



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

April 4, 2000

Ordinance 13778

Proposed No. 1999-0559.2

Sponsors Gossett and Hague

1 AN ORDINANCE authorizing the executive to enter into a
2 lease for nineteen thousand two hundred eight square feet
3 of space at 4623 7th Avenue South in Seattle, with an
4 option to purchase the premises, for a public safety
5 evidence storage facility.

6 **PREAMBLE:**

7 In accordance with K.C.C. 4.04.040, the King County council may
8 adopt an ordinance permitting the county to enter into contracts
9 requiring the payment of funds from the appropriation of subsequent
10 fiscal years.

11 **BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:**

12 SECTION 1. The King County executive is hereby authorized to execute a lease,
13 in substantially the form attached, for fourteen thousand two hundred (14,200) square feet
14 of warehouse space and five thousand eight (5008) square feet of office space located at
15 4623 7th Avenue South, in Seattle, in council district 5. The space will be used for an
16 evidence storage warehouse and related offices. The term of the lease will be for fifteen
17 (15) years. The rental rate begins at fourteen thousand one hundred sixty-seven (14,167)

18 dollars per month. There is an option to purchase any time between the beginning of the
19 thirty-seventh month and the last day of the forty-eighth month with extension of the
20 purchase option or earlier purchase possible by mutual consent. The purchase price
21 during the option year would be two million two hundred seventeen thousand four
22 hundred eighty-eight (2,217,488) dollars.

23

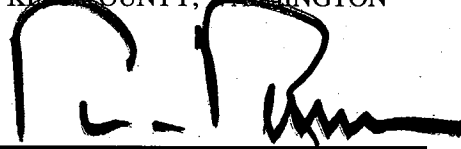
Ordinance 13778 was introduced on 10/4/99 and passed by the Metropolitan King County Council on 4/3/00, by the following vote:

Yes: 12 - Mr. von Reichbauer, Ms. Miller, Ms. Fimia, Mr. Pelz, Mr. McKenna, Ms. Sullivan, Mr. Nickels, Mr. Pullen, Mr. Gossett, Ms. Hague, Mr. Vance and Mr. Irons

No: 0

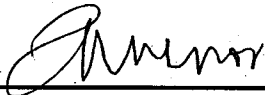
Excused: 1 - Mr. Phillips

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

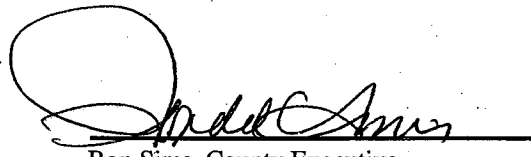


Pete von Reichbauer, Chair

ATTEST:



Anne Noris, Clerk of the Council
APPROVED this 10 day of April, 2000.



Ron Sims, County Executive

Attachments Attachment A - Lease Agreement, dated January 18, 2000

13778

LEASE AGREEMENT

1. Specific Information:

- 1.1. The "Landlord" is UTV, L.L.C.
- 1.2. The "Tenant" is King County.
- 1.3. Location of Premises: The street address of the leased property ("Premises") is 4623 Seventh Avenue South, Seattle, Washington, which is legally described on Schedule 1.3.
- 1.4. Lease Duration:
- 1.4.1. The "Commencement Date" of this Lease is February 1, 2000.
- 1.4.2. The "Termination Date" of this Lease is January 31, 2015.
- 1.5. The "Basic Monthly Rent" at the commencement of this Lease is \$14,167.00 (which shall be adjusted periodically in accordance with Schedule 1.5, if attached).
- 1.6. The "Allowed Use" of the Premises is King County governmental use.
- 1.7. On signing this Lease, Tenant shall pay Landlord Forty-Two Thousand Five Hundred One and No/100 Dollars (\$42,501.00) to be applied toward payment of the first, second and third month(s) of the term of this Lease ("Advance Rent")
- 1.8. Notice Address of Tenant:
- Attention: Manager King County Property Services
500 King County Administration Building
500 4th Avenue
Seattle, WA 98104
- 1.9. Notice Address of Landlord:
- UTV, L.L.C.
4623 Seventh Avenue South
Seattle, WA
- 1.10. Date. This Lease is dated, for reference purposes only, as of January 18, 2000.

2. Premises. Landlord hereby leases to Tenant and Tenant leases from Landlord for the term, at the rental, and on all of the terms and conditions of this Lease, the Premises.

3. Term.

3.1. Term. The term of this Lease is from the Commencement Date until the Termination Date, unless sooner terminated pursuant to any provision hereof.

3.2. Delay in Commencement. Despite the stated Commencement Date, the Landlord shall not be liable to Tenant and this Lease (including the stated Termination Date) and the Tenant obligations under this Lease shall be unaffected if for any reason Landlord does not deliver possession of the Premises to Tenant on the Commencement Date, but in such case Tenant shall have no obligation to pay rent until Landlord delivers possession of the Premises to Tenant. If Landlord has not delivered possession of the Premises to Tenant by ninety (90) days after the stated Commencement Date and until Landlord does deliver possession to the Premises to Tenant, Tenant may elect by written notice to Landlord cancel this Lease. If the Landlord shall not have delivered possession of the Premises within one (1) year from the Commencement Date, Landlord may by notice in writing to Tenant cancel this Lease. If either party elects to so cancel the Lease, Landlord shall return any money previously deposited by Tenant and the parties shall be discharged from all obligations hereunder. In no event, however, shall

Tenant have the right to cancel this Lease because of any delay in delivering possession of the Premises because of any act of God or the elements; shortage or unavailability of necessary materials, supplies, or labor; shortage of or interruption in transportation of facilities; regulations or restriction; or any other cause beyond Landlord's reasonable control. In the event delivery of possession of the Premises is delayed beyond the stated Commencement Date, the stated Commencement Date and the stated Termination Date each shall be extended by the number of days of such delay.

3.3. **Early Possession.** If Tenant occupies the Premises before the Commencement Date of the term, all of Tenant's Lease obligations (including payment of Operating Expenses, but not Basic Monthly Rent) shall become effective immediately although such early possession shall not accelerate the Termination Date of this Lease.

4. Rent.

4.1. **Basic Monthly Rent.** Tenant shall pay to Landlord as rent for the Premises the Basic Monthly Rent, in advance, on the first day of each month of the term hereof. Rent for any period during the term hereof which is for less than one (1) month shall be a pro-rata portion of the monthly installment. Rent shall be payable without notice or demand and without deduction, offset, or abatement, in lawful money of the United States of America to Landlord at such address and to such other persons or at such other places as Landlord may designate in writing.

