

53375

2001-1191

LEASE AGREEMENT

Between

CITY OF HOUSTON, TEXAS,

as Landlord,

and

LAKWOOD CHURCH, INC.,

as Tenant

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LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is made and entered into effective as of the Countersignature Date (the "Effective Date") by and between the **CITY OF HOUSTON, TEXAS**, a Texas municipal corporation and Home Rule City of the State of Texas ("Landlord"), and Lakewood Church, Inc. a Texas nonprofit corporation ("Tenant"). Landlord and Tenant are sometimes individually referred to herein as a "Party" and collectively referred to herein as the "Parties".

RECITALS

A. The City of Houston, Texas (the "City") is the owner of certain real property situated in Houston, Harris County, Texas, more particularly described in Exhibit A (the "Property") attached hereto, upon which are located that certain building and improvements currently commonly known as the Compaq Center.

B. The City issued a request for proposals for the redevelopment and occupancy of the improvements situated on the Property.

C. In response to the above-referenced request for proposals initiated by the City, the City Council of the City adopted Motion 2001-0757 on July 3, 2001, which Motion designated Tenant as the initial successful proposer for the redevelopment and occupancy of the improvements situated on the Property, and has authorized the City to enter into negotiations with Tenant for such redevelopment, generally in accordance with the major terms of its proposal, and the City's request for proposals, but reserving the right to negotiate in the best interest of the City.

D. By approval of this Lease, the City Council of the City has evidenced its finding that Tenant proposes to invest more than Twenty Million and No/100 Dollars (\$20,000,000.00) to renovate or redevelop the Existing Improvements.

E. By approval of this Lease, the City Council of the City has evidenced its finding that the renovated or redeveloped facilities on the Property will generate additional revenue for the City, and a Term that exceeds thirty (30) years is necessary to enable Tenant to recoup its investment or to obtain financing for the Project.

AGREEMENTS

NOW, THEREFORE, for and in consideration of the respective covenants and agreements of the Parties herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, Landlord and Tenant hereby agree as follows:

ARTICLE I

GENERAL TERMS; LANDLORD REPRESENTATIVE

1.1 Definitions and Usage. Unless the context shall otherwise require, capitalized terms used in this Lease shall have the meanings assigned to them in the Glossary of Defined

Terms attached hereto at Appendix A, which also contains rules as to usage that shall be applicable herein.

1.2 The Landlord Representative. For so long as the City is Landlord under this Lease, Landlord hereby designates the Director of the Convention and Entertainment Facilities Department of the City to be the Landlord Representative (the "Landlord Representative"). The Mayor of the City shall have the right, from time to time, to change the Person who is the Landlord Representative by giving Tenant notice thereof. In the event the City is no longer Landlord under this Lease, the successor Landlord shall have the right, from time to time, to change the Person who is the Landlord Representative by giving notice to Tenant thereof. Any written Approval, decision or determination hereunder to be made by Landlord which does not require City Council approval shall be made by the Landlord Representative and shall be binding on Landlord. Tenant and third parties shall have the unconditional right to rely on such Approval, decision or determination of Landlord Representative. Any one of the Persons from time to time serving as the Landlord Representative, acting alone and without the joinder of the other persons then serving as the Landlord Representative, shall have the power to so bind Landlord. The Landlord Representative shall not have any right, however, to modify, amend or terminate this Lease.

ARTICLE II

GRANT OF LEASEHOLD ESTATE

2.1 Grant; Habendum. In consideration of and pursuant to the covenants, agreements, and conditions set forth herein, Landlord does hereby lease, let, demise, and rent exclusively unto Tenant, and Tenant does hereby rent and lease from Landlord, on and subject to the terms, conditions and provisions of this Lease, a leasehold estate in and to the Property, the Improvements, and all easements and other rights appurtenant thereto (collectively, the "Leased Premises"), for the Term set forth in Article III hereof.

TO HAVE AND TO HOLD the Leased Premises unto Tenant for the Term.

2.2 Warranty of Title. Landlord warrants to Tenant that on the Effective Date, Landlord owns good and indefeasible fee simple title to the Property, subject to (a) the Permitted Exceptions, (b) the rights and reservations of Landlord hereunder, and (c) all Applicable Laws. Subject to the foregoing, Landlord will warrant and defend title to the Property against any and all Persons claiming title to or a right to the use or occupancy of the Property, by, through or under Landlord, but not otherwise.

2.3 Delivery of Possession; Covenant of Quiet Enjoyment.

2.3.1 Delivery of Possession. On the Delivery Date, Landlord will deliver to Tenant exclusive possession and occupancy of the Leased Premises free of all tenancies and parties in possession of such Leased Premises (other than those arising by, through or under Tenant), including all furniture, fixtures, equipment and supplies owned by the City and located on the Property, including, but not limited to the personal property listed on Schedule 2.3.1 attached hereto (except as provided below), with the Delivery Condition having been satisfied by Landlord, subject only to the Permitted Exceptions, and the rights of Landlord under this Lease.

Landlord covenants and agrees with Tenant that the Improvements shall be in a condition on the Delivery Date such that the Improvements are then usable for the Permitted Use and no material adverse change shall have occurred to the structural integrity of such Improvements since the Effective Date, subject to ordinary wear and tear and/or damage by casualty (provided, however, in the event of a casualty prior to the Commencement Date which results in material damage to the Existing Improvements and/or renders same incapable for use by the Tenant for the purposes permitted hereunder, then Tenant may either (i) elect to terminate this Lease and obtain a full refund of any and all Rent theretofore paid by Tenant to Landlord pursuant hereto, and neither Landlord or Tenant shall have any further rights or obligations hereunder except with respect to any indemnitees which, pursuant to the terms of this Lease, expressly survive the expiration or termination hereof, or (ii) elect to keep this Lease in full force and effect, in which event Landlord agrees to elect to restore the Existing Improvements pursuant to the Operating Agreement (if then in effect) and to designate Tenant as Landlord's agent for such restoration, and shall in such event pay to Tenant, on or before the Commencement Date, all insurance proceeds payable for such casualty or damage remaining after paying off the Bonds described in Section 18.4 below, together with the amount of any deductibles required by the terms of any applicable insurance policies which are required to be contributed by third parties (it being understood that the City shall have no obligation to pay Tenant the amount of any deductible under insurance policies maintained by the City), and shall further assign to Tenant any and all right and interest of Landlord in and to insurance proceeds or awards not yet received from such insurance policies as a result of such casualty and, in such event, Landlord shall fully cooperate with Tenant in Tenant's efforts to obtain such insurance proceeds thereafter). Before making the above described election, Tenant shall have the right to inspect the Existing Improvements and damage thereto as may be required by Tenant to determine the feasibility of restoration and Landlord shall provide Tenant with access thereto and information regarding the amount of casualty insurance proceeds and other proceeds which will be assigned to Tenant (including the amount of any deductible relating thereto) and the anticipated timing of payment of such proceeds. In the event that Tenant elects to keep this Lease in full force and effect as provided above, Tenant shall restore the Existing Improvements in accordance with the applicable terms and provisions set forth in Article XIII below and Tenant shall contribute all funds necessary for such restoration in excess of those funds provided as described above in this Section 2.3.1. Landlord agrees to maintain the Improvements or cause same to be maintained to prevent deterioration thereof prior to the Delivery Date. Landlord further represents and warrants to Tenant that the furniture, fixtures, equipment and supplies owned by the City and delivered with the Leased Premises on the Delivery Date, shall be the furniture, fixtures, equipment and supplies owned by the City and located on the Property as of the Effective Date (or substantially equivalent replacements thereof), reasonable wear and tear excepted (except as provided below). Prior to the Delivery Date, Tenant may compile an inventory of the furniture, fixtures, equipment and supplies owned by the City and located on the Property. Landlord agrees to cooperate with Tenant in the performance of such inventory and Landlord agrees to provide Tenant with a copy of any inventory listing of such property, if any, in Landlord's possession. Tenant shall, by written notice to Landlord, prior to the Delivery Date, notify Landlord which items of furniture, fixtures, equipment and/or supplies that Tenant agrees to lease as part of the Leased Premises and which items of furniture, fixtures, equipment and/or supplies that Tenant does not agree to lease as part of the Leased Premises. Any such items of property that Tenant does not agree to lease shall not be part of the Leased Premises, and Landlord may, at Landlord's option, remove such property from the Leased Premises, and Tenant shall have no responsibility therefor. Any such items of property that Tenant does not agree to lease, and which are not removed by

Landlord within sixty (60) days of the above-described notice to Landlord, shall be deemed to have been abandoned by Landlord and may be appropriated, sold, stored, destroyed or otherwise disposed of by Tenant without notice to or any liability to Landlord.

2.3.2 Covenant of Quiet Enjoyment. Landlord covenants for the Term that Tenant, upon paying the Rent and upon keeping, observing and performing the terms, covenants and conditions of this Lease to be kept, observed and performed by Tenant, shall and may quietly and peaceably hold, occupy, use, and enjoy the Leased Premises without ejection or interference by or from Landlord or any other Person (other than Persons claiming by, through or under Tenant), subject only to the Permitted Exceptions, rights of permitted Licensees arising by, through or under Tenant, the power of eminent domain and the police power of Governmental Authorities under Applicable Laws.

ARTICLE III

TERM

3.1 Term. The initial term of this Lease shall consist of a period of thirty (30) years (the "Initial Term"), commencing on the Commencement Date and expiring on the thirtieth (30th) anniversary date thereof, unless sooner terminated in accordance with the provisions of this Lease.

3.2 Option for First Extended Term. Provided that Tenant has invested more than Twenty Five Million Dollars (\$25,000,000.00) in Alterations during the Initial Term, Tenant may extend the Term of this Lease for one additional consecutive period of thirty (30) years ("First Extended Term"), by delivering written notice of the exercise of such option to Landlord at least one (1) year prior to the expiration of the Initial Term. Notwithstanding the foregoing, Landlord shall have the right to not allow Tenant to exercise the option for the First Extended Term unless Tenant has invested at least Thirty Nine Million Dollars (\$39,000,000.00) in Alterations (which includes a chilled water or other air conditioning system). Additionally, Tenant shall pay to Landlord the sum of Twenty-Two Million Six Hundred Thousand Dollars (\$22,600,000.00) as additional consideration for the First Extended Term, which payment shall be due and payable in equal annual installments throughout the First Extended Term, such installments commencing on the commencement date of the First Extended Term and continuing thereafter on each annual anniversary of such commencement date. Items that qualify as Tenant's investment in Alterations include, but are not limited to, those set forth on Exhibit C attached hereto. If Tenant shall fail to exercise the option for the First Extended Term by the time provided for in the immediately preceding sentence, Tenant's right to exercise such option for the First Extended Term shall nevertheless continue until thirty (30) days after Landlord gives Tenant written notice of Landlord's election to terminate such right to exercise the option for the First Extended Term. Tenant may exercise such option for the First Extended Term at any time before the end of the thirty (30) day period referenced in the preceding sentence. If Tenant fails to exercise the option within such thirty (30) day period, the Term will expire at the later of the end of the Initial Term or the end of the month following the month in which Tenant received Landlord's termination notice. Furthermore, if Landlord has not given notice to Tenant of Landlord's election to terminate Tenant's right to exercise the option for the First Extended Term and by the end of the Initial Term Tenant has not affirmatively exercised or notified Landlord that Tenant will not exercise the option, then the Term shall be automatically extended

commencing as of the end of the Initial Term for succeeding one (1) year periods, not to exceed thirty (30) such one (1) year periods. During each such succeeding one (1) year period, Tenant shall have the right to exercise its option to extend the Term for the balance of the First Extended Term by giving Landlord notice of its intention to exercise the same. If applicable, during the First Extended Term Tenant shall be required to pay the additional consideration of \$22,600,000 as described above, and such First Extended Term shall otherwise be subject to the same terms, covenants and conditions as contained in this Lease. Together, the Initial Term and, if exercised, the First Extended Term are collectively referred to herein as the "Term".

ARTICLE IV

RENT

4.1 Payment of Rent. Tenant shall pay to Landlord, without offset or deduction, the rent set forth in this Article IV on a first priority basis in accordance with the terms of this Lease.

4.2 Base Rent. Tenant shall pay to Landlord a total amount equal to Twelve Million One Hundred Thousand and 00/100 Dollars (\$12,100,000.00) as base rent for the Initial Term (the "Base Rent"); provided, however, that Tenant may also be required to pay Landlord \$22,600,000 as additional consideration for the First Extended Term (under the circumstances described in Section 3.2 above). The Base Rent shall be due and payable in installments as follows: (i) The first installment of \$1,000,000 shall be due and payable on the Delivery Date (provided that Landlord has given Tenant thirty (30) days prior written notice of the actual Delivery Date); (ii) the second installment of \$1,000,000 shall be due and payable one (1) year after the first installment is due and payable; (iii) the third installment of \$1,000,000 shall be due and payable one (1) year after the second installment is due and payable; (iv) a final installment of \$9,100,000 will be due and payable on the Commencement Date. Notwithstanding the foregoing, the entire unpaid balance of the \$12,100,000 of Base Rent shall be due and payable on the Commencement Date. In the event that Tenant has not paid the entire \$12,100,000 of Base Rent as of the date which is three (3) years after the Delivery Date because the Deed Restriction Litigation, if any, is not fully and finally resolved in a manner which allows Tenant's use of the Leased Premises for all of the Permitted Uses, either Landlord or Tenant may terminate this Lease, prior to the payment of the entire \$12,100,000 of Base Rent, by written notice of such election to terminate delivered to the other party; provided, however, that Tenant may nullify Landlord's election to terminate this Lease by paying the remaining balance of the \$12,100,000 of Base Rent within ninety (90) days of receipt of Landlord's termination notice.

4.3 Letter of Credit. Within thirty (30) days after the Effective Date, Tenant shall provide Landlord with an unconditional irrevocable standby letter of credit in favor of Landlord in the amount of \$12,100,000 ("Letter of Credit"), issued by a bank reasonably acceptable to Landlord, providing that Landlord may draw the full amount of such Letter of Credit upon a Tenant Default in the payment of Base Rent. Tenant agrees to keep the Letter of Credit in full force and effect until such time as the entire \$12,100,000 of Base Rent is paid to Landlord; provided, however, that the Letter of Credit shall be reduced at the time each installment of Base Rent is paid by Tenant in the amount of such installment of Base Rent.

4.4 Additional Rent. Tenant covenants and agrees to pay, as additional rental, all (i) Impositions as and when required to be paid under the terms of this Lease; and (ii) costs, expenses, liabilities, obligations and other payments of whatever nature which Tenant has agreed to pay Landlord or assume under the provisions of this Lease as and when required to be paid or assumed (collectively, the "Additional Rent"). Additional Rent does not include Base Rent.

4.5 Place and Method of Payment. All Rent (other than Additional Rent that Tenant has agreed to pay directly to the respective obligee thereof) shall be paid to Landlord at Landlord's Delivery Address referenced in Appendix A attached hereto, without notice or demand, in the manner set forth in Article XXI of this Lease. The Person or account to receive such payments and the address for payment may be changed from time to time by notice from Landlord to Tenant.

4.6 Additional Consideration. As further consideration for this Lease, Tenant covenants and agrees that:

(a) City Dates. Landlord shall have the right (which right is personal to the City and not assignable to any subsequent Landlord or other Person except that the City may designate any governmental authority, quasi-governmental authority or non-profit organization as its designee for the use of the Leased Premises on any City Date) to use portions of the Leased Premises for up to ten (10) days during each Lease Year and portions of Lakewood's existing facility located at 7317 E. Houston Road ("Existing Facility") for up to ten (10) days during each Lease Year (individually, a "City Date," and collectively the "City Dates") for non-revenue generating civic or public ceremonies, forums or other similar, non-revenue generating uses and revenue generating charitable or educational purposes; provided, however, that in the event the Existing Facility is not available for one or more City Dates (whether by sale, closure or otherwise), then Tenant shall substitute City Dates at the Leased Premises in lieu of City Dates at the Existing Facility. If City Dates are unavailable for use by the City in a particular Lease Year due to the construction of Improvements By Tenant, unavailability of parking otherwise available to Tenant, or unavailability of heating or air conditioning, then in any such event the City Dates which are rendered unavailable shall be carried over to the next succeeding Lease Year. The City may schedule such events by contacting Tenant, and Tenant agrees not to unreasonably withhold its consent to such date or use requested by the City. Such date of use, and any set up time required therefor, may not conflict with another scheduled or proposed event at the Leased Premises (including but not limited to religious worship services). Tenant agrees to meet with City representatives periodically in order to address scheduling of such events in a manner that will not conflict with Tenant's use of the Leased Premises, or as applicable, the Existing Facility, but will allow the City to use the Leased Premises, or as applicable, the Existing Facility, as provided in this Section 4.6(a). In any event, the City will only be allowed to use the Leased Premises and Existing Facility upon reaching such agreement with Tenant as to scheduling. The user shall enter into a license agreement with Tenant for each such use, in a form mutually acceptable to Tenant and such user. The City will not be required to pay rent in connection with such use of the Leased Premises or Existing Facility, however, the City shall be required to reimburse Tenant for any costs actually and reasonably incurred by Tenant in connection with the City's (or its permitted designee's) use of the Leased Premises or the Existing Facility, including but not limited to, the cost

of utilities utilized, security, concessions, clean up, and any other costs incurred by Tenant which are directly related to the use of the Leased Premises or, the Existing Facility by the City (or its permitted designee). The parties shall reasonably agree upon which party will provide any necessary or desirable services in connection with any such use. Such license agreement shall include the agreement of the City (or its permitted designee) not to unreasonably interfere with any use of the Leased Premises or, as applicable, the Existing Facility, made by Tenant during such license period which does not unreasonably interfere with the City's (or its permitted designee's) use under the license agreement. Such license agreement shall also provide that the City (or its permitted designee) shall surrender the Leased Premises or as applicable, the Existing Facility, to Tenant in the same condition as when the City (or its permitted designee) took possession of the Leased Premises. The serving and consumption of alcohol shall be prohibited at Existing Facility in connection with any such City Date use. Alcohol may be served on the Leased Premises in connection with any City Date use provided that (i) alcohol service is in connection with a fundraising activity of a non-profit organization, (ii) such organization obtains any permit or governmental approval required to serve alcohol, (iii) Tenant is allowed to post signs notifying persons on the Leased Premises that the event is not sponsored by Tenant and any other similar disclaimer, and (iv) the license agreement for such use contains requirements for such user to obtain "dram shop" or liquor liability insurance (and such user obtains such insurance coverage) and to indemnify Tenant from claims related thereto.

(b) Olympics. In order to assist the City in attracting the 2012 Olympic Games or any other Olympic Games during the Term of this Lease (to the extent reasonably required in connection with the bid therefor) ("Olympics") to the City and Harris County, Tenant agrees that, upon the request of the City, Tenant shall, subject to Force Majeