 1. The King County executive is hereby authorized
16 to execute a six (6) year lease for the department of
17 metropolitan services at the Exchange Building located at 821
18 Second Avenue, Seattle, Washington, in council district 5, for
19 approximately 225,118 rentable square feet of improved space
20 and approximately 4,893 square feet of storage space. Such
21 lease shall be in substantially the form of the attached
22 proposed agreement, and shall include financial terms at least
23 as favorable to King County as those found therein. Under the
24 terms of the lease, the landlord will provide a tenant
25 reconditioning and capital improvement allowance totaling
26 \$952,230. The annual rental rate established by the lease is
27 \$12.95 per rentable square foot for the term of the lease. The
28 annual rental rate for storage space is set by the lease at
29 \$6.00 per rentable square foot for the term of the lease. The
30 lease also includes an option to renew for an additional term
31 of five (5) years beginning January 1, 2000 at a rental rate
32 equal to ninety-five percent (95%) of fair market rent net to
33 the landlord as defined by the lease. The execution of this

1 lease agreement was previously authorized by the Municipality
2 of Metropolitan Seattle ("Metro") Resolution No. 6704, adopted
3 November 18, 1993.

4 INTRODUCED AND READ for the first time this 11th day
5 of April, 1994.

6 PASSED this 12th day of September, 1994.

7 KING COUNTY COUNCIL
8 KING COUNTY, WASHINGTON

9 Passed by a vote of 11-0.

Kent Pullen
Chair

11 ATTEST:

12 Gerald A. Peterson
13 Clerk of the Council

14 APPROVED this September day of 21st, 1994

Ray Lohr
King County Executive

17 Attachments: Office Lease Agreement

OFFICE LEASE AGREEMENT**LEASE SUMMARY****Section 1.01 The Building**

- (a) Name: Exchange Building
- (b) Address: 821 Second Avenue, Seattle, Washington 98104
- (c) Total Rentable Area of Building: 282,271 square feet
- (d) Total Rentable Area of Office Tower: 270,213 square feet

The Premises

- (a) Metro Total Rentable Area: 225,118 square feet
- (b) Floor Location: 1-13, 15, 17, 18 (Exhibit A-1)
Plus 4,893 square feet of storage in the basement and on the first floor of the building (Exhibit A-2)

Section 2.01 Use of Premises and Tenant's Trade Name

- (a) Tenant's Trade Name: Metro, after January 1, 1994, King County Department of Metropolitan Services
- (b) Use of Premises: General office, including Computer Network, Metro Sales on Fourth Floor, Print Shop, Transit Radio Control Center, and Equipment Support.

Section 3.01 Lease Term

- (a) Lease Commencement Date: January 1, 1994
- (b) Expiration Date: December 31, 1999
- (c) Option to Renew, one 5-year renewal period beginning January 1, 2000 through December 31, 2004

Section 4.01 Base Rent**(a) Annual Rent**

The annual rent paid by Metro on a fully serviced ("gross") Lease basis for the Premises shall be at the rate of \$12.95 per rentable square foot for the term of the Lease. Annual rent for storage space shall be at the rate of \$6.00 per rentable square foot for the term of the Lease.

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(b) Monthly Rental Installments

Office:	\$242,939.84
Storage:	2,446.50
Over standard electrical charge:	<u>7,124.00</u>
TOTAL:	\$252,510.34

Section 4.02 Operating Expenses

- (a) Tenant's Proportionate Share: 83.3% of total rentable area of Building
- (b) Base Year: Calendar Year 1994

Section 5.01 Addresses for Notices

(a) Landlord:

Seaboard Associates
821 Second Avenue
Suite 2200
Seattle, Washington 98104
Attention: John Donoghue
Phone: 223-9452

(b) Tenant

King County Department of
Metropolitan Services
Exchange Building
Third Floor
821 Second Avenue
Seattle, WA 98104
Attention: Manager, Administrative Services

Section 6.01 Tenant, Recondition and Capital Improvements Allowance

A.	\$600,000	General tenant improvement allowance
	<u>\$147,230</u>	Tenant improvement allowance for seventeenth floor
	\$747,230	Subtotal
		Capital Improvements: See Exhibit C.
B.	<u>\$ 35,000</u>	Recondition allowance for 1997, 1998 and 1999
	\$105,000	Subtotal
C.	<u>\$100,000</u>	Electrical upgrading allowance - Tenant's allowance to upgrade
	\$952,230	TOTAL

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AND LANDLORD'S AND TENANT'S WORK 1

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OFFICE LEASE AGREEMENT

THIS OFFICE LEASE (the "Lease") is made as of December 31, 1993, by and between Seaboard Associates, a Washington limited partnership (hereinafter referred to as "Landlord"), and Municipality of Metropolitan Seattle, a metropolitan municipal corporation of the State of Washington (herein referred to as "Tenant" or "Metro"). On January 1, 1994, the Municipality became a department of King County, known as the King County Department of Metropolitan Services. After January 1, 1994 "Tenant" is King County. All debts incurred hereunder will be paid by King County.

ARTICLE I**PREMISES**

Section 1.1 Premises Defined. Landlord hereby Leases to Tenant, and Tenant hereby leases from Landlord, upon the terms and conditions hereinafter set forth, those certain premises and improvements consisting of the floor area and the location within the Exchange Building described in the Lease Summary and shown outlined in red on the plans attached hereto as Exhibit A (hereinafter the "Premises"). The Premises are located in the Exchange Building (the "Building") which is situated in the City of Seattle, County of King, State of Washington and located upon the real property legally described in Exhibit B attached hereto and by this reference incorporated herein (the "Property").

Section 1.2 Condition of Premises. The Premises are leased by Landlord and accepted by Tenant in an "as is" condition, subject to any improvements, alterations or modifications. Landlord is required to complete the improvements specified in Exhibit C hereto.

Section 1.3 Common Areas. So long as Tenant occupies the Premises under the terms of this Lease, Tenant, its licensees, invitees, customers and employees shall have the non-exclusive right to use all entrances, lobbies, and other public areas of the Building (the "Common Areas") in common with the Landlord, other Building tenants and their respective licensees, invitees, customers and employees. The use of the Common Areas shall be subject to the terms and conditions of this Lease.

ARTICLE II**BUSINESS PURPOSE AND USE**

Section 2.1 Permitted Uses. Tenant shall use the Premises solely for general office purposes and those additional purposes used currently by Tenant, including transit pass sales, printing, computer network, radio control center, and other equipment used to support Tenant's

functions. Tenant must obtain prior written consent of the Landlord before using the premises for other purposes not reasonably related to those identified.

Section 2.2 Prohibited Uses. Tenant shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein, which will (a) in any way increase the existing rate of or affect any policy of fire or other insurance upon the Building or any of its contents, or cause a cancellation of any insurance policy covering any part thereof or any of its contents; (b) obstruct or unreasonably interfere in any way with the rights of other tenants or occupants of the Building or injure or unreasonably annoy any of them; or (c) use or allow the Premises to be used for any improper, unlawful or objectionable purposes. Tenant shall not cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not place upon or install in windows or other openings any new signs, symbols, drapes, or other material without written approval of Landlord, except all signs, symbols, drapes and other materials currently in place will be deemed approved by Landlord. Tenant shall not place any object or barrier within, or otherwise obstruct, any of the Common Areas.

Section 2.3 Compliance with Laws. Tenant shall at all times comply with all laws, ordinances and any regulations promulgated by any governmental authority having jurisdiction over the Building and/or the Premises. To the extent Landlord is required by the City of Seattle to maintain carpooling and public transit programs, Tenant shall cooperate in the implementation and use of these programs by and among Tenant's employees.

Section 2.4 Access to Building. Tenant will have 24-hour access to the Building.

Section 2.5 Normal Business Hours. Tenant will enjoy normal business hours from 7:00 a.m. to 5:00 p.m. Monday through Friday and from 8:00 a.m. to 1:00 p.m. on Saturdays. HVAC will be supplied at no additional cost during normal business hours.

ARTICLE III

TERM

Section 3.1 Term. The term of this Lease shall commence on January 1, 1994 and shall continue through December 31, 1999, the Termination Date of this Lease, unless this Lease is sooner terminated as hereinafter provided. The period between the Lease Commencement Date and the Termination Date shall be referred to as the "Lease Term" or "Term".

Section 3.2 Lease Year. "Lease Year" shall mean that period of twelve (12) consecutive months which ends on December 31st of each year and which falls within the Term of this Lease; provided, however, the first Lease Year (which may be a partial Lease Year) shall mean that period from the Lease Commencement Date until the December 31st first occurring after the Lease Commencement Date and the last Lease Year (which may be a partial Lease Year) shall mean that period from the January 1st last occurring during the Term of this Lease until the Termination Date.

ARTICLE IV**RENT**

Section 4.1 Base Rent. Tenant shall pay to Landlord as fixed rental for the use and occupancy of the Premises the "Base Rent" of Twelve Dollars and 95/100 (\$12.95) per square foot for office space and Six Dollars and no/100 (\$6.00) per square foot for storage space. Base Rent shall be payable in Monthly Rent Installments of the amount specified in the Lease Summary without offset, deduction, or demand on or before the first day of each month of the Lease Term beginning on the Lease Commencement Date. Base Rent for any partial year shall be prorated based upon the actual number of months left in such partial year. The Monthly Rent Installment for any partial month shall be prorated based upon the actual number of days in that partial month.

Section 4.2 Operating Expenses.

A. All Operating Expenses shall be included in the Base Rent from the Lease Commencement Date through the end of the first Lease Year of the Lease Term. Commencing January 1, 1995, Tenant shall pay, in monthly installments and as "Additional Rent", an amount equal to the Tenant's Proportionate Share" equal to 83.3% of actual "Total Operating Expenses" in excess of the actual "Base Year Operating Expenses".

B. "Base Year Operating Expenses" are the Total Operating Expenses paid or incurred by Landlord during the calendar year 1994 on account of the operation, management, maintenance and repair of the Building described in Section 4.2E.

C. "Rentable Area of the Building," and "Rentable Area of the Premises" are defined as those areas obtained by measuring the Building, Office Tower and Premises in accordance with the method of measuring rentable office space specified in the American Nation Standards Institute Publication ANSI Z65.1-1980 (otherwise known as "BOMA Standard"). The Total Rentable Area of the Building and Total Rentable Area of the Premises, as of the Lease Commencement Date, are as specified in the Lease Summary. The Total Rentable Area of the Premises exceeds the usable area of the Premises by including a pro rata share of hallways, rest rooms, and other common elements located on the floor on which the Premises are located. Tenant's Proportionate Share shall be calculated based upon the Total Rentable Area of the Building with respect to Operating Expenses the benefit of which are shared with other tenants.

D. Within ninety (90) days after the end of every Lease Year during the Lease Term, Landlord shall provide the Tenant with a written statement of the actual Total Operating Expenses for that Lease Year. If the actual Total Operating Expenses should exceed the estimated amount with respect to such Lease Year, then Tenant shall pay Landlord the additional amount due to the Landlord within thirty (30) days and, if actual Total Operating Expenses should be less than the estimated Total Operating Expenses for that Lease Year, then Landlord

shall credit, against future Additional Rents due under this Article, the amount of any overpayment by Tenant.