4.2. Operating Expenses.

4.2.1. In addition to the Basic Monthly Rent and commencing on the earlier of Tenant's occupancy or the Commencement Date, Tenant shall pay to Landlord monthly and in advance the Operating Expenses of the Premises. Periodically Landlord shall submit to Tenant a statement of the anticipated monthly amount of the Operating Expenses, and Tenant shall pay the same and all subsequent monthly payments concurrently with the payment of Basic Monthly Rent or if no Basic Monthly Rent is due, payment of the Operating Expenses shall be due and payable on or before the first day of each month, in advance without adjustment or offset. Tenant shall continue to make said monthly payments until notified by Landlord of a change thereof. In the event that a Lender requires Landlord to make monthly or periodic deposits to an account for the payment of Insurance Premiums or Taxes, the amount of such required deposits shall be simultaneously due from Tenant rather than being due on the date when such Taxes or Insurance Premiums are paid. Each year when available, Landlord shall give Tenant a statement showing the total Operating Expenses and other charges, if any, for the Property actually incurred for the prior calendar year. In the event that the term of this Lease does not begin or end coincident with the calendar year, the statement for such year shall be prorated appropriately. In the event the total of the monthly payments which Tenant has made for the prior calendar year shall be less than the actual Operating Expenses, then Tenant shall pay the difference in a lump sum within ten (10) days after receipt of such statement from Landlord when the final determination is made of the Operating Expenses; even though the Term may have expired or been terminated. Any overpayment made shall be refunded to Tenant or, at Landlord's option, credited towards the next Basic Monthly Rent payments coming due. In the case of the year in which the Lease expires or terminates, any overpayment will be refunded. In the event of any adjustment by Landlord of the estimated amount of the Operating Expenses, Tenant shall immediately commence paying the adjusted estimated amount.

4.2.2. **Definition of Operating Expenses.** "Operating Expenses" shall mean the total costs and expenses paid or incurred by Landlord in connection with the ownership, operation, maintenance and repair of the Premises which in accordance with reasonable accounting and management practices consistently applied, including, without limitation (1) Taxes; (2) Insurance Premiums; (3) the cost of utilities consumed in the Premises if paid for by Landlord; (4) the costs incurred by Landlord due to a breach of this Lease by Tenant; (5) the cost of any governmentally required license, permit, or inspection for or of the Premises; (6) personal property taxes on any personal property owned by Landlord and located in the Premises and used for the maintenance or operation of the Premises; (7) and any other costs and expenses of any other kind whatsoever reasonably incurred by Landlord in operating or maintaining the Premises; (8) reasonable property management fees paid to an unrelated third party and not exceeding four percent (4%) of total rental charges and (9) any other expense designated by this Lease to be an Operating Expense. Replacement of mechanical equipment, carpeting, new interior paint, and parking lot paving will be added to Operating Expenses commencing April 1, 2001. Operating Expenses shall be "net" only and for that purpose shall be deemed reduced by the amounts of any insurance reimbursement or other reimbursement received by Landlord in connection with such expenses. The following shall not be Operating Expenses (1) repairs or other work occasioned by insured casualty except for the deductible portion of any insured casualty loss;

(2) leasing commissions except in the event of Tenant's default; (3) depreciation and amortization; (4) interest on debt or principal payments to a Lender or rental under a ground lease (other than leasehold excise tax); and (5) costs of Landlord's general overhead. Upon sale of the Premises, any reserves, including interest on reserves, shall transfer to the new owner.

5. **Security Deposit.** There is no Security Deposit.

6. **Use.**

6.1. **Allowed Use.** The Premises shall be used and occupied only for the Allowed Use and for no other purpose without prior written consent of Landlord, which consent may be withheld or conditioned as Landlord deem appropriate within its sole, unrestricted discretion. The designation of Tenant's Allowed Use shall not be deemed to be an agreement by Landlord to refrain from leasing other property to others for a similar use.

6.2. **Compliance with Law.** Tenant shall, at Tenant's expense, comply promptly with all present and future laws and requirements regulating the use of the Premises by Tenant or Tenant's business together with any laws providing for accessibility of the Premises, including access by disable persons. Tenant shall not create or allow waste or a nuisance, or unreasonably disturb any other person.

6.3. **Insurance Cancellation.** Despite any other provision of this Lease, no use of the Premises may be made or permitted nor acts done which will adversely affect or increase the cost of any insurance policy maintained by Landlord.

6.4. **Landlord's Rules and Regulations.** Tenant shall comply with reasonable regulations, made or changed by Landlord from time to time, which regulations shall not conflict with any express provision of this Lease.

7. **Maintenance, Repairs and Alteration.**

7.1. **Landlord's Obligation.** Except for damage caused or allowed by Tenant and its employees or invitees, Landlord shall maintain, at Landlord's expense and not as an Operating Expense, the structural foundations of the Premises and the exterior roof(s) of the Premises. Landlord shall have no obligation to make such repairs until a reasonable time after receipt of written notice of the need for such repairs. Except as provided in this Section and as provided in this Lease as to damage by casualty, Landlord shall have no obligation to make any repair, change or improvement of the Property or the Premises.

7.2. **Tenant's Obligations.** Tenant, at Tenant's expense, shall maintain in good condition and appearance all and every part of the Premises. Without limiting Tenant's duty, Tenant shall so maintain (including repainting when reasonably needed) all walls (both the exterior and interior), all plumbing, heating, air conditioning, ventilating, electrical and lighting facilities and equipment, fixtures, ceilings, doors, glass, and skylights, sidewalks, landscaping, driveways, parking lots, fences and signs on the Premises. Tenant's agreement to maintain the Premises shall include the duty to replace as well as repair. If and as directed in writing by Landlord, Tenant shall contract, at Tenant's expense, for third party periodic preventative maintenance and servicing of heating, air conditioning and ventilating equipment serving the Premises.

7.3. **Initial Condition of Premises.** Except as provided in Schedule 7.6.4 attached, Tenant accepts the Premises in the condition existing when this Lease is signed. Tenant acknowledges that neither Landlord nor the Broker has made any representation or warranty as to (i) the physical condition of the Premises other than Landlord represents that Landlord is not presently aware of any existing physical condition of the Premises which presently is legally required to be rectified or altered, or (ii) the suitability or zoning of the Premises for the conduct of Tenant's business. Unless expressly provided in a Schedule 7.3 attached to the Lease and signed or initialed by the Landlord, Landlord has no obligation to make any improvements or changes to the Premises.

7.4. **Surrender.** On the Termination Date of this Lease, or on any sooner termination of this Lease, Tenant shall surrender the Premises to Landlord in good condition and in accordance with Tenant's maintenance obligation and broom clean, ordinary wear and tear excepted. Tenant shall patch, fill and paint any holes resulting from attachment of any of Tenant's trade fixtures, furnishings and equipment. Tenant shall remove any alterations or improvements made by Tenant without the prior written approval of Landlord.

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7.5. **Landlord's Rights.** If Tenant fails to perform Tenant's maintenance obligations, Landlord may, at its option (but shall not be required to) enter the Premises, after ten (10) days prior written notice to Tenant or with no prior written notice in an emergency, and perform Tenant's maintenance obligations and Tenant shall immediately, fully reimburse Landlord for such expense together with interest thereon at the rate of twelve percent (12%) per annum and pay to Landlord an administrative surcharge equal to fifteen percent (15%) of the costs so incurred by Landlord.

7.6 **Alterations and Additions.**

7.6.1. Without Landlord's prior written consent, Tenant shall not make any alterations, improvements or additions to the Premises, except for non-permanent changes costing less than Five Thousand Dollars (\$5,000) in the aggregate per year. As a condition of consent, Landlord may require that Tenant be responsible to remove any such alterations, improvements or additions at the expiration of the term, and to restore the Premises to the prior condition; Landlord may impose such other conditions as are reasonable. Tenant shall secure all governmental permits required in connection with any such work. Landlord may, at its sole option, require Tenant, at Tenant's expense, to obtain for Landlord's benefit a surety bond in an amount equal to the estimated cost of such work, to insure Landlord and the Property against any liability for liens arising from such work and to insure completion of the work.

7.6.2. Before commencing any work relating to alterations, additions and improvements affecting the Premises (none of which are required or requested by Landlord, nor any obligation of Tenant under this Lease), Tenant shall notify Landlord in writing of the expected date of commencement thereof. Landlord shall then have the right at any time to maintain on the Premises such notices as Landlord reasonably deems necessary to protect the Premises and Landlord from any lien. In any event, Tenant shall pay, when due, all charges incurred by Tenant. Tenant shall not permit any lien to be asserted, against the Premises or Property for any charge incurred or alleged to have been incurred by Tenant, and Tenant shall indemnify, defend Landlord against, and hold Landlord harmless from any and all liability, costs, damages therefrom.

7.6.3. Unless Landlord requires removal, as provided elsewhere in this Lease, all alterations, improvements or additions which may be made on the Premises shall become the property of Landlord and remain upon and be surrendered with the Premises at the expiration of the term; provided Tenant's machinery, equipment and trade fixtures, other than that which is affixed to the Premises so that it cannot be removed without material damage to the Premises, shall remain the property of Tenant and may be removed by Tenant prior to the end of the term of the Lease and subject to Tenant's obligations to maintain the Premises.

8. **Hazardous Substances.**

8.1. As used in this Lease, the term "Hazardous Substance" means any substance or material, the storage, use or disposal of which is or becomes regulated under any law, now or hereafter in effect.

8.2. Landlord warrants to Tenant that Landlord has not released or deposited on the Premises any Hazardous Substance, and Landlord has no knowledge of the presence of any hazardous substance on the Premises.

8.3. Without Landlord's prior written consent, Tenant shall not receive, store or otherwise allow any Hazardous Substance on the Premises. In the event of any release or presence of any Hazardous Substances on or about the Premises occurring on or after the Commencement Date of this Lease, Tenant agrees to immediately, fully and completely remove (and to dispose of such in accordance with applicable law) all of such Hazardous Substance from the Premises even if the quantity or concentration of such Hazardous Substance would not require remediation under the provisions of law. Tenant further agrees to defend, indemnify, and hold harmless Landlord, its employees, agents and contractors and Lender from and against any and all losses, claims, liabilities, damages, demands, fines, costs, and expenses (including reasonable attorneys' fees) arising out of or resulting from any release or presence of any Hazardous Substances on or about the Premises; the provisions of this sentence shall survive (and be enforceable thereafter) the termination or expiration of this Lease and the surrender of the Premises by Tenant. If Tenant becomes aware of the release or presence on the Premises of any Hazardous Substance, Tenant shall immediately advise Landlord of such release or presence, and Tenant further shall provide Landlord with copies of any reports, studies, recommendations or requirements received by Tenant from any third person including a governmental agency.

9. Insurance; Indemnity.

9.1. **Payment of Premium.** "Insurance Premiums" are the actual cost of the insurance applicable to improvements on the Property and required to be carried by Landlord by this Lease and include, but are not limited to, requirements of a Lender. The cost of Insurance Premiums shall be included as a portion of the Operating Expenses which Tenant shall pay.

9.2. Liability Insurance.

9.2.1. **Carried by Tenant.** Tenant shall obtain and keep in force during the term of this Lease a commercial (comprehensive) liability insurance policy protecting Tenant, Landlord and any Lender(s) whose names have been provided to Tenant in writing (as additional insureds) against claims for bodily injury, personal injury and property damage based upon, involving or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. For the purposes of this Lease, a "Lender" is a mortgagee under a mortgage or a beneficiary under a deed of trust granted by Landlord or Landlord's predecessor and which is a lien on the Premises. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an "Additional Insured - Managers or Landlords of Premises" endorsement and contain the "Amendment of the Pollution Exclusion" endorsement for damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any inter-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Tenant's indemnity obligations under this Lease. The limits of said insurance required by this Lease or as carried by Tenant shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. All insurance to be carried by Tenant shall be primary to and not contributory with any similar insurance carried by Landlord, whose insurance shall be considered excess insurance only.

9.2.2. **Carried by Landlord.** At Landlord's own expense, Landlord may also maintain liability insurance similar to that described in the preceding Section, in addition to and not in lieu of, the insurance required to be maintained by Tenant. Tenant shall not be named as an additional insured therein.

9.3. Property Insurance - Building, Improvements and Rental Value.

9.3.1. **Building and Improvements.** Landlord shall obtain and keep in force during the term of this Lease a policy or policies in the name of Landlord, with loss payable to Landlord and to any Lender(s), insuring against loss or damage to the Premises with such deductible amount as is selected by Landlord. Such insurance shall be for full replacement cost, as the same shall exist from time to time, or the amount required by any Lender(s), but in no event more than the commercially reasonable and available insurable value thereof if, by reason of the unique nature or age of the improvements involved, such latter amount is less than full replacement cost. If the coverage is available and commercially reasonable, Landlord's policy or policies may insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake), including coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the enforcement of any ordinance or law regulating the reconstruction or replacement of any undamaged sections of the Premises required to be demolished or removed by reason of the enforcement of any building, zoning, safety or land use laws as the result of a covered loss. Such policies may also contain an agreed valuation provision in lieu of any co-insurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor selected by the insurer.

9.3.2. **Rental Value.** Landlord shall also obtain and keep in force during the term of this Lease a policy or policies in the name of Landlord, with loss payable to Landlord and any Lender(s), insuring the loss of the full rental and other charges (including Operating Expenses) payable by Tenant to Landlord for one year. Said insurance may provide that in the event the Lease is terminated by reason of an insured loss, the period of indemnity for such coverage shall be extended beyond the date of the completion of repairs or replacement of the Premises, to provide for one full year's loss of rental revenues from the date of any such loss. Said insurance shall contain an agreed valuation provision in lieu of any co-insurance clause, and the amount of coverage shall be adjusted annually to reflect the projected payments payable by Tenant for the next 12-month period.

9.4. **Tenant's Property Insurance.** Tenant at its own cost shall maintain insurance coverage on all of Tenant's personal property, trade fixtures and Tenant-owned alterations and improvements in the Premises similar in coverage to that required by this Lease to be carried by Landlord. Such insurance shall be full replacement cost coverage with a deductible not to exceed Five Thousand Dollars (\$5,000) per occurrence. The proceeds from any such insurance shall be used by Tenant for the replacement of personal property, trade fixtures and the restoration of

any Tenant owned improvements. Upon request from Landlord, Tenant shall provide Landlord with written evidence that such insurance is in force.

9.5. **Insurance Policies.** Insurance required hereunder shall be in companies duly licensed to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, V or such other rating as may be required by a Lender, as set forth in the most current issue of "Best's Insurance Guide." Tenant shall not do or permit to be done anything which shall invalidate the insurance policies maintained by Landlord. Tenant shall cause to be delivered to Landlord, within seven (7) days after the earlier of the Early Possession Date or the Commencement Date, certified copies of, or certificates evidencing the existence and amounts of, the insurance required of Tenant by this Lease. No such policy shall be cancelable or subject to modification except after thirty (30) days' prior written notice to Landlord. At least thirty (30) days prior to the expiration of such policies, Tenant shall furnish Landlord with evidence of renewals or "insurance binders" evidencing renewal thereof, or Landlord may obtain such insurance and charge the cost thereof to Tenant, which amount shall be payable by Tenant to Landlord upon demand.

9.6. **Waiver of Subrogation.** Without affecting any other rights or remedies, Tenant and Landlord each hereby release and relieve the other, and waive their entire right to recover damages (whether in contract or in tort) against the other, for loss or damage to their property arising out of or incident to the perils required to be insured against under this Lease to the actual extent of the insurance actually maintained. Landlord and Tenant agree to have their respective insurance companies issuing property damage insurance waive any right to subrogation that such companies may have against Landlord or Tenant, as the case may be, so long as the insurance is not invalidated thereby.

9.7. **Indemnity.** Except to the extent of Landlord's comparative negligence or breach of an express provision of this Lease, Tenant shall indemnify, protect, defend and hold harmless the Landlord and its Lenders from and against all claims, loss of rents and damages, costs, liens, judgments, penalties, loss of permits, attorneys' and consultants' fees, expenses and liabilities arising out of, involving, or in connection with, the occupancy of the Premises by Tenant, the conduct of Tenant's business, any act, omission or neglect of Tenant, its agents, contractors, employees or invitees, and out of any Default or Breach by Tenant in the performance in a timely manner of any obligation on Tenant's part to be performed under this Lease. The foregoing shall include, but not be limited to, the defense or pursuit of any claim or any action or proceeding involved therein, and whether or not (in the case of claims made against Landlord) litigated or reduced to judgment. In case any action or proceeding be brought against Landlord by reason of any of the foregoing matters, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord and Landlord shall cooperate with Tenant in such defense. Landlord need not have first paid any such claim in order to be so indemnified. In the event of concurrent negligence of Landlord and Tenant resulting in injury or damage to persons or property and which relates to the construction, alterations, repair, addition to, subtraction from, improvement to or maintenance of the Premises, the indemnifying party's obligation to indemnify the other party as set forth in this Section shall be limited to the extent of the indemnifying party's negligence, and that of its agents, employees, sublessees, invitees, licensees or contractors.

9.8. **Exemption of Landlord from Liability.** Landlord shall not be liable for injury or damage to the person or property of Tenant, Tenant's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether said injury or damage results from conditions arising upon the Premises or from other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is accessible or not. Notwithstanding Landlord's negligence or breach of this Lease, Landlord shall under no circumstances be liable for any loss of income or profit of Tenant's business or any other consequential damage.

10. Damage or Destruction.

10.1. **Partial Damage - Insured.** If the Premises or Property are Partially Damaged and such damage was caused by a casualty covered under an insurance policy required to be maintained by Tenant or Landlord pursuant to this Lease, Landlord shall repair such damage as soon as reasonably possible, and this Lease shall continue in full force and effect. If, however, the insurance proceeds actually available to Landlord (after deduction of any proceeds required by a Lender to be applied to reduction of indebtedness) are not sufficient to effect such repair, Landlord shall not be obligated to make such repairs unless Tenant elects, without obligation to do so, to

contribute, without right of reimbursement, the required amount. In the event that Landlord is not obligated and does not voluntarily agree to repair such damage, either Tenant or Landlord may declare this Lease terminated by thirty (30) days written notice to the other party.

10.2. **Damage - Uninsured.** In the event the Premises are damaged or destroyed by a casualty which is not covered under an insurance policy required to be maintained by Tenant or Landlord, the Landlord may elect to repair such damage as soon as reasonably possible, and this Lease shall continue in full force and effect. If Landlord does not so elect within sixty (60) days after the occurrence of the casualty to repair, either Tenant or Landlord may declare this Lease terminated by ten (10) days written notice to the other party; provided Tenant may avoid termination of this Lease if Tenant voluntarily agrees to pay, without right of reimbursement, all of the costs of such repairs by Landlord.

10.3. **Total Destruction.** If the Premises are Totally Destroyed by a casualty covered under an insurance policy required to be maintained by Tenant or Landlord pursuant to this Lease, this Lease shall automatically terminate as of the date of such total destruction.

10.4. **Damage Near End of Term.** If the premises are Partially Damaged during the last two (2) years of the term of this Lease, Landlord may, at Landlord's option, cancel and terminate this Lease as of the date of occurrence of such damage by giving written notice to Tenant of Landlord's election to do so within thirty (30) days after Landlord receives notice of occurrence of such damage; provided Landlord shall continue to have all rights to receive the proceeds of any insurance policy required by the Lease to be maintained by Tenant.

10.5. **Abatement of Rent.** If the Premises are Partially Damaged, the rent payable while such damage, repair or restoration continues shall be abated in proportion to the degree to which Tenant's reasonable use of the Premises is substantially impaired. Except for abatement of rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration

10.6. **Definitions.** For the purposes of this Lease, the term Partially Damaged shall be deemed to mean damage to the Premises (excluding any damage to Tenant owned property or alterations) which is reasonably estimated to cost to repair less than fifty percent (50%) and Totally Destroyed shall be deemed to mean damage to the Premises or Property (excluding any damage to Tenant owned property or alterations) which is reasonably estimated to cost to repair more than fifty percent (50%) of the reasonable fair market value of the improvements constituting the Premises (but not the land) calculated immediately prior to the occurrence of the damage. Cost shall include the cost to rebuild all of the damaged improvements owned by Landlord including demolition, debris removal, requirements of applicable building codes and other laws, mitigation requirements and without regard for depreciation.

11. **Taxes.**

11.1. **Taxes.** Landlord shall pay all Taxes applicable to the Premises, the amount of which shall be included in calculating the total of Operating Expenses. If any Taxes cover any period of the time prior to or after expiration of the term hereof, Tenant's share of such taxes shall be equitably prorated to cover only the period of time within which this Lease shall be in effect. As used herein, the term Taxes shall include any form of required payment, assessment, license fee, tax on rent, levy, penalty, or tax (other than Landlord's net income tax and inheritance or estate taxes) imposed by any authority having the direct or indirect power to tax any legal or equitable interest of Landlord in the Property or Landlord's right to rent or other income therefrom. If Landlord deems such action to be warranted, the cost of contesting any Taxes or assessment affecting the Property shall be an Operating Expense.

11.2. **Personal Property Taxes.** Tenant shall pay prior to delinquency all taxes assessed against and levied on any leasehold improvements, fixtures, furnishings, equipment and other property of Tenant. Tenant shall cause such Tenant property to be assessed separately from Landlord's Property or reimburse Landlord for the taxes attributable to Tenant within ten (10) days after receipt of a written statement from Landlord setting forth the taxes applicable to Tenant's property.

12. **Utilities.** Tenant shall pay for all water, gas, drainage service, sewer service, garbage service, heat, light, power, telephone and other utilities and services supplied to the Premises, together with any taxes thereon. At the election of the Landlord, Landlord may pay the costs of any of such utilities which costs then shall be considered to be Operating Expenses for which Tenant shall reimburse Landlord.

13. Assignment and Subletting.

13.1. **Landlord's Consent Required.** Tenant shall not voluntarily or by operation of law assign, transfer, mortgage, sublet, or otherwise transfer or encumber all or any part of Tenant's interest in this lease or the Premises without Landlord's prior written consent, which consent may be conditioned, in addition to any other reasonable conditions, on a written assumption by the assignee or sublessee of the obligations of Tenant, a written guarantee of payment and performance by Tenant and a consent or reaffirmation of any guarantor of Tenant. Any purported assignment, transfer, mortgage, encumbrance, or subletting without consent shall be void and constitute a breach of this Lease. In the event that Tenant is not a natural person, then any transfer (or the aggregate of a series of transfers) of thirty percent (30%) or more of the beneficial ownership of Tenant shall be deemed a prohibited assignment. No option to renew or extend, if any, may be assigned by Tenant and no assignee or subtenant shall have any right to exercise any such option. The acceptance of rent by Landlord from a person other than Tenant shall not be deemed to be a waiver by Landlord of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

13.2. **No Release of Tenant.** Regardless of Landlord's consent, no subletting or assignment shall release Tenant's primary obligation to pay or perform any obligation under this Lease.

13.3. **Assignment Fee.** In the event that Landlord shall consent to a sublease or assignment under Article 13.1, Tenant agrees to reimburse Landlord for the reasonable out-of-pocket expenses incurred by Landlord in connection with such consent.

13.4. **Assignment by Landlord.** Landlord shall be permitted freely to assign all of its rights and obligations hereunder. In the event of a sale or other transfer of the Premises, whether by foreclosure or otherwise, the Tenant agrees to attorn to the new owner and to recognize such owner as the Landlord under this Lease and Tenant shall thereafter look solely to such transferee for performance of this Lease.

14. Defaults; Remedies.

14.1. **Defaults.** The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

14.1.1. The vacation or abandonment of the Premises by Tenant.

14.1.2. The failure by Tenant to make any payment required to be made by Tenant hereunder, as and when due where such failure shall continue for a period of three (3) days after written notice thereof from Landlord to Tenant.

14.1.3. The failure by Tenant to observe or perform any of the provisions of this Lease (other than the payment of money) to be observed or performed by Tenant where such failure shall continue for a period of ten (10) days after written notice thereof from Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

14.1.4. The making by Tenant or any guarantor of Tenant of any general assignment, or general assignment for the benefit of creditors; (ii) the filing by or against Tenant or any guarantor of Tenant of a petition to have Tenant adjudged a bankrupt or petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days; (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within ten (10) days; or (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within ten (10) days.

14.2. **Remedies in Default.** Upon the occurrence of a Default by Tenant, Landlord, without notice to Tenant (except where expressly provided for in this Lease or by applicable law) may do any one or more of the following:

14.2.1. Elect to terminate this Lease and the tenancy created hereby by giving notice of such election to Tenant, and reenter the Premises, without the necessity of legal proceedings, and remove Tenant and all other persons and property from the Premises, and may store such property in a public warehouse or elsewhere at

the cost of and for the account of Tenant without resort to legal process and without Landlord being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby; and

14.2.2. Exercise any other legal or equitable right or remedy which it may have.

14.3. **Damages.** If this Lease is terminated by Landlord pursuant to this section, Tenant nevertheless shall remain liable for (a) any rents and damages which may be due or sustained prior to such termination, all reasonable costs, fees and expenses including, but not limited to, reasonable attorneys' fees, costs and expenses incurred by Landlord in pursuit of its remedies hereunder, or in renting the Premises to others from time to time until the original Termination Date of this Lease (all such rents, damages, costs, fees and expenses being referred to herein as "Termination Damages"), and (b) additional damages ("Post-Termination Damages"), which Post-Termination Damages, at the election of Landlord, shall be either:

14.3.1. an amount equal to the rents which, but for termination of this Lease, would have become due during the remainder of the Term, less the amount of rents, if any, which Landlord shall receive during such period from others to whom the Premises may be rented, in which case such Post-Termination Damages shall be computed and payable in monthly installments, in advance, on the first day of each calendar month following termination of the Lease and continuing until the date on which the Term would have expired but for such termination, and any suit or action brought to collect any such Post-Termination Damages for any month shall not in any manner prejudice the right of Landlord to collect any Post-Termination Damages for any subsequent month by a similar proceeding; or

14.3.2. an amount equal to the present worth (as of the date of such termination) of rents which, but for termination of this Lease, would have become due during the remainder of the Term, less the fair rental value of the Premises, as determined by an independent real estate appraiser named by Landlord, in which case such Post-Termination Damages shall be payable to Landlord in one lump sum on demand and shall bear interest at the Default Rate until paid. For purposes of this section, "present worth" shall be computed by discounting such amount to present worth at a discount rate equal to one percentage point above the discount rate then in effect at the Federal Reserve Bank nearest to the Premises; provided that Tenant may avoid the application of this section so long as Tenant voluntarily agrees to pay, and, in fact, does pay all sums due to date under the immediately preceding section within forty-five (45) days of receipt of notice of Landlord's declaration of the termination of this Lease and Tenant continues thereafter to pay such amounts monthly until the Termination Date.

14.4. **Miscellaneous.** If Landlord elects to terminate this Lease following the default of Tenant, Landlord may relet the Premises or any part thereof, alone or together with other premises, for such term or terms (which may be greater or less than the period which otherwise would have constituted the balance of the Term) and on such terms and conditions (which may include concessions or free rent, alterations of the Premises and payment of brokers) as Landlord, in its sole discretion, may determine, and the costs thereof shall be included in the total of Landlord's Termination Damages which shall be paid by Tenant. Nothing contained in this Lease shall limit or prejudice the right of Landlord to prove for and obtain, in proceedings for the termination of this Lease by reason of bankruptcy or insolvency, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater, equal to, or less than the amount of the loss or damages referred to above. The failure or refusal of Landlord to relet the Premises or any part or parts thereof shall not release or affect Tenant's liability for damages.

14.5. **Default by Landlord.** Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord and any Lender whose name and address shall have been furnished to Tenant in writing, specifying wherein Landlord has failed to perform such obligation; provided, however, that the nature of the Landlord's obligation is such that more than thirty (30) days are required for performance, then Landlord shall not be in default if Landlord commences performances within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

14.6. **Late Charges and Interest.** Tenant hereby acknowledges that late payment by Tenant to Landlord of any sum due under this Lease will cause Landlord to incur costs not contemplated by this Lease and the amount of which is difficult to predict in advance. Accordingly, if any sum due from Tenant shall not be received by Landlord within ten (10) days after that said amount is due, then Tenant shall pay to Landlord a late charge of five percent (5%) of such overdue amount. In addition, any amount due to Landlord not paid when due shall bear interest at twelve percent (12%) per annum ("Default Rate") from the due date. Payment of such interest or late charge shall not excuse or cure any default by Tenant under this Lease. In the event that a check from Tenant is

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returned unpaid by Tenant's bank, Tenant shall pay an additional returned check charge of twenty five dollars (\$25) which Tenant agrees is reasonable and which is in addition to a late charge and interest charges if otherwise applicable.

14.7. **Cure by Landlord.** Landlord, at any time after Tenant commits a default, may cure the default at Tenant's cost. If Landlord at any time pays any sum or does any act that requires the payment of any sum, repayment of the sum paid by Landlord shall be due immediately from Tenant together with interest at the Default Rate.

14.8. **Condemnation.** If all of the Premises or any portion of the Premises which is reasonably necessary for the reasonably convenient use of the Premises are taken under the power of eminent domain, or sold by Landlord under the threat of the exercise of said power (all of which is referred to in this Lease as "condemnation") or if more than twenty-five percent (25%) of the floor area of all buildings constituting the Premises, or more than fifty percent (50%) of the parking areas on the Property is taken by condemnation, either Landlord or Tenant may terminate this Lease as of the date the condemning authority takes possession by notice in writing of such election within twenty (20) days after Landlord shall have notified Tenant of the taking, or, in the absence of such notice, then within twenty (20) days after the condemning authority shall have taken possession; provided Landlord may avoid termination of the Lease by Tenant by providing, within a reasonable time, a substantially similar replacement for the facilities so taken. If this Lease is not terminated by either Landlord or Tenant then it shall remain in full force and effect as to the portion of the Premises remaining, provided the Basic Monthly Rent shall be reduced by the proportion to the floor area of the Premises taken by condemnation bears to the total floor area of the Premises. All awards for the taking of any part of the Premises or any payment made under the threat of the exercise of power of eminent domain shall be the property of Landlord, whether made as compensation for diminution of value of the leasehold or for the taking of the fee or as severance damages; provided, however, that Tenant shall be entitled to any separately made award for loss of or damage to Tenant's trade fixtures and removable personal property.

15. General Provisions

15.1. **Reasonableness of Consent.** Whenever the consent of Landlord or Tenant is required by the terms of this Lease, such consent shall not be unreasonably withheld or delayed although it may be subject to reasonable conditions.

15.2. **Payments Are Rent.** All payments due to Landlord from Tenant shall be deemed to be rent due under this Lease.

15.3. Estoppel Certificate.

15.3.1. Tenant shall, at any time, on not less than ten (10) days prior written notice from Landlord, sign and deliver to Landlord a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent, security deposit, and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord or Tenant under this lease, or specifying such defaults, if any, which are claimed, and agreeing to give reasonable written notice to a Lender of any future default. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises.

15.3.2. Tenant's failure to deliver such statement within such time period shall be conclusive upon Tenant that (i) this Lease is in full force and effect, without modification except as may be represented by Landlord, (ii) there are no uncured defaults in Landlord's performance, and (iii) not more than one (1) month's rent has been paid in advance.

15.3.3. If Landlord desires to sell, finance or refinance the Property, or any part thereof, Tenant hereby agrees to deliver to any Lender designated by Landlord such financial statements of Tenant as may be reasonably required by such Lender. Such statements shall include the past three (3) years financial statements of Tenant. All such financial statements shall be received by Landlord in confidence and shall be used only for the purposes herein set forth.

15.4. **Landlord's Interest.** The term "Landlord" as used herein shall mean only the owner or owners at the time in question of the fee title, vendee's interest under a real estate contract, or a tenant's interest in a ground lease of the Premises. In the event of any transfer of such title or interest, Landlord herein named (and in case of

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any subsequent transfers, the then grantor) shall be relieved from and after the date of such transfer of all liability as respects Landlord's obligations thereafter to be performed, provided that any funds in the hands of Landlord or the then grantor at the time of such transfer, in which Tenant has an interest, shall be delivered to the grantee. The obligations contained in this Lease to be performed by Landlord shall be binding upon Landlord's successors and assigns, only during their respective periods of ownership.

15.5. **Signage.** At Tenant's own expense, Tenant may place one or more signs on the Property so long as (i) Tenant has obtained Landlord's prior written consent for the specific sign proposed by Tenant, (ii) such sign(s) conform to all applicable governmental rules and regulations, Tenant maintains such sign is in good condition and appearance and (iii) at the termination of this Lease, Tenant shall remove all such signs and repair any damage caused by such sign or its removal at Tenant's sole expense.

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

15.7. **Time of Essence.** Time is of the essence.

15.8. **Captions.** Article and paragraph captions are for convenience only are not a part of this Lease.

15.9. **Incorporation of Prior Agreement; Amendments.** This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification.

15.10. **Waiver.** No waiver by Landlord of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Tenant of the same or any other provision. Landlord's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act by Tenant. The acceptance of rent hereunder by Landlord shall not be a waiver of any preceding breach by Tenant of any provision hereof, other than the failure of Tenant to pay the particular rent so accepted regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

15.11. **Recording.** Tenant shall not record this Lease or allow the filing of a UCC financing statement containing the legal description of the Property without Landlord's prior written consent, and such recordation or filing shall, at the option of Landlord, constitute a noncurable default of Tenant hereunder.

15.12. **Holding Over.** If Tenant remains in possession of the Premises or any part thereof after the expiration of the term hereof without the express written consent of Landlord, such occupancy shall be a tenancy from month to month at a rental equal to two hundred percent (200%) of the Basic Monthly Rent due for the last month of the Lease term plus all other charges payable hereunder, and upon the terms hereof applicable to a month to month tenancy.

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

15.14. **Covenants and Conditions.** Each provision of this Lease performable by Tenant shall be deemed both a covenant and a condition.

15.15. **Binding Effect; Choice of Law; Proration.** Subject to any provisions hereof restricting assignment or subletting by Tenant or as may be expressly provided in this Lease, this Lease shall bind the parties, their personal representatives, successors and assigns. This Lease shall be governed by the laws of the state where the Premises are located.

15.16. **Subordination.**

15.16.1. This Lease, at Landlord's option, shall be subordinate to any ground lease, mortgage, deed of trust, or any other hypothecation for security now or hereafter placed upon the real property of which the Premises are a part and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. If any Lender or ground lessor shall elect to have this Lease prior to the lien of its mortgage, deed of trust or ground lease, and shall give written notice thereof to Tenant, this Lease shall be deemed prior to such mortgage, deed of trust, or ground lease, regardless whether this Lease is dated prior or subsequent to such mortgage, deed of trust or ground lease, or the date of recording thereof.

15.16.2. Provided that the mortgagee or beneficiary, as the case may be, shall agree to recognize this Lease in the event of foreclosure if Tenant is not in default at such time subject to such provisions relating to the disposition or application of insurance or condemnation proceeds as may be contained in such mortgagee or beneficiary's loan documents, Tenant agrees to execute any documents required to effectuate such subordination or to make this Lease prior to the lien of any mortgage, deed of trust or ground lease, as the case may be, and failing to do so within ten (10) days after written demand, does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney-in-fact and in Tenant's name, place and stead, to do so.

15.17. **Attorneys Fees.** If Tenant or Landlord brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to his reasonable attorneys fees to be paid by the losing party as fixed by the court.

15.18. **Landlord's Access.** Landlord and Landlord's agents shall have the right to enter the Premises at reasonable times for the purpose of inspecting the same, showing the same to prospective purchasers or Lenders, and making such alterations, repairs, improvements or additions to the Premises or to the building of which they are a part as Landlord may deem necessary or desirable. Landlord may at any time place on or about the Premises signs advertising the availability for sale of the Property or a portion thereof, and, during the last one hundred twenty (120) days of the term of this Lease, Landlord may place signs on the Premises advertising the availability for lease of the Premises so long as such signs do not unreasonably obscure Tenant's existing signs identifying its business.

15.19. **Auctions.** Tenant shall not advertise or conduct any auction or going out of business sale in the Premises.

15.20. **Corporate Authority.** If Tenant is a legal entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of such entity and that this Lease is binding upon such entity in accordance with its terms.

15.21. **Landlord's Liability.** Any claim by Tenant against Landlord shall be limited to the Landlord's interest in the Property, and Tenant expressly waives any and all rights to proceed against any other assets of Landlord or any owner of Landlord.

15.22. **Agency Disclosure.** At the signing of this Agreement, Agent Charlie Mills of Kidder, Mathews & Segner, Inc. and Garth Olson of Cushman & Wakefield represented **Tenant**. The listing agent, if any, Russ Segner of Kidder, Mathews & Segner, Inc. represented **Landlord**. Each party signing this Agreement acknowledges receipt of the pamphlet entitled "The Law of Real Estate Agency." In the event different agents from Kidder, Mathews & Segner, Inc. represent Landlord and Tenant, each party signing this Agreement consents to the designated broker of Kidder, Mathews & Segner, Inc. acting as a dual agent. In the event the same agent(s) from Kidder, Mathews & Segner, Inc. represent both Landlord and Tenant, each party signing this Agreement consents to those agents representing both Landlord and Tenant acting as dual agents.

15.23. **Broker's Fee.** Upon execution of this Lease by both parties, Landlord shall pay to Kidder, Mathews & Segner, Inc. and Cushman & Wakefield a licensed real estate broker, a fee as set forth in a separate agreement between Landlord and said broker, or in the event there is no separate agreement the sum of \$ _____ for brokerage services rendered by said broker to Landlord in this transaction. Landlord further agrees that if Tenant exercises any option granted herein or any option substantially similar thereto, either to extend the term of this Lease, to renew this Lease, to purchase said Premises or any part thereof and/or any adjacent property which Landlord may own or in which Landlord has an interest or any other option granted herein, or if said broker is the procuring cause of any other lease or sale entered into between the parties pertaining to the Premises and/or any adjacent property in which Landlord has an interest, then as to any said transactions, Landlord shall pay said broker a fee in accordance with the schedule of said broker in effect at the time of execution of this Lease. Landlord agrees to pay said fee not only on behalf of Landlord but also on behalf of any person, corporation, association, or other entity having an ownership interest in said real property or any part thereof, when such fee is due hereunder. Any transferee of Landlord's interest in this Lease, by accepting an assignment of such interest, shall be deemed to have assumed Landlord's obligation under this Paragraph 15.22. Said broker shall be a third party beneficiary of the provisions of this Paragraph.

15.24. **Notices.** Wherever under this Lease provision is made for any demand, notice or declaration of any kind, or where it is deemed desirable or necessary by either party to give or serve any such notice, demand or declaration to the other party, it shall be in writing and served either personally or sent by United States mail,

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postage prepaid, addressed to the address stated at the beginning of this Lease or such subsequent address as may have been specified for such purpose in a written notice given to the other party.

15.25. Special Articles. The following Schedules are attached and are a part of this Lease:

Schedule 1.5 Rental Rate

Schedule 3.4 Option to Renew

Schedule 7.6.4 Improvements to Premises

Schedule 15.26 Option to Purchase

Right to Terminate Lease

LANDLORD:

TENANT:

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

APPROVE AS TO FORM:

Robert Stier
Senior Deputy Prosecuting Attorney

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STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of _____, to be the free and voluntary act of such party for the uses and purposes stated therein.

Dated: _____.

Name: _____
NOTARY PUBLIC, State of Washington
My appointment expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of _____, to be the free and voluntary act of such party for the uses and purposes stated therein.

Dated: _____.

Name: _____
NOTARY PUBLIC, State of Washington
My appointment expires _____

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SCHEDULE 1.3

Legal Description

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SCHEDULE 1.5

Basic Monthly Rent

Months	01-12	\$14,167.00
	13-24	\$14,662.85
	25-36	\$15,176.04
	37-48	\$15,707.21
	49-60	\$16,256.96
	61-72	\$16,825.95
	73-84	\$17,414.86
	85-96	\$18,024.38
	97-108	\$18,655.23
	109-120	\$19,308.17
	121-132	\$19,983.95
	133-144	\$20,683.39
	145-156	\$21,407.31
	157-168	\$22,156.57
	169-180	\$22,932.05

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SCHEDULE 3.4

Option to Renew

Provided Tenant is not in default of this Lease, Tenant shall have the option to extend the term of the Lease for one (1) five (5) year term under the same terms and conditions except that the monthly rent shall be renegotiated or, if necessary, arbitrated. If the parties cannot agree on the amount of the prevailing market rate, the matter shall be submitted to binding arbitration in accordance with the rules of the American Arbitrators Association. The arbitrator shall be a real estate professional with at least ten (10) years' experience in evaluating properties similar to this building. The arbitrator's determined market rate and annual increases shall take effect as of the renewal date of the Lease. This Right of Renewal is not assignable to a sublessee or third party. Tenant shall give Landlord at least six (6) months' written notice.

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SCHEDULE 7.6.4

Improvements to Premises

Landlord agrees to provide Tenant with a tenant improvement allowance of up to a total of \$906,000.00 for the Premises. Such amounts spent shall be reimbursed to Landlord as additional rent to be amortized over fifteen (15) years at an interest rate calculated at 200 basis points over the Landlord's cost of funds. Without penalty, Tenant may pay off this balance.

In the event that Tenant exercises the option to purchase as set forth, the amount of tenant improvement dollars which have not been amortized as of date of closing shall be paid to Landlord as additional consideration.

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SCHEDULE 15.26

Option to Purchase

For and in consideration of the sums paid under this Lease, the mutual covenants and other good and valuable consideration, Landlord hereby grants to Tenant the option to purchase the Premises upon all of the terms, covenants and conditions set forth in this Schedule 15.26. The Option to Purchase may be exercised by the Tenant at any time between the beginning of the 37th month and the last day of the 48th month (the "Option Period") only by Tenant's delivery to Landlord of written notice in the manner set forth in Article 15.24 prior to expiration of the Option Period. If Tenant fails to exercise this Option to Purchase on or before the last date for such exercise specified above, the Option to Purchase shall be null and void and of no further force or effect. If Tenant timely exercises the Option to Purchase, this Option to Purchase shall become a contract for the purchase and sale of the Premises to close on or before six months from date of such notice on the terms and conditions set forth below.

Notwithstanding the above Option to Purchase provision, if Landlord and Tenant mutually agree, the period within which the option can be exercised may be extended or accelerated. In that event, the Purchase Price shall be determined by capitalizing the annual rent in effect using a capitalization rate of eight and one-half percent (8.5%).

First Right to Purchase

After the "Option Period" but prior to offering the Premises for sale, Landlord shall offer to Tenant in writing the opportunity to purchase the Premises for such price as Landlord shall deem acceptable in its sole discretion, to close sixty (60) days after acceptance of Landlord's offer and otherwise on the terms and conditions (Purchase Option Terms) stated below in Sections (b) through (e) of Exhibit A. Tenant shall have thirty (30) days from the date Landlord delivers the offer in which to accept Landlord's offer. If Tenant fails to exercise the Purchase Option Terms on or before the last date for such exercise specified above, Landlord thereafter shall have the right to sell the Premises for a price not less than ninety percent (90%) of the price offered to Tenant. If Tenant does not accept the offer, and Landlord does not, within two hundred seventy (270) days after the thirty (30) day period, sell the Premises to a third party or if Landlord wishes to sell the Premises for a price less than ninety percent (90%) of the price previously offered to Tenant, then the Premises shall again be subject to Tenant's right of first refusal. If Tenant timely exercises the Option, it shall become a contract for the purchase and sale of the Premises on the terms and conditions set forth in Exhibit A as modified by this Schedule 15.26.

Right to Terminate Lease

Tenant shall have the right to terminate this Lease at any time prior to April 1, 2000 by giving Landlord written notice. In such event, prepaid rent shall be forfeited to Landlord.

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EXHIBIT A

Purchase Option Terms

(a) **Price.** The purchase price shall be Two Million Two Hundred Seventeen Thousand Four Hundred Eighty-Eight and No/100 Dollars (\$2,217,488.00) as follows:

(b) **Condemnation.** In the event that, before the close of escrow, whether or not Tenant has exercised this Option to Purchase, all or any part of the Premises is taken or threatened to be taken by eminent domain, Landlord shall immediately so notify Tenant. In such event, Tenant may elect to purchase the Premises in accordance with the terms of this Exhibit A, in which case Landlord shall assign to Tenant on the close of escrow all of Landlord's interest in any proceeds of eminent domain.

(c) In the event that after Tenant has exercised this Option to Purchase and before the close of escrow the Premises, or any part thereof, is destroyed or materially damaged, Tenant shall have the right, exercisable by giving notice to Landlord within thirty (30) days after the occurrence of such destruction or damage, to cancel this purchase, in which case neither party shall have any further rights or obligations under this Exhibit A.

(d) **Closing Costs.** Landlord shall pay the premium for an Owner's standard form policy of title insurance, real estate excise tax, and one-half of the escrow fee. The commission owed in connection with the purchase and sale shall be five percent (5%) of the Purchase Price, less any commissions paid for the unexpired term of the Lease, which commission shall be paid by Landlord and shared equally between and paid to Russ Segner of Kidder, Mathews & Segner, Inc. (Landlord's broker) and Charlie Mills of Kidder, Mathews & Segner, Inc. and Garth Olson of Cushman & Wakefield (Tenant's brokers). Rents shall be pro rated as of the date of closing. The Property will be transferred subject to existing general and special assessments for real estate taxes. Installments for general or special assessments that fall due prior to the date of closing shall be pro-rated as of the date of closing. Tenant shall be responsible for paying all personal property taxes assessments related to the Premises.

(e) **Closing.** The escrow agent shall be designated by Tenant, subject to Landlord's approval. Closing will occur within six (6) months from notice that Tenant exercises the Option to Purchase. The parties will execute escrow instructions, consistent with this Exhibit A, as requested by the closing agent. At closing, Landlord shall convey to Tenant by Statutory Warranty Deed subject to all liens, encumbrances, restrictions and easements and other matters of record. At closing, Landlord shall transfer to Tenant by bill of sale "As Is" for any Personal Property. The parties shall execute and deliver at closing such other documents as may reasonably be necessary to consummate the purchase and sale contemplated by this Exhibit A. The escrow agent is instructed to prepare a certification that Landlord is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act. Landlord agrees to sign this certification. Tenant shall be entitled to possession on closing. The close of escrow shall occur at the offices of escrow agent on the fourth anniversary of the Commencement Date (or the next business day of the escrow agent if such is a Saturday, Sunday or holiday). The failure of either Landlord or Tenant to be in position to close by the closing date shall constitute a default by such party. "Business day" means any day when the title insurance company is open for business with the general public.

(f) **Default.** If Seller fails, without legal excuse, to complete the sale of the Property, Buyer may, at its option: (a) bring suit against Seller for Buyer's actual damages; (b) bring suit to specifically enforce this Agreement and recover any incidental damages; or (c) pursue any other rights or remedies available at law or equity.

If Buyer, Seller, Agent or listing agent institutes suit concerning this Agreement, the prevailing party or parties is/are entitled to court costs and a reasonable attorney's fee. In the event of trial, the amount of attorney's fee shall be fixed by the court. The venue of any suit shall be the County in which the Property is located, and this Agreement shall be governed by the laws of the State where the Property is located.