E. "Operating Expenses" as used herein shall mean all costs, expenses and other charges incurred by Landlord in connection with the operation, management and maintenance of the Property and the Building as determined by standard accounting and industry practices. Operating expense increases (excluding taxes, insurance and utilities) shall be subject to an annual cap of five percent (5%) per year. The Base Year expense amount shall be adjusted to reflect 95% occupancy or actual, whichever is greater, so that increases charged to Tenant are for actual increases in expenses, not for increases resulting from changes in occupancy. Tenant shall be responsible only for its percentage of operating costs. Operating expenses shall include the following costs by way of illustration, but not by way of limitation:

(1) General and administrative expenses of the manager incurred in operating the Building, including but not limited to professional fees, on-site office supplies, postage and telephone which can be directly allocated to or associated with the management and operation of the Building. However, the management fee may not exceed four percent (4%) of gross rent received.

(2) Wages, salaries and other compensation payable to employees, including managers, independent contractors or agents of Landlord performing services rendered in connection with the normal operation, repair and maintenance of the Building, provided that salaries or compensation paid to said personnel are less than or equal to the normal market rate, such as the following:

- (a) window cleaners, handymen, janitors, cleaning personnel and porters engaged in cleaning, repairing and maintaining the Building, its equipment and fixtures;
- (b) watchmen, caretakers and persons engaged in patrolling and protecting the Building;
- (c) engineers, mechanics, electricians, plumbers and persons engaged in the operation, repair and maintenance of the heating, air conditioning, ventilating, plumbing, electrical and elevator systems;
- (d) plumbers, operating engineers and electricians engaged in connection with the operation, normal repairs and normal maintenance of the Building.

(3) The uniforms of full-time employees specified in Section (1) above and the cleaning, replacement and pressing thereof.

(4) Normal repairs to and normal physical maintenance of the Building including landscaping, mechanical, equipment and appurtenances thereto and the cost of ordinary supplies, small tools, materials and equipment used in connection therewith which, in accordance with generally accepted Building Owners and Managers Association BOMA principles, would not be capitalized.

(5) Premiums and other charges incurred by Landlord with respect to the following insurance on the Building:

- (a) "All risk" and general commercial liability insurance;
- (b) public liability including contractual liability and property damage insurance;
- (c) elevator insurance;
- (d) worker's compensation insurance for the employees specified in subdivision 1 above;
- (e) boiler and machinery insurance, sprinkler leakage, water damage, water damage legal liability, burglary, fidelity and pilferage insurance on equipment and materials; and
- (f) such other insurance as is customarily carried by operators of other comparable buildings.

(6) Payroll taxes, federal, state and local unemployment taxes, and social security taxes payable in connection with the employment of any of the employees specified in Section 1 above.

(7) Sales, use and excise taxes on goods and services purchased by Landlord to properly operate or maintain the Building and its equipment.

(8) Licenses, permits, and inspection fees.

(9) Utility costs, including but not limited to electricity, natural gas, water, sewer and garbage removal.

(10) Consumable supplies, including but not limited to paper goods, trash liners, and liquid soap.

(11) Any other expense which, under generally accepted accounting principles, would be considered a normal maintenance or operating expense, except as otherwise specifically excluded herein.

Section 4.3 Exclusions. Expenses shall not include any expenses incurred for the following:

A. Repairs or other work reimbursed by insurance coverage or by a governmental entity due to the exercise of the right of eminent domain or some other governmental power.

B. Leasing commissions, attorneys' fees, costs and disbursements and other expenses incurred in connection with negotiations or disputes with tenants or other occupants or prospective tenants or other occupants, or associated with the enforcement of any leases or the defense of Landlord's title to or interest in the Building.

C. Costs (including permit, license and inspection fees) incurred in renovating or otherwise improving or decorating, painting or redecorating space for tenants or other occupants or vacant space other than normal and ordinary maintenance.

D. Landlord's costs of any services sold to tenants or other occupants for which Landlord is entitled to be reimbursed by such tenants or other occupants as an additional charge or rental over and above the basic rent and escalations payable under the lease with such tenant or other occupant.

E. Costs incurred by Landlord for alterations or additions which are considered capital improvements and replacements under generally accepted accounting principles, including any alterations or additions required to be made in accordance with the provisions of the Americans With Disabilities Act or any other applicable law.

F. Depreciation or amortization of costs required to be capitalized in accordance with generally accepted accounting principles.

G. Costs of a capital nature, including but not limited to, capital improvements, capital repairs, capital equipment, and capital tools, all as determined in accordance with generally accepted accounting principles.

H. Expenses in connection with services or other benefits of a type which are not provided Tenant but which are provided to another tenant or occupant.

I. Costs incurred due to violation by Landlord or any other tenant of the terms and conditions of any other lease, and any costs (including any costs of compliance), fines or penalties incurred due to violations by Landlord of any governmental rule or authority unless such costs, fines or penalties are incurred by Landlord due to Tenant's failure to perform any of its obligations under the Lease.

J. Overhead and profit increment paid to subsidiaries or affiliates of Landlord for supplies or other materials to the extent that the costs of such supplies or materials exceed

the costs that would have been paid had the supplies or materials been provided by unaffiliated parties on a competitive basis.

K. Interest on debt or amortization payments on any mortgages or deeds of trust and interest or penalties resulting from delayed or late payments by Landlord.

L. Landlord's general corporate overhead and general administrative expenses, except for reimbursement for out of pocket costs for postage, photocopies, and telephone costs incurred in operating the Building.

M. Any compensation paid to clerks, attendants or other persons in commercial concessions (such as parking garage attendants) operated by Landlord.

N. Rentals and other related expenses incurred in leasing air conditioning systems, elevators or other equipment ordinarily considered to be of a capital nature, except equipment which is used in providing janitorial services and which is not affixed to the Building.

O. All items and services for which Tenant reimburses Landlord or pays third persons or which Landlord provides selectively to one or more tenants or occupants of the Building (other than Tenant) without reimbursement.

P. Advertising and promotional expenditures to market the Building.

Q. Costs of refinancing the Building and/or Land.

R. Any other expense which, under generally accepted accounting principles, would not be considered a normal maintenance or operating expense, except as otherwise specifically provided herein.

S. The cost of electricity, water, or other utilities provided to any tenant which uses such utilities in quantities significantly greater than typical office building tenants.

T. Costs for acquiring art work or other Building amenities.

For purposes of this Lease, "Base Year" shall mean calendar year 1994.

Section 4.4 Taxes. "Taxes" shall mean all taxes and assessments on all real and personal property payable during any Expense Year (defined below) with respect to the Building, provided that all assessments shall be payable in the maximum number of permissible installments and further provided that Real Estate Taxes shall not include taxes on any property of other tenants in the Building or any gross or net income tax, estate tax, franchise tax or transfer tax levied on Landlord or the Building.

Section 4.5 Excess Expenses and Excess Taxes. "Excess Expenses and Excess Taxes" with respect to any Expense Year shall mean the amount by which Expenses and Taxes for such Expense Year exceeding the annualized Expenses and Taxes, respectively, for the Base Year as set forth in the budget prepared by Landlord and approved by Tenant pursuant to the provisions of Section 6.2 below. Notwithstanding the foregoing (i) if Expenses or Taxes in any Expense Year decrease from amounts incurred in the prior Expense Year, such decrease shall be passed through to Tenant, but in no event shall such decreases lower the rent below the base rate of \$12.95 per square foot, and (ii) in no event will Excess Expenses (excluding taxes, insurance and utilities) passed through to Tenant hereunder increase more than five percent (5%) over the prior Expense Year.

Section 4.6 Expense Year. "Expense Year" shall mean each twelve (12) consecutive month period commencing January 1 of 1995 and each calendar year thereafter during the Term.

Section 4.7 Annual Operating Expenses Adjustment. By December 1 of each Expense Year, and by December 1, 1994 for the base year, Landlord shall prepare a budget for the Building for the following Expense Year and submit it to Tenant for Tenant's review. Such budget shall set forth the level of Expenses and Taxes which Landlord expects to incur for that Expense Year. Tenant's review of such budget shall not be unreasonably delayed, provided that Tenant may reject any budget or portion thereof which is not in accordance with the terms of this Lease. Tenant shall pay to Landlord as Additional Rent one-twelfth (1/12th) of Tenant's proportionate Share of Excess Expenses and Excess Taxes for each Expense Year, as set out in the approved budget, on or before the first day of each month of such Expense Year, in advance. With reasonable promptness after the expiration of each Expense Year in which Tenant is obligated to pay Excess Expenses, but in no event later than ninety (90 days) after the end of each Expense Year, Landlord shall furnish Tenant with a written statement ("Landlord's Expense Statement"), setting forth in reasonable detail the actual Expenses and Taxes for such Expense Year, and the Tenant's Share of Excess Expenses and Excess Taxes, if any. The calculations of Excess Expenses and Excess Taxes shall be made independently from one another.

Section 4.8 Proration of Expenses. If any part of the first year, last year or extension of the Lease Term shall include part of an Expense Year, Tenant's obligations under this Section 4 shall be apportioned so that Tenant shall pay only for such parts of such Expense Years as are included in the Lease Term.

Section 4.9 Audit or Reserve Right to Review. Landlord shall keep full and accurate books of account covering Excess Expenses and Excess Taxes. If, during the term of this Lease, Tenant is required to pay any Excess Expenses or Excess Taxes, then Tenant shall have the right at Tenant's cost, during Landlord's regular business hours, to inspect, copy and audit such books of account at a reasonable time on five (5) days' prior written notice to Landlord. If Tenant discloses a discrepancy, Landlord will pay the cost of correcting accounts and compensate Tenant for any costs reasonably incurred. If Tenant determines it has overpaid

Excess Expenses and/or Excess Taxes, Landlord will credit such overpayment to the installments of Excess Expenses, Excess Taxes, or monthly rent next due.

Section 4.10 Occupancy Adjustment. Expenses and taxes will be calculated as if the Building were ninety-five percent (95%) occupied throughout the term of the Lease, unless occupancy increases above ninety five percent (95%), in which case actual occupancy figures will be used.

ARTICLE V

SECURITY DEPOSIT AND PREPAID RENT

Section 5.1 Security Deposit. Security deposit waived.

ARTICLE VI

MAINTENANCE, REPAIRS AND ALTERATIONS

Section 6.1 Landlord's and Tenant's Improvements. Landlord and Tenant shall, each at its own expense, complete and install in a good and workmanlike manner within the Premises those items specified as the "Landlord's Work" and "Tenant's Work", respectively, on Exhibit C attached hereto.

Section 6.2 Services to be Furnished by Landlord. Landlord shall provide the following services:

A. Public utilities shall be caused to furnish the Premises with electricity and water utilized in operating any and all facilities serving the Premises.

B. Hot and cold water at those points of supply provided for general use of other tenants in the Building, central heat and air conditioning in season, at such times as Landlord normally furnishes these services to other tenants in the Building and at temperatures and in amounts as are consistent with industry standards. Outside of the standard hours of operation, this service shall be furnished only upon reasonable notice from Tenant, who shall pay \$6.00 per hour per floor. The \$6.00 rate may be subject to annual increases equal to fifty percent (50%) of the annual rate increase adopted by Seattle City Light, but in no event shall the increase exceed ten percent (10%) of the then current rate. Notwithstanding anything to the contrary contained in Section 6.2 hereof, Landlord agrees to provide twenty-four (24) hour services and utilities to Tenant for the fourth floor west-end Rider Information and telephone room, and twelfth floor west-end tunnel security at no additional cost to Tenant.

C. Routine maintenance, painting and electric lighting service for all Common Areas and special service areas of the Building in the manner and to the extent deemed by Landlord to be standard and consistent with the operation and maintenance of the Building.

D. Janitorial service on a five (5) day week basis, excluding Saturdays, Sundays and legal holidays;

E. Landlord will supply sufficient electricity for service from all existing equipment and for typewriters, personal computers, and other small office machines of similar low electrical consumption likely to be added for regular office use. Landlord will provide Tenant with up to \$100,000.00 allowance during the term of the Lease for Tenant to upgrade Tenant's 110 power below the ceiling grid to meet Tenant's four watts per rentable square foot allowance. Tenant shall have the right to allocate said electrical funds to particular floors they deem necessary to meet said four watts per square foot requirement. Landlord will not be required to supply electricity for any new item of electrical equipment which itself consumes more than 1.0 kilowatts per hour at rated capacity or requires voltage other than 120 volts single phase without agreeing in advance on electrical requirements and additional fees, if any. Tenant agrees to have no more than three (3) copiers per floor with a maximum of 1,800 watts per copier. Tenant agrees to pay \$7,124.00 monthly over standard electrical usage for equipment associated with the operation of the Metro tunnel. This charge shall be in addition to operating expense pass through and shall be fixed for the term of the lease.

F. Building standard lamps, bulbs, starters and ballasts will be used within the Premises.

G. Security for the Building; provided, however, Landlord shall not be liable to Tenant or any employee, invitee, licensee or sublessee of Tenant for losses due to theft or burglary, or for damages or injury done by unauthorized persons in the Building.

Section 6.3 Excess Services. In the event Tenant desires any of the aforementioned services in amounts in excess of those deemed by Landlord to be "standard" and in the event Landlord elects to provide these additional services, Tenant shall pay Landlord as Additional Rent hereunder the cost of providing these additional services. Unless caused by the negligent act or omission of Landlord or its agents or employees, failure by Landlord to furnish any of the above services, or any cessation thereof, shall not render Landlord liable in any respect for damages to either person or property, nor shall that event be construed as an eviction of Tenant nor result in an abatement of rent, nor relieve Tenant of any of the Tenant's obligations hereunder (including, but not limited to, the payment of rent). Should any of the equipment or machinery utilized in supplying the services listed herein for any cause cease to function properly, Landlord shall use reasonable diligence to initiate repair of that equipment or machinery within forty-eight (48) hours. After written notice from Tenant has been given, if Landlord fails to act promptly and the premises or portions thereof are rendered untenable for Tenant's normal business purpose, then Tenant shall have the right to make claim for a

reduction, abatement or rebate of Rent or damages on account of any interruption in service occasioned thereby or resulting therefrom.

Section 6.4 Condition, Repair, and Maintenance of Premises.

A. **Repair of Defects.** Landlord, at its sole cost and expense without cost or charge to or contribution by Tenant, shall be responsible for and make all repairs, replacements and perform all maintenance required because of: (i) defective design or construction of the Building(s), and/or improvements (unless designed and constructed by Tenant), and all equipment and systems associated therewith and/or incorporated therein; or (ii) latent defects in any of the foregoing; or (iii) new governmental laws or regulations pertaining to building safety and/or tenant's health and welfare. The Landlord represents and warrants that the Building and all improvements have been built, and the Premises on completion of Tenant's work (excluding those improvements built solely by Tenant) shall have been built, in accordance with and shall comply with all applicable Laws.

B. **Tenant's Maintenance.** Tenant shall keep and maintain Tenant's furniture and fixtures at the Premises in good order, condition, and repair, ordinary wear and tear and damage by casualty or Landlord's negligence excepted.

C. **Landlord's Maintenance.** Except for repairs and replacements that Tenant must make, Landlord shall pay for and make all other repairs and replacements to the Premises, the Building (including Building fixtures and Equipment) and the Common Areas. Landlord shall make the repairs and replacements and perform all maintenance necessary to keep the Premises, the Building, the Common Areas and any other improvements in reasonable working order and repair and to maintain the Building and Premises in a clean, safe and tenantable condition comparable to other similar office buildings in the downtown Seattle business district. This maintenance and repair shall include without limitation the roof, foundation, exterior walls, interior structural walls, all structural components, utility lines and all systems, such as mechanical, electrical, HVAC, plumbing and sewer. Subject to the provisions of Section 8.2, Landlord's work under this Section 6.4 shall be accomplished with the least possible amount of interference with the conduct of Tenant's business and, to the extent practicable, shall be done after normal business hours. Landlord will indemnify, protect, defend and hold harmless Tenant against all claims, liabilities, damages, costs or causes of action (including reasonable attorney fees) arising out of or brought on account of injury to any person or property or loss of life resulting from any failure by Landlord to perform its obligations hereunder.

D. **Time to Complete Work.** Unless otherwise agreed, all work to be performed by either party under this Section 6.4 shall be completed promptly but in any event within twenty-four (24) hours in any emergency (as defined below) and within thirty (30) days for all other repairs. If the work cannot be completed within twenty-four (24) hours or thirty (30) days, as the case may be, it shall be commenced within the applicable period and prosecuted continuously and diligently thereafter until completion. "Emergency" means a situation that (i) threatens the physical well-being of persons within the Premises, (ii) materially

disrupts the Tenant's use and/or occupancy of the Premises or any portion thereof, or (iii) materially disrupts Tenant's use of parking, if added.

Section 6.5 Tenant's Alterations. Subject to Landlord's prior written approval, Tenant may make, at its expense, additional improvements or alterations to the Premises which it may deem necessary or desirable. Any repairs or new construction by Tenant shall be done in conformity with plans and specifications approved by Landlord and shall be performed by a licensed contractor designated by the Landlord. If requested by Landlord, Tenant shall post a bond or other security satisfactory to Landlord to protect Landlord against liens arising from work performed for Tenant. All work performed shall be done in a workmanlike manner and with materials of the quality and appearance as exist throughout the Building. Landlord may require Tenant to remove and restore any improvements or alterations on the termination of this Lease only in such cases where prior written agreement with Tenant has been executed. Tenant agrees to pay for all necessary permits.

Section 6.6 Liens. Tenant shall keep the Premises and the Building free from any liens arising out of any work performed, material furnished, or obligations incurred by Tenant. If Tenant disputes the correctness or validity of any claim of lien, Tenant shall, within thirty (30) days after written request by Landlord, post or provide security in a form and amount acceptable to Landlord to insure that title to the Property remains free from the lien claimed.

ARTICLE VII

DESTRUCTION AND CONDEMNATION

Section 7.1 Total or Partial Destruction.

A. In the event the Building and/or the Premises is damaged by fire or other perils covered by Landlord's insurance, Landlord shall:

(1) In the event of total destruction, at Landlord's option, as soon as reasonably possible thereafter, Landlord shall commence repair, reconstruction and restoration of the Building and/or the Premises and prosecute the same diligently to completion within six (6) months, in which event this Lease shall remain in full force and effect; or within sixty (60) days after such damage, elect not to so repair, reconstruct or restore the Building and/or the Premises, in which event this Lease shall terminate. In either event, Landlord shall give Tenant written notice of its intention within said sixty (60) day period. In the event, Landlord elects not to restore the building, and/or the Premises, this Lease shall be deemed to have terminated as of the date of such total destruction and all rent (including operating expenses) paid through such date.

(2) In the event of partial destruction of the Building and/or the Premises, to an extent not exceeding twenty-five percent (25%) of the full insurable value thereof, and if the damage thereto is such that the Building and/or the Premises may be repaired,

reconstructed or restored within a period of ninety (90) days from the date of the happening of such casualty, and if Landlord will receive insurance proceeds sufficient to cover the cost of such repairs and if Landlord's lender has not required the application of insurance proceeds to any indebtedness, the repayment of which is secured by the Property, then Landlord shall commence and proceed diligently with the work of repair, reconstruction and restoration and this Lease shall continue in full force and effect. If such work of repair, reconstruction and restoration cannot be completed within one hundred and eighty (180) days, then Tenant has the right to terminate the Lease. Under any of the conditions of this Section 7.1 A(2), Landlord shall give written notice to Tenant of its intention within sixty (60) days after such partial destruction. In the event Landlord elects not to restore the Building and/or the Premises, this Lease shall be deemed to have terminated as of the date of such partial destruction.

B. Upon any termination under any of the provisions of this Section 7.1, the parties shall be released without further obligation to the other from the date possession of the Premises is surrendered to Landlord except for items which have therefore accrued and are then unpaid.

C. In the event of repair, reconstruction and restoration by Landlord as herein provided, the rental payable under this Lease shall be abated proportionately with the degree to which Tenant's use of the Premises is impaired during the period of such repair, reconstruction or restoration. Tenant shall not be released from any of its obligations under this Lease except to the extent and upon the conditions expressly stated in this Section 7.1. Notwithstanding anything to the contrary contained in this Section 7.1, if Landlord is delayed or prevented from repairing or restoring the damaged Premises within six (6) months after the occurrence of such damage or destruction by reason of acts of God, war, governmental restrictions, inability to procure the necessary labor or materials, or other cause beyond the control of Landlord, Landlord or Tenant may terminate this Lease, whereupon Landlord shall be relieved of its obligation to make such repairs or restoration and Tenant shall be released from its obligations under this Lease.

D. If Landlord is obligated to or elects to repair or restore as herein provided, Landlord shall be obligated to make repair or restoration only of those portions of the Building and the Premises which were are covered by this Lease.

E. Notwithstanding anything to the contrary contained in this Section 7.1, Landlord shall not have any obligation whatsoever to repair, reconstruct or restore the Premises when the damage resulting from any casualty covered under this Section 7.1 occurs during the last twelve (12) months of the Term of this Lease or the last twelve months of any extension hereof.

Section 7.2 Condemnation. If the whole of the Building or property or such portion thereof as shall be required for its reasonable use, shall be taken or damaged by virtue of any condemnation or eminent domain proceeding by any local, state, or federal government or quasi-government entity, this Lease shall automatically terminate as of the date of the condemnation,

or as of the date possession is taken by the condemning authority, whichever is later. Rent shall be apportioned as of the date of the termination. In case of a taking of a part of the Premises or a part of the Property not required for the reasonable use of the Premises, then this Lease shall continue in full force and effect and the Rent shall be equitably reduced based upon the proportion by which the Total Rentable Area of the Premises is reduced. This rent reduction shall be effective on the date of the partial taking. No award, settlement in lieu of an award, or any partial or entire taking shall be apportioned, and Tenant hereby assigns to Landlord any award or settlement in lieu of an award which may be made in the taking or condemnation proceeding, together with any and all rights of Tenant now or hereafter arising in or to the same or any part thereof; provided that nothing herein shall prevent Tenant from making a separate claim against the condemning authority for the taking of Tenant's personal property and/or moving costs so long as such claim in no way affects the award to be received by Landlord.

Section 7.3 Sale Under Threat of Condemnation. A sale by Landlord to any authority having the power of eminent domain, either under the threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a taking under the power of eminent domain for all purposes under this Article VIII.

ARTICLE VIII

INDEMNITY AND WAIVER

Section 8.1 Indemnity and Hold Harmless. Subject to the provisions of Section 8.2, Landlord and Tenant mutually agree that in any and all causes of action and/or claims, or third party claims, arising under the terms, activities, use and /or operations of this Lease, including the Premises, each party shall be responsible to the other only to the extent of each other's comparative fault in causing alleged damages or injuries. Subject to the provisions of Section 8.2, each party agrees to indemnify the other for its negligence or concurrent negligence to the extent of the indemnitor and indemnitee's proportional share.

As to any and all causes of actions and/or claims, or third-party claims, arising as a result of the sole fault of a party to this Lease, subject to the provisions of Section 8.2, said party shall have a duty to defend, save, and hold the other party harmless, and upon failure to do so, said party shall pay reasonable attorney's fees, costs and expenses incurred by the other party to this Lease in defense of said claims and/or actions.

Section 8.2 Limited Waiver. All property kept, stored or maintained on the Premises shall be so kept, stored or maintained at the sole risk of Tenant. Except in the case of Landlord's negligence or willful misconduct, Landlord shall not be liable, and Tenant waives all claims against Landlord, for damages to persons or property sustained by Tenant or by any other person or firm resulting from the Building or by reason of the Premises or any equipment located therein becoming out of repair, or through the acts or omissions of any persons present in the Building (including the Common Areas) or renting or occupying any part of the Building (including the Common Areas), or for loss or damage resulting to Tenant or its property from

burst, stopped or leaking sewers, pipes, conduits, or plumbing fixtures, or for interruption of any utility services, or from any failure of or defect in any electric line, circuit, or facility, or any other type of improvement or service on or furnished to the Premises or the Common Areas or resulting from any accident in, on, or about the Premises or the Common Areas. However, if Tenant gives Landlord notice of leaks, defects, or other failures and Landlord does not act diligently to repair or replace the leaks, defects, or identified failure, it will be deemed an act of negligence on the part of the Landlord as to subsequent or continuing damage or loss.

ARTICLE IX

DELAYS

Section 9.1 Delays. If either party is delayed in the performance of any covenant of this Lease because of any of the following causes (referred to elsewhere in this Lease as a "Delaying Cause"): acts of the other party, action of the elements, war, riot, labor disputes, inability to procure or general shortage of labor or materials in the normal channels of trade, delay in transportation, delay in inspections, or any other cause beyond the reasonable control of the party so obligated, whether similar or dissimilar to the foregoing, financial inability excepted, then that performance shall be excused for the period of the delay but shall in no way affect Tenant's obligation to pay Base Rent and operating expenses or the length of the Lease Term.

ARTICLE X

ASSIGNMENT, SUBLEASE AND SUCCESSION

Section 10.1 Consent Required. Tenant may assign this Lease or its interest herein, sublet, license, grant any concession, or otherwise give permission to a comparable tenant other than Tenant to use or occupy all or any part of the Premises with the prior written consent of Landlord. Tenant may allow other comparable King County departments to rent space in the Building at the same terms and conditions without such rental being deemed a sublease.

Section 10.2 General Conditions. In the event of any assignment or sublease approved by Landlord pursuant to Section 10.1 above, Tenant shall remain primarily liable on its covenants hereunder unless released in writing by Landlord. In the event of any assignment or sublease, the assignee or sublessee shall agree in writing to perform and be bound by all the covenants of this Lease required to be performed by Tenant. Any one assignment or subletting approved by Landlord pursuant to Section 10.1, shall not be deemed to allow any further assignment or subletting without Landlord's prior written consent.

Section 10.3 Succession. Subject to any limitations on assignment and subletting set forth herein, all the terms and provisions of this Lease shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto.

ARTICLE XI

SURRENDER OF POSSESSION

Section 11.1 Surrender. At the expiration of the Lease term, or sooner if by termination, whether by lapse of time or otherwise, Tenant shall surrender the Premises to Landlord in good condition and repair, ordinary wear and tear and damage by fire or other casualty excepted.

Section 11.2 Condition at Time of Surrender. Furnishings, trade fixtures and equipment installed by Tenant shall be the property of Tenant. Upon termination of this Lease, Tenant shall remove any such property. Tenant shall repair or reimburse Landlord for the cost of repairing any damage to the Premises and/or Common Areas resulting from the installation or removal of Tenant's property, and Tenant shall deliver the Premises to Landlord in clean and good condition, except for reasonable wear and tear and damage by fire or other casualty excepted.

ARTICLE XII

INSURANCE AND INDEMNIFICATION

Section 12.1 Risk. Landlord shall not be liable or responsible to Tenant for any loss or damage to any property or person occasioned by theft, burglary, act or neglect of any tenant or occupant of the Building or of any other person, fire or other casualty, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority. Notwithstanding anything in this Lease, Landlord shall in no event be liable to Tenant for any damage to the Premises or for any loss, damage or injury to any property in or on the Premises or the Project occasioned by bursting, rupture, leakage or overflow of any plumbing or other pipes (including but not limited to water, steam and/or refrigerant lines), sprinklers, tanks, drains, drinking fountains or washstands, or other similar cause in, above, upon or about the Premises or the Project.

Section 12.2 Hold Harmless. Landlord, its agents and employees shall not be liable to Tenant or its officers, contractors, licensees, agents, servants, employees, customers, guests, invitees or visitors, or to any third party for any damage to person or property caused by or arising from or in connection with any negligent act or omission of Tenant. Tenant agrees to indemnify Landlord and hold it harmless from and against any and all liability, claims, causes of action, damages, costs and expenses (including, without limitation, attorneys' fees), arising from or in connection with any negligent act or omission of Tenant or its officers, contractors, licensees, agents, servants, employees, guests, invitees, or visitors; any breach or default under this lease by Tenant; or any accident, injury or damage, howsoever or whomsoever caused, to any person or property, occurring in or about the Premises. Tenant's obligations under this Section 12 arising by reason of any events occurring during the Term of this Lease or any extensions or renewals thereof shall survive the expiration or termination of this Lease. The

foregoing provisions shall not be construed to make Tenant responsible for loss, damage, liability, claims, causes of action or claims or expense resulting from injuries to third parties and/or damages to their property caused by the negligence of Landlord, or its officers, contractors, licensees, agents, employees, invitees, servants, guests or visitors.

Section 12.3 Liability Insurance. Tenant at its cost shall obtain and maintain in full force and effect during the Term of this Lease and any extensions or renewals thereof policies of commercial general liability insurance and products liability insurance with Five Million and no/100 Dollars (\$5,000,000.00) combined single limits. Such policies shall insure performance by Tenant of Tenant's obligations set forth in Section 12.2. Landlord shall be added as an additional insured as respects operations of the Tenant and the policies shall contain cross liability endorsements. This requirement may be satisfied with self insurance.

Section 12.4 Personal Property and Tenant Improvement Insurance. Tenant at its cost shall maintain on all of Tenant's personal property and Tenant's improvements a policy or policies of standard fire and extended coverage insurance with vandalism and malicious mischief endorsement to the extent of replacement value. At its cost, Tenant shall also maintain such a policy or policies on the initial leasehold improvements provided by either party, including the laminated glass windows and tempered glass doors (if any), but excluding the Building Standard Shell. The proceeds from any such policy shall belong to and be paid to Tenant and shall be used by Tenant for the repair and replacement of Tenant's Personal Property and/or the restoration of Tenant Improvements. "Tenant's Personal Property" includes Tenant's movable equipment, furniture, furnishings, merchandise, and other movable personal property including trade fixtures. This requirement may be satisfied with self insurance: Landlord shall, at its sole cost, maintain in full force and effect during the term of this Lease and any extensions or renewals thereof, policies of comprehensive commercial general insurance with Five Million and no/100 Dollars (\$5,000,000.00) combined single limits.

Section 12.5 Policy Requirements. Each policy of insurance which Tenant is required to provide under this Lease shall:

- A. Be issued by an insurance company authorized to do business in the State of Washington and satisfactory to Landlord; or by the Tenant through its self insurance program.
- B. Contain an endorsement requiring thirty (30) days' written notice from the insurance company to both parties and Landlord's mortgagees (if any) before cancellation or change in the coverage, scope or amount of any such policy.

Section 12.6 Delivery of Policies. Each policy of insurance required under this Lease, or a certificate of such policy, or evidence of self insurance together with evidence of payment of premiums if applicable, shall be deposited with the Landlord or Tenant, as requested on the Commencement Date and thereafter not less than five (5) days before the expiration of any expiring policies.

Section 12.7 Landlord's Insurance. Except as otherwise provided in this Lease, the proceeds of any insurance policies maintained by or for the benefit of the Landlord shall belong to and be paid over to Landlord, and proceeds of any insurance policies maintained for the benefit of the Tenant should belong to and be paid over to the Tenant. The insurance coverage which Tenant is required to maintain hereunder and any other insurance coverage which Tenant elects to maintain, may not decrease the amount of insurance available under any insurance policies maintained by or for the benefit of Landlord.

Section 12.8 Waiver of Subrogation Rights. Anything in this Lease to the contrary notwithstanding, Landlord and Tenant each hereby waives any and all rights or recovery, claims, actions or causes of action against the other, its agents, officers, directors, shareholders or employees, for loss or damage to the Premises or any improvements thereto, or any personal property of such party therein, that is caused by or results from fire and other perils insured against under the normal extended coverage clauses of standard fire insurance policies carried by the parties and in force at the time of damage or loss. Each party shall cause each insurance policy obtained by it to provide that the insurance company waives all right to recovery by way of subrogation against either party in connection with any such damage or loss.

ARTICLE XIII

HOLDING OVER

Section 13.1 Holding Over. This Lease shall terminate without further notice at the expiration of the Lease Term. Any holding over by Tenant without the express written consent of Landlord shall not constitute the renewal or extension of this Lease or give Tenant any rights in or to the Premises. In the event of a holding over by Tenant with the express written consent of Landlord, the possession will be deemed a month to month tenancy for the area or areas held over subject to the terms and conditions of the Lease, except Base Rent, which shall be determined as follows: Tenant may request permission for holdover and the Landlord will not unreasonably deny permission for the Tenant to remain in all or parts of the premises. Monthly rates for approved holdovers may not exceed One Hundred Twenty-Five Percent (125%) of the Base Rent. Monthly rates for any other holdover may not exceed One Hundred Fifty Percent (150%) of the Base Rent for the space occupied by Tenant after the expiration of the Lease.

ARTICLE XIV

ENTRY BY LANDLORD

Section 14.1 Entry by Landlord. Landlord reserves the right to enter the Premises upon reasonable notice to Tenant during business hours to inspect and to show the Premises to prospective purchasers, to post notices of non-responsibility, to repair the Premises and any portion of the Building that Landlord may deem necessary or desirable, without abatement of Rent, and may for that purpose erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed; provided, that the entrance to the

Premises shall not be blocked unreasonably thereby and, provided, further that the business of the Tenant shall not be interfered with unreasonably. Tenant hereby waives any claim for damages, injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned by Landlord's exercise of its rights pursuant to this Section 12.1, except and to the extent any such damage, injury or interference results from the negligence of Landlord. Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults, safes and files, and Landlord shall have the right to use any and all means which Landlord may deem proper to open the doors to or in the Premises in an emergency, in order to obtain entry to the Premises without liability to Tenant. Any entry to the Premises obtained by Landlord by any of these means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion thereof.

Section 14.2 Failure to Surrender. If Tenant fails to surrender the Premises upon the expiration or termination of this Lease, Tenant shall indemnify and hold Landlord harmless from documented loss and liability resulting from that failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant.

ARTICLE XV

SUBORDINATION AND NON-DISTURBANCE

Section 15.1 Lease Subordinate To Mortgages and Non-Disturbance. This Lease shall automatically be subordinate to any existing mortgages or deeds of trust which affect the Property, the Building and/or the Premises; to any first mortgages or deeds of trust hereafter affecting the Property, the Building and/or the Premises, and to all renewals, modifications, consolidations, replacements or extension thereof. Tenant shall have the continued enjoyment of the Premises free from any disturbance or interruption by any existing or first mortgagee or beneficiary of a deed of trust, or any purchaser at a foreclosure or private sale of the Property as a result of Landlord's default under such mortgage or deed of trust, so long as Tenant is not then in default under the terms and conditions of this Lease.

Section 15.2 Estoppel Certificates. Tenant shall, within fifteen (15) days of presentation, acknowledge and deliver to Landlord: (a) any subordination agreement which contains a satisfactory non-disturbance agreement or other instrument that Landlord may require to carry out the provisions of this Article; and (b) any estoppel certificate requested by Landlord from time to time in the standard form of any mortgagee or beneficiary of and deed of trust affecting the Building and Premises certifying, if such be true, that Tenant is in occupancy, that this Lease is unmodified and in full force and effect, or if there have been modifications, that the Lease as modified is in full force and effect, and stating the modifications and the dates to which the Base Rent and other charges shall have been paid, and that there are no Rental offsets or claims.

ARTICLE XVI

DEFAULT AND REMEDY

Section 16.1 Events of Tenant's Default. The occurrence of any or more of the following events shall constitute a material default and breach of this Lease by Tenant:

- A. Vacation or abandonment of the Premises;
- B. Failure by Tenant to make any payment required as and when due, where that failure shall continue for a period of ten (10) days after such payment is due;
- C. Failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease, other than making any payment when due, where that failure shall continue for a period of thirty (30) days after Landlord gives written notice to Tenant of that failure; provided, the nature of Tenant's default requires more than thirty (30) days to cure, Tenant shall not be in default hereunder, provided Tenant commences its cure within such 30 day period and thereafter diligently pursues the same to completion; and
- D. Making by Tenant of any general assignment or general arrangement for the benefit of creditors; the filing by or against Tenant of a petition in bankruptcy, including reorganization or arrangement, unless, in the case of a petition filed against Tenant, the petition is dismissed within ninety (90) days; or the appointment of a trustee or receiver to take possession of substantially all of the Tenant's assets located at the Premises, or of Tenant's interest in this Lease.

Section 16.2 Landlord's Remedies. If Tenant commits a Default, Landlord may do any one or more of the following, in addition to pursuing its remedies under law:

- A. Terminate this Lease.
- B. Enter and take possession of the Premises and remove Tenant and all other persons and any property from the Premises, with process of law.
- C. Hold Tenant liable for and collect Rent and other indebtedness owed by Tenant to Landlord or Rent that would have accrued during the remainder of the Term had there been no Default, less any sums Landlord receives by reletting the Premises.
- D. Hold Tenant liable for Landlord's documented damages and detriment caused by Tenant's default, including, but not limited to:
 - (1) Reasonable broker's fees incurred by Landlord for reletting part or all of the Premises prorated for that part of the reletting term ending concurrently with the Term of this Lease;

- (2) The cost of removing and storing Tenant's property;
- (3) The cost of reasonable repairs, alterations and remodeling necessary to put the Premises in a condition reasonably acceptable to a new tenant; and
- (4) Other necessary and reasonable expenses incurred by Landlord in enforcing its remedies.

Landlord shall mitigate its damage by making reasonable efforts to relet the Premises on reasonable terms. Landlord may relet for a shorter or longer period of time than the Lease Term and make reasonably necessary repairs or alterations. If Landlord relets for a period longer than the Lease Term, then any special concessions given to the new tenant shall be allocated throughout the entire reletting term so that Tenant is charged only with the proportion of the concessions allocated to the remainder of the Lease Term. All sums collected from reletting shall be applied first to Landlord's expenses of reletting, and then to the payment of amounts due from Tenant to Landlord under this Lease. In no event shall Tenant be entitled to any excess rent received by Landlord. If the rents received from such reletting are not sufficient to pay Landlord's reasonable and documented expenses and the amounts due from Tenant under the Lease, Tenant shall pay the deficiency on demand.

E. Landlord, at any time after Tenant commits a default, may, but shall not be obligated to, cure the default at Tenant's expense. If Landlord at any time, by reason of Tenant's default, pays any sum or does any act that requires the payment of any sum, the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid, and if paid at a later date shall bear late charges and interest as provided in Section 19.7 from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant.

Section 16.3 Reletting. No reletting of the Premises by Landlord shall be construed as an election on Landlord's part to terminate this Lease unless a notice of Landlord's intention to terminate is given to Tenant, or unless the termination of the Lease is decreed by a court of competent jurisdiction. In the event of reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for a previous breach, provided it has not been cured. Should Landlord at any time terminate this Lease for any breach, in addition to any other remedy it may have, it may recover from Tenant all damages it may incur by reason of that breach.

Section 16.4 Cumulative Remedies. All rights and remedies of Landlord shall be cumulative and shall not exclude any rights or remedies otherwise available.

Section 16.5 Default of Landlord. Landlord shall not be in default unless Landlord fails to perform its obligations under this Lease within thirty (30) days after written notice by Tenant, or if such failure is not reasonably capable of being cured within such thirty (30) day period,

Landlord shall not be in default unless Landlord has failed to commence the cure and diligently pursue the cure to completion.

Section 16.6 Tenant's Remedies. In the event of default by Landlord, Tenant's remedies shall be limited to an action for damages and/or an injunction and/or, in the event of a material uncured default, the right to terminate the Lease upon written notice to Landlord. If Tenant shall recover a judgment against Landlord, the judgment shall be satisfied only out of Landlord's interest in the Property. It is agreed that if Landlord is a partnership, its partners (whether general or limited) shall not be personally liable for any deficiency.

Section 16.7 Survival. The remedies permitted in this Article, Landlord's obligation to mitigate and express or implied indemnification requirements shall survive termination or expiration of this Lease.

Section 16.8 Non-Waiver. Failure by either party to take action or declare a default as a result of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of that term, covenant, or condition, or of any subsequent breach of any term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay particular rent so accepted, regardless of Landlord's knowledge of that preceding breach at the time of acceptance of the Rent.

ARTICLE XVII

NOTICES

Section 17.1 Notices. Any notice required or desired to be given under this Lease shall be in writing with copies directed as indicated herein and shall be personally served or given by mail. Any notice given by mail shall be deemed to have been given when seventy-two (72) hours have elapsed from the time such notice was deposited in the United States mail, certified mail, return receipt requested, and postage prepaid, addressed to the party to be served at the last address given by that party to the other party under the provisions of this Section. As of the Lease Commencement Date, the addresses of the Landlord and Tenant are as specified in the Lease Summary.

ARTICLE XVIII

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL PROVISIONS

Section 18.1 Presence and Use of Hazardous Substances. Tenant shall not, without Landlord's prior written consent, keep on or around the Premises, Common Areas or Building, for use, disposal, transportation, treatment, generation, storage or sale, any new substances designated as, or containing components designated as, hazardous, dangerous, toxic or harmful

(collectively referred to as "Hazardous Substances") except in compliance with all applicable law, and/or are subject to regulation by any federal, state or local law, regulation, statute or ordinance.

Section 18.2 Cleanup Costs, Default, and Indemnification. Tenant shall indemnify, defend and hold Landlord, its partners, employees, agents, successors and assigns, harmless from any and all cleanup costs and any and all other charges, fees, penalties (civil and criminal) imposed by any governmental authority with respect to Tenant's use, disposal, transportation, treatment, generation, storage and/or sale of Hazardous Substances, in or about the Premises, Common Areas, or Building, whether or not consented to by Landlord.

Section 18.3 Landlord's Obligations. Landlord represents, warrants and agrees that:

A. Landlord has not used, generated, manufactured, produced, stored, released, discharged or disposed of on, under or about the Property (or off-site of the Property that might affect the Property) or transported from the Premises, any Hazardous Substance, nor to the best of Landlord's knowledge has any Hazardous Substance been used, generated, manufactured, produced, stored, released, discharged or disposed of on, under or about the Property (or off-site of the Property that might affect the Property), except in compliance with applicable laws.

B. Landlord will not use, generate, manufacture, produce, store, release, discharge or dispose of on, under of about the Property (or off-site of the Property that might affect the Property), or transport to or from the Property, any Hazardous Substance, except in compliance with applicable laws.

C. To the best of Landlord's knowledge no underground storage tanks have been removed from the Property, and no underground storage tanks are located on the Property.

D. Landlord will give prompt written notice to Tenant of:

(1) any proceeding or inquiry by any governmental authority known to Landlord with respect to the presence of any Hazardous Substance on the Property (or off-site of the Property that might affect the Property) or relating to any loss or injury resulting from any Hazardous Substance not caused by Tenant; and

(2) all claims made or threatened by any third party against Landlord or the Property relating to any loss or injury resulting from any Hazardous Substance; and

(3) Landlord's discovery of any occurrence or condition on the Property (or off-site of the Property that might affect the Property) that could cause the Premises or any part thereof to be subject to any restrictions on occupancy, or use of the Premises under any environmental law.

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E. Landlord shall protect, indemnify, defend and hold harmless Tenant and its directors, officers, employees, agents, parents, subsidiaries, successors and assigns from any loss, damage, cost expense or liability (including reasonable attorneys' fees and costs) directly or indirectly arising out of or attributable to the Landlord's or its agent's, employee's, invitee's and contractor's use, generation, manufacture, production, storage, release, threatened release, discharge, disposal or presence of a Hazardous Substance on, under or about the Property (or off-site on property owned or operated by Landlord that affected the Property) and the costs of any required or necessary repairs, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans. Rent shall abate to the extent the presence of a Hazardous Substance or a violation of Environmental Law (in either case not caused by Tenant, its employees, agents or contractors) materially interferes with Tenant's use of the Premises. If interference with Tenant's use of the Premises continues for more than one hundred twenty (120) days, Tenant may terminate this Lease by giving Landlord written notice of termination. If the presence of a Hazardous Substance or a violation of Environmental Law (in either case not caused by Tenant, its employees, agents or contractors) creates an unacceptable risk to the health or safety of Tenant's employees or invitees as determined in Tenant's reasonable judgment, and the condition is not abated within thirty (30) days after Tenant notifies Landlord in writing of the condition, Tenant may terminate this Lease.

Section 18.4 Environmental Law Defined. "Environmental Laws" as used in this Article XIX means all local, state and federal laws, ordinances, regulations, orders, administrative or judicial decision to (a) environmental protection; (b) the use, storage, generation, production, treatment, emission, discharge, remediation, removal, disposal or transport of any Hazardous Substance; or (c) any other environmental matter.

ARTICLE XIX

MISCELLANEOUS

Section 19.1 Paragraph Headings. The headings used in this Lease are for convenience only. They shall not be construed to limit or to extend the meaning of any part of this Lease.

Section 19.2 Amendments. Any amendments or additions to this Lease shall be in writing by the parties hereto, and neither Tenant nor Landlord shall be bound by any verbal or implied agreements.

Section 19.3 Time of the Essence. Time is expressly declared to be of the essence of this Lease.

Section 19.4 Entire Agreement. This Lease contains the entire agreement of the parties hereto with respect to the matters covered hereby, and no other agreement, statement or promise made by any party hereto, or to any employee, officer or agent of any party hereto, which is not contained herein, shall be binding or valid.

Section 19.5 Language. The words "Landlord" and "Tenant", when used herein, shall be applicable to one (1) or more persons, as the case may be, and the singular shall include the plural and the neuter shall include the masculine and the feminine, and if there be more than one (1) the obligations hereof shall be joint and several. The word "persons" whenever used shall include individuals, firms, associations and corporations and any other legal entity, as applicable. The language in all parts of this Lease shall in all cases be construed as a whole and in accordance with its fair meaning, and shall not be construed strictly for or against Landlord or Tenant.

Section 19.6 Invalidity. If any provision of this Lease shall be deemed to be invalid, void or illegal, it shall in no way affect, impair or invalidate any other provision hereof.

Section 19.7 Late Charges. Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, and the exact amount of the costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Landlord by the terms of any mortgage or deed of trust covering the Premises. Therefore, in the event Tenant shall fail to pay any installment of Rent or other sum due hereunder within ten (10) days, Tenant shall pay to Landlord as Additional Rent a late charge equal to two percent (2%) of each installment. In the event Landlord pays any sum or expense on behalf of Tenant which Tenant is obligated to pay hereunder, or in the event Landlord expends any other sum or incurs any expense, or Tenant fails to pay any sum due hereunder, Landlord shall be entitled to receive interest upon that sum at the rate of twelve percent (12%) per annum from the date Landlord notifies Tenant of such expenditure, until paid.

Section 19.8 Computation of Time. The word "day" means "calendar day" herein, and the computation of time shall include all Saturdays, Sundays and holidays for purposes of determining time period specified herein. If a notice period would expire on a Saturday, Sunday, or holiday, the time for payment or performance shall be extended to the next business day.

Section 19.9 Applicable Law. This Lease shall be interpreted and construed under and pursuant to the laws of the State of Washington.

Section 19.10 Attorneys' Fees. In the event either party requires the services of an attorney in connection with enforcing the terms of this Lease or in the event suit is brought for the recovery of any Rent due under this Lease for the breach of any covenant or condition of this Lease, or for the restitution of the Premises to Landlord, and/or eviction of Tenant during the Term of this Lease or after the expiration thereof, the prevailing party will be entitled to a reasonable sum for attorneys' fees, witness fees, and other court costs, both at trial, on appeal, and in a bankruptcy or receivership procedure.

Section 19.11 Termination for Convenience. Tenant shall use its best efforts to obtain funding for the Lease during each year of the Lease term and any extensions thereof. In the

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event that the Metropolitan County Council elects not to fund this Lease after the initial base year, Tenant may terminate this Lease with six months' notice to Landlord. In the event of such termination, Tenant will be responsible for paying Landlord's reasonable costs for locating a new tenant to complete the Lease term, including, but not limited to, broker's commissions, rent concessions and tenant improvements necessary to make the Premises ready for the new tenant. Notwithstanding the foregoing, Tenant shall not be permitted to terminate the Lease if the Council's election not to fund this Lease is based in whole or in part on the decision to relocate the employees of Tenant to a different location leased, built or purchased by Tenant.

Section 19.12 Counterparts. This Agreement may be executed by the parties in counterparts, and each counterpart Agreement shall be deemed to be an original hereof.

Section 19.13 Quiet Enjoyment. Subject to the provisions of this Lease and conditioned upon performance of all the provisions to be performed by Tenant hereunder, Landlord shall secure to Tenant during the Lease Term the quiet and peaceful possession of the Premises and all rights and privileges appertaining thereto.

Section 19.14 Authority. Each party hereto warrants that it has the authority to enter into this Agreement and that the signatories hereto have the authority to bind Landlord and Tenant, respectively.

Section 19.15 Name of Building. In the event Landlord chooses to change the name of the Building, Tenant agrees that change shall not affect in any way its obligations under this Lease, and that, except for the name change, all terms and conditions of this Lease shall remain in full force and effect. Tenant agrees further that such name change shall not require a formal amendment to this Lease, but shall be effective upon Tenant's receipt of written notification from Landlord of said change.

Section 19.16 Rules and Regulations. Tenant agrees to abide by and adhere to any rules and regulations for the Building, and all amendments thereto, which may be promulgated from time to time by Landlord which do not materially change the provisions of this Lease. The rules and regulations currently in effect upon the date of execution of this Lease are set forth as Exhibit D attached hereto.

Section 19.17 Consents. Landlord shall act reasonably when determining whether to give any consents or approvals under the terms of this Lease.

Section 19.18 Option to Renew. Tenant shall have the option to extend the Lease term for one additional five-year period. The extension option shall be exercised by Tenant delivering to Landlord a written notice of intent to exercise at least twelve (12) months prior to the expiration date of the initial Lease term. Metro shall be required to extend the Lease for a minimum of up to fifty percent (50%) of its original total square footage. In addition, all remaining leased space must be between Floors 4 and 14 and must be contiguous. The Lease rate for the extended term shall be ninety five percent (95%) of the Fair Market Rent net to the

Landlord. If the parties are unable to agree on the Fair Market Rent, it shall be determined by appraisers selected by both Landlord and Tenant. If Landlord and Tenant cannot agree on an appraiser after thirty (30) additional days, then within thirty (30) days, the parties shall each choose an M.A.I. appraiser with five (5) years appraisal experience in the Seattle area. Within thirty (30) days of the appointment of the appraisers, the appraisers shall select a third similarly qualified appraiser, whose determination of fair market rent shall be binding on the parties. The third appraiser shall make its determination of fair market rent within thirty (30) days of such appraiser's selection. The cost of the third appraiser shall be shared equally by the parties. Notwithstanding the foregoing, in the event Tenant is in default under the Lease on the date Tenant exercises its option to renew or on the date such renewal term would go into effect, or if a condition exists on either such date which with notice or passage of time, or both, would constitute an event of default, Tenant's option to renew shall be deemed void and any notice given to exercise such option shall be deemed ineffective, unless Landlord specifically waives such rights in writing.

Section 19.19 Sale of Building. If at any time during the term of the Lease, as extended, Landlord receives an offer ("Offer") to purchase the Building which Landlord is willing to accept, Landlord shall immediately deliver a copy of the Offer to Tenant and Tenant shall have a period of forty-five (45) days after receipt thereof within which to preliminarily agree in writing to purchase the Building on the terms and conditions contained in the Offer. Tenant's preliminary acceptance shall be subject to final approval of Tenant's council or other governing body within sixty (60) days after Tenant's preliminary approval. If Tenant does not preliminarily accept the Offer in writing, or if Tenant accepts the Offer but such preliminary acceptance is not later ratified by Tenant's governing body in writing within the above sixty (60) day period, Landlord may sell the Building to the party who submitted the Offer on the terms and conditions contained in the Offer, but not otherwise. If Tenant and Tenant's governing body accept such Offer in the manner provided above, Tenant shall purchase the Building on all of the terms and conditions contained in the Offer, or as otherwise agreed to between Landlord and Tenant in writing.

Section 19.20 Right of First Refusal. Landlord shall provide Tenant with maximum flexibility to add space for expansion over the term of the Lease, so long as Tenant's Right of First Refusal does not extend to any space which may be included in any extension or expansion options, or rights of first refusal, granted to other tenants of the Building. Tenant may exercise the Right of First Refusal only for the purpose of occupying space for its business and not for the purpose of subletting or assigning the space to other tenants. Landlord will notify Tenant in writing of Landlord's intention to lease any space that is or becomes vacant subsequent to January 1, 1994. Tenant shall notify Landlord in writing of its intent to lease such space within fifteen (15) days of receipt of Landlord's notice; however, Landlord acknowledges that acceptance of new space is contingent on County Council approval and will grant Tenant a reasonable amount of time to obtain such approval. In the event that Tenant exercises its option, Landlord and Tenant shall execute an amendment to the Lease delineating the space added thereby. Tenant shall be provided with \$10.00 per rentable square foot tenant improvement allowance for all expansion space leased during the original lease term. The tenant improvement

allowance shall be adjusted on a straight-line pro rata basis to allow for differences in the length of the expansion term. Rent on the expansion space shall commence upon Tenant's possession of the space and shall be co-terminus with the initial Term. If Tenant exercises its right of first refusal during the initial term of the Lease, the annual base rent shall be \$12.95 per rentable square foot. The base year for operating expenses and taxes shall be 1994. The terms of this Right of First Refusal may not be assigned or transferred by Tenant to any other party. Should Tenant assign or transfer its interest under this Lease, the terms of this Right of First Refusal shall become void.

Section 19.21 Parking. Pending proper governmental and regulatory approvals and mutual consent by Tenant, Landlord shall strive to provide parking for Tenant and its customers on floors two and three. All plans must be mutually acceptable to both Tenant and Landlord.

Section 19.22 Lease Summary, Addendum and Exhibits. The Lease Summary, set forth on pages (i) and (ii) of the Lease, as well as Exhibits A, B, C, and D, hereto are hereby incorporated herein by reference.

Section 19.23 Survival. Those provisions of this Lease which, in order to be given full effect, require performance by either Landlord or Tenant following the termination of this Lease shall survive the Termination Date.

Section 19.24 Dispute Resolution. In the event of any dispute, claim, or disagreement arising out of or relating to this contract, and if said dispute cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation under the Washington Mediation Rules before resorting to arbitration. Thereafter, any unresolved contract, or breach thereof, may be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association or submitted to the King County Superior Court. The following shall not be subject to an arbitration as provided in this Section: (a) a determination by Landlord that Tenant is in monetary default hereunder, (b) a refusal by Landlord to allow Tenant to assign or sublet to a particular assignee or subtenant, (c) a refusal by Landlord to allow Tenant to renew this Lease or exercise its cancellation option in the event of Tenant's default as provided in Section 19.18 and 19.25, or (d) any consent, approval or determination which, pursuant to this Lease, is reserved to Landlord.

Section 19.25 Right to Cancel Floors Two and Three. Tenant reserves and Landlord grants to Tenant a one-time cancellation option, with nine months' prior written notice, to cancel this Lease as to floors two and three, totalling 29,605 square feet only, with rentable square feet effective December 31, 1997. There shall be no cost or penalty to Tenant associated with the cancellation and this Lease will be amended accordingly to reduce Tenant's proportional operating expenses and square footage rent. Notwithstanding the foregoing, in the event Tenant is in default under the Lease on the date Tenant exercises its right to cancel or on the date such cancellation would go into effect, or if a condition exists on either such date which with notice or passage of time, or both, would constitute an event of default, Tenant's right to cancel shall be deemed ineffective, unless Landlord specifically waives such right in writing.

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STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 19 _____, before me personally appeared _____, known to be the _____, of Seaboard Associates, a Washington limited partnership, the limited partnership that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited partnership, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

NOTARY PUBLIC in and for the state of
Washington, residing at _____
Print Name: _____
My commission expires: _____

EXHIBIT A**TENANT FLOOR PLAN**

The premises shall consist of approximately 225,118 net rentable square feet of office space on floors 1-13, 15, and floors 17, 18, 19, and 4,209 net rentable square feet of storage on the basement and first floors. As used in this lease rentable square feet shall mean such areas as defined by the Building and Managers Association International in its "Standard Method for Measuring Floor Area in Office Buildings", American National Standard ANSIZ 65.1-1980.

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EXHIBIT B

LEGAL DESCRIPTION

The Exchange Building
821 Second Avenue
Seattle, WA 98104

Lots 1, 2 and 4, Block 8, Town of Seattle as laid out on the claims of C. D. Boren and A. A. Denny (commonly known as Boren & Denny's addition to the City of Seattle), according to the plat recorded in Volume 1 of Plats, pages 27, in King County, Washington; except the westerly 9 feet of said lots 1 and 4, heretofore condemned in District Court Cause No. 7092, for widening of First Avenue, as provided by Ordinance No. 1129 of the City of Seattle; and except the easterly 12 feet of said lot 2, condemned in District Court Cause No. 7097 for widening of Second Avenue, as provided by Ordinance No. 1107 of the City of Seattle;

Together with the west half of vacated alley adjoining said lots 1 and 4, vacated by Ordinance No. 56715 of said City;

Together with the east half of vacated alley adjoining said lot 2, vacated by Ordinance No. 56715 of said City.

EXHIBIT C**TENANT IMPROVEMENTS, CAPITAL IMPROVEMENTS
AND
LANDLORD'S AND TENANT'S WORK****1. BUILDING STANDARD SHELL**

Tenant has inspected the building standard shell described in Exhibit 4 ("Building Standard Shell") and agrees to accept it in its "as is" condition. All improvements to the Premises other than the Building Standard Shell are called "Tenant Improvements" and shall be provided at Tenant's sole cost and expense, except as provided in Section 2 hereof.

2. TENANT IMPROVEMENTS

2.1 Tenant Improvement Allowance. Landlord shall provide Tenant with a Tenant Improvement Allowance of \$600,000. Tenant shall be allowed to allocate said funds to space planning, moving, construction, HVAC and other associated costs. In addition, Tenant shall be entitled to allocate up to \$100,000 of the \$600,000 towards Common Areas, ADA and/or other tenant improvements that Tenant deems appropriate. Tenant shall also be allocated an additional \$147,230, over and above the \$600,000, for tenant improvements to the 17th floor for a total of Seven Hundred Forty Seven Thousand Two Hundred Thirty and no/100 Dollars (\$747,230.00).

2.2 Recondition Allowance. Landlord shall provide Tenant with an allowance of \$35,000.00 (total of \$105,000.00) for each of the years 1997, 1998 and 1999. The allowance of \$35,000.00 each year may only be used during that one-year period and may not be carried over. Tenant shall be allowed to use the \$35,000.00 allowance or tenant improvements for Tenant's existing or expanded space or Tenant may apply the allowance against rent associated with expansion space Tenant may lease.

2.3 Method of Payment; Items Covered. Landlord agrees to make payment on a progress basis, but no more frequently than once a month, against Landlord's contractor's invoices for any of the following specific costs: space planning, architectural and engineering design, partitions (including one-half the cost of any public corridor or demising partitions enclosing Tenant's unimproved area), doors, door frames, hardware, paint, wall coverings, base, ceilings, lights, mechanical distribution, diffusers, thermostats, sprinkler distribution, sprinkler heads, emergency speakers, fire extinguishers and cabinets, telephone and electrical outlets, light switches, window coverings, floor coverings, all applicable permit fees and sales tax. Such payments shall continue until Landlord has paid the full amount of the Tenant Improvement Allowance.

3. BUILDING STANDARD IMPROVEMENTS

3.1 Landlord has developed standard materials and details for Tenant Improvements ("Building Standard") such as: partitions; ceilings; carpet and base; doors and frames with hardware; lighting fixtures; painting; electrical outlets; telephone outlets; heating, ventilating and air conditioning distributions and controls; and sprinkler distribution and sprinkler heads. Any deviation from Building Standard shall be of equal or better quality and shall require approval by Landlord.

4. DESIGN OF TENANT IMPROVEMENTS

4.1 **Tenant's Plans and Specifications.** A qualified office planner ("Office Planner") will prepare the necessary drawings and supply the information necessary to complete the Final Plans referred to in Section 4.3 below for construction of the Tenant Improvements. All Tenant's plans shall be subject to approval of Landlord.

4.2 **Compatibility with Building Plans.** Office Planner shall ensure that the work shown on Tenant's plans is compatible with the basic Building plans and the necessary Building modifications are included in Tenant's plans. Such modifications shall be subject to Landlord's approval and the cost thereof shall be paid by Tenant.

4.3 **Final Plans.** Prior to starting construction, Office Planner shall deliver to Landlord for its approval prints of the Final Plans which shall be signed by Tenant and when appropriate, shall incorporate the following elements:

- A. **Architectural Floor Plans.** Fully dimensioned floor plans.
- B. **Electrical and Telephone Outlets.** Drawings locating all power and telephone requirements. Office Planner shall identify all dedicated circuits and power outlets greater than 120 volts.
- C. **Reflected Ceiling Plan.** Drawings of lighting layout showing location and type of all Building Standard and special lighting fixtures.
- D. **Millwork Details.** Drawings in final form which shall include construction details of all cabinets, paneling, trim, bookcases, and door and jamb details for non-Building Standard doors and jambs.
- E. **Keying Schedules and Hardware Information.** Information in final form indicating which doors are locked and which keys open each lock, plus an indication of which side of a locked door the key will be inserted on, and complete specifications for all non-Building Standard hardware.

F. **Room Finish and Color Schedule.** Information in final form including locations and specifications for all wall finishes, floor covering and base for each room.

G. **Construction Notes and Specifications.** Specifications for every item included on Premises except those provided by Landlord.

H. **Engineering Drawings.** Drawings shall be prepared for plumbing, electrical, heating, air conditioning, and structural changes based on the signed Final Plans.

5. CONSTRUCTION OF TENANT IMPROVEMENTS

5.1 **Authorization to Proceed.** Upon completion of Tenant's Final Plans and at the request of Tenant, Landlord shall provide to Tenant written notice of the price for such Tenant Improvements. Tenant shall give Landlord written authorization to complete the Premises in accordance with such Final Plans.

5.2 **Tenant's Share of Costs.** If the cost for Tenant Improvements exceeds the amount which Landlord is obligated to pay as set forth in Section 2 hereof, Landlord shall inform Tenant of the estimated expense which Tenant shall be required to pay. As Landlord makes payment to Landlord's contractor for Tenant Improvement construction, it shall bill Tenant for Tenant's portion of the expenses which Tenant shall promptly pay.

5.3 **Change Orders.** If Tenant shall request any change, such request shall be made in writing to Landlord, accompanied by all plans and specifications necessary to show and explain changes from approved Final Plans. Landlord shall give Tenant a written price for the cost of engineering and design services to incorporate the changes in Tenant's Final Plans. If Tenant approves such price in writing, Landlord shall have such Final Plan changes made. Tenant shall within five (5) days notify Landlord in writing to proceed with such change, addition or deletion. In the absence of such notice, Landlord shall proceed in accordance with the previously approved Final Plans before such change, addition or deletion was requested. In accordance with Section 3.2 of the Lease, Tenant shall be responsible for any resulting delay in completion of the Premises due to modification to the Final Plans. Tenant shall also be responsible for any demolition work required as a result of the change.

5.4 **Access to Premises.** Tenant's entry to areas under construction for any purpose, including without limitation, inspection by Tenant's agents, prior to the completion of Tenant Improvements shall be scheduled in advance with Landlord and shall be subject to all the terms and conditions of the Lease. Tenant's entry shall mean entry by Tenant, its officers, contractors, Office Planner, licensees, agents, servants, employees, guests, invitees, or visitors.

6. LANDLORD'S CAPITAL IMPROVEMENTS

6.1 Landlord, at its sole cost and expense, agrees to construct the following improvements to the Building, to be completed as soon as possible but no later than the end of second quarter 1995.

6.2 **Elevator #1.** A new fully-modernized elevator will be installed in hoistway Number 1. This elevator will be integrated with the existing low-rise elevator group. The elevator service for the low-rise elevator group will meet the "good to excellent" rating so designated by an independent elevator consultant.

6.3 **Elevators #6, 7, and 8.** A complete modernization, including new controls, wiring, refurbishing of hoist motors, door packages and fixtures for elevators Number 6, 7, and 8 to be completed as soon as possible but no later than the end of second quarter 1995, upgrading elevator service for the high-rise elevator group to the "good to excellent" rating.

6.4 **HVAC.** Landlord agrees to provide to Tenant adequate HVAC. Landlord agrees to provide Tenant with temperatures between 68° and 74° provided Tenant maintains normal standard office use typical to Floor 9.

6.5 Water and Air Quality Standards.

A. **Air Standards.** Landlord agrees to maintain an outdoor air ventilation rate consistent with ASHRAE (62-89) guidelines and all other applicable government standards. To ensure compliance with these guidelines, Landlord agrees to test the air for carbon dioxide on each of the floors at least once a year, but as many as four (4) times a year per floor, if there are complaints from the tenant related to air ventilation. In the event the carbon dioxide level exceeds 650 parts per million in excess of the background levels, Landlord will take the necessary steps to improve the air flow in the area. Measurements are to be taken when concentrations are expected to peak: generally, late in the morning before lunch and/or late in the afternoon before people leave. Measurements will be taken during normal building and HVAC system operating conditions.

B. **Water Quality Standards.** Landlord agrees to test all drinking fountains and kitchen faucets to ensure the water from these fountains and faucets meet all applicable government standards. Tests will be made at least once a year, but not more than four (4) times per year, from all fountains and kitchen faucets in the Exchange Building which are accessed by Tenant's employees. Test results will be made available to Tenant. The Landlord agrees to make any necessary improvements if the water does not meet government standards.

6.6 **First Floor Entry Upgrade.** Landlord agrees to work with Tenant to find a solution, at Landlord's cost, to mitigate First Floor accidents due to slick floors.

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EXHIBIT D

RULES AND REGULATIONS

1. The sidewalks, halls, passages, elevators, stairways, exits, and entrances of the Building shall not be obstructed by Tenant or used by it for any purpose other than for ingress and egress from the Premises. The halls, passages, exits, entrances, elevators, retail arcade, escalators, balconies and stairways are not for the use of the general public, and Landlord shall in all cases retain the right to control and prevent access to those areas by all persons whose presence in the judgment of Landlord would be prejudicial to the safety, character, reputation and interests of the Building and its tenants, provided that nothing in this Lease shall be construed to prevent access by members of the public with whom Tenant normally deals in the ordinary course of its business, unless those persons are engaged in illegal activities. Tenant shall not go upon the roof of the Building, except in areas that Landlord may designate as "Co" from time to time.

2. The Premises shall not be used for lodging or sleeping. Unless ancillary to a restaurant or other food service use specifically authorized in Tenant's Lease, no cooking shall be done or permitted by Tenant on the Premises, except that the preparation of hot beverages and use of microwave ovens for Tenant and its employees shall be permitted, or as otherwise approved by Landlord.

3. Landlord shall clean the leased Premises as provided in the Janitorial Schedule attached hereto, and except with the written consent of Landlord, no person or persons other than those approved by Landlord will be permitted to enter the Building for such purpose, but Tenant shall have the right to have an employees on the Premises for special and/or extraordinary cleaning as desired by Tenant and at Tenant's expense. Tenant shall not cause unnecessary labor by reason of Tenant's carelessness and indifference in the preservation of good order and cleanliness.

4. Tenant shall not alter any lock or install a new additional lock or any bolt on any door of the Premises without furnishing Landlord with a key for any lock and obtaining Landlord's prior permission. Tenant, upon the termination of its tenancy, shall deliver to Landlord all keys and/or security cards to doors in the Building and the Premises that shall have been furnished to Tenant and in the event of loss of any keys and/or security cards so furnished, shall pay Landlord for the lost keys and/or security cards and changing of locks as a result of such loss.

5. The freight elevator shall be available for use by Tenant, subject to reasonable scheduling as Landlord shall deem appropriate. The persons employed by Tenant to move equipment or other items out of the Building must be acceptable to Landlord. Landlord shall have the right to prescribe the weight, size and position of all equipment, materials, supplies, furniture or other property brought into the Building. No safes or other objects larger or heavier

6.7 **Wheelchair Access.** Landlord agrees to provide wheelchair access into the building and is currently seeking bids to complete this project by year end.

6.8 **Glass Doors - First Floor.** Landlord agrees to work with Tenant to resolve issues with glass doors on First Avenue. Landlord will pay all costs of replacing or repairing broken doors until the issue is resolved and thereafter if the glass doors are left in place.

6.9 **Retrofit Restrooms.** Landlord has retrofitted Tenant's rest room on Floor 4 and is currently working on completing Floor 13. The balance of Tenant's areas of concern may be addressed in item Number 7.

than the freight elevator of the Building is limited to carry shall be brought into or installed on the Premises without Landlord's prior written consent. Heavy objects shall, if considered necessary by Landlord, stand on wood strips of thickness as is necessary to properly distribute the weight of those objects. Landlord will not be responsible for loss of or damage to any property from any cause, and all damage done to the Building by moving or maintaining Tenant's property shall be repaired at the expense of Tenant. The moving of heavy objects shall occur only between those hours as may be designated by and only upon written notice to Landlord and the persons employed to move heavy objects in or out of the Building must be acceptable to Landlord.

6. Tenant shall not use or keep in the Premises or the Building any kerosene, gasoline or flammable or combustible fluid or materials or use any method of heating or air conditioning other than that supplied by Landlord. Tenant shall not sweep or throw or permit to be swept or thrown from the Premises any debris or other substance into any of the corridors, halls or lobbies or out of the doors or windows or into the stairways of the Building and Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance in the Premises. Tenant shall not use, keep or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building by reason of noise, odors and/or vibrations, or interfere in any way with other tenants or those having business in the Building.

7. During non-business hours and on holidays access to the Building, or to the halls, corridors or stairways in the Building, or to the Premises, may be refused unless the person seeking access is known to the Building Management and has a pass or is properly identified. Landlord shall in no case be liable for damages for the admission to or exclusion from the Building of any person whom Landlord has the right to exclude

8. Tenant shall see that the doors of the Premises are closed and securely locked when Tenant's employees leave the Premises.

9. The toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, no foreign substance of any kind whatsoever shall be deposited in any of them, and any damage resulting to them from Tenant's misuse shall be paid for by Tenant.

10. Except for the sale of bus passes or otherwise, with the prior written consent of Landlord, Tenant shall not sell, or permit the sale from the Premises of newspapers, magazines, periodicals, theater tickets or any other goods, merchandise or service, nor shall Tenant carry on, or permit or allow any employee or other person to carry on, business in or from the Premises for the service or accommodation of occupants of any other portion of the Building, nor shall the Premises be used for manufacturing of any kind, or for any business or activity other than that specifically provided for in Tenant's Lease. No Tenant shall obtain for use upon the Premises, ice, towel and other similar services, or accept barbering or shoe polishing

services in the Premises, except from persons authorized by Landlord and at hours and under regulations fixed by the Landlord.

11. Tenant shall not install any radio or television antenna, loudspeaker or other device on the roof or exterior walls of the Building.

12. Tenant shall not use in any space, or in the Common Area of the Building, any hand trucks except those equipped with rubber tires and side guards or other material handling equipment as Landlord may approve. No other vehicles of any kind shall be brought by Tenant into the Building or kept in or about the Premises. All mail carts shall be equipped with rubber guards to protect elevators, doors and hallways. **All deliveries shall be made through the First Avenue entrance only.**

13. No sign, advertisement or notice visible from the exterior of the Premises shall be inscribed, painted or affixed by Tenant on any part of the Building or the Premises without the prior written consent of Landlord. If Landlord shall have consented at anytime, whether before or after the execution of this Lease, that consent shall in no way operate as a waiver or release of any of the provisions of this Rule 13 of this Lease, and shall be deemed to relate only to the particular sign, advertisement or notice so consented to by Landlord and shall not be construed as dispensing with the necessity of obtaining the specific written consent of Landlord with respect to each and every such sign, advertisement or notice other than the particular sign, advertisement or notice, as the case may be, so consented to by the Landlord.

14. Except as shown in the design plan approved by Landlord, the sashes, sash doors, windows, glass relights, and any lights or skylights that reflect or admit light into the halls or other places of the Building shall not be covered or obstructed and, there shall be no hanging plants or other similar objects in the immediate vicinity of the windows or placed upon the window sills or hung from the window heads.

15. No tenant shall lay linoleum or other similar floor covering so that it is affixed to the floor of the Premises in any manner except by a paste, or other material which may be easily removed with water, the use of cement or other similar adhesive materials being expressly prohibited. The method of affixing any linoleum or other similar floor covering to the floor, as well as the method of affixing carpets or rugs to the Premises, shall be subject to approval by Landlord. The expense of repairing any damage resulting from a violation of this Rule 15 shall be borne by the Tenant by whom, or by whose agents, clerks, employees or visitors, the damage shall have been caused.

16. All loading, unloading, and delivery of merchandise, supplies, materials and furniture to the Premises shall be made during reasonable hours and in entryways and elevators as Landlord shall designate. Tenant shall not obstruct or permit the obstruction of loading areas, and at no time shall Tenant park vehicles in the loading areas except for loading and unloading.

17. Canvassing, soliciting, peddling or distribution of handbills or any other written material in the Building is prohibited and Tenant shall cooperate to prevent these activities.

18. Tenant shall not permit the use or the operation of any coin operated machines on the Premises, including, without limitation, vending machines, video games, pinball machines, or pay telephones without the prior written consent of Landlord.

19. Landlord may direct the use of all pest extermination and scavenger contractors through-out the Building and/or Premises at intervals as Landlord may require.

20. If Tenant desires telephone or telegraph connections, Landlord will direct service technicians as to where and how the wires are to be introduced. No boring or cutting for wires or otherwise shall be made without directions from Landlord.

21. Tenant shall immediately, upon request from Landlord (which request need not be in writing), reduce its lighting in the Premises for temporary periods designated by Landlord, when required in Landlord's judgment to prevent overloads of mechanical or electrical systems of the Building.

22. Landlord reserves the right to select the name of the Building and to change the name as it may deem appropriate from time to time, and Tenant shall not refer to the Building by any other name other than: (a) the names as selected by Landlord (as that name may be changed from time to time), or (b) the postal address, approved by the United States Post Office. Tenant shall not use the name of the Building in any respect other than as an address of its operation in the Building without the prior written consent of Landlord.

23. The requirements of Tenant will be attended to only upon application by telephone, by fax, or in person at the office of the Building manager. Employees of Landlord shall not perform any work or do anything outside of their regular duties unless under special instruction from Landlord.

24. Landlord may waive any one or more of the Rules and Regulations for the benefit of any particular tenant or tenants, but no waiver by Landlord shall be construed as a waiver of the Rules and Regulations in favor of any other tenant or tenants, nor prevent Landlord from thereafter enforcing any Rules and Regulations against any or all of the tenants in the Building.

25. Wherever the word "Tenant" occurs in these Rules and Regulations, it is understood and agreed that it shall mean Tenant's assigns, subtenants, associates, agents, clerks, employees and visitors. Wherever the word "Landlord" occurs in these Rules and Regulations, it is understood and agreed that it shall mean Landlord's assigns, agents, clerks, employees and visitors.

26. These Rules and Regulations are in addition to, and shall not be construed in any way to modify, alter or amend, in whole or part, the terms, covenants, agreements and conditions of any Lease of the Premises in the Building.

27. Landlord reserves the right to make additional rules and regulations as in its judgment may from time to time be needed for the safety, care and cleanliness of the Building, and for the preservation of good order therein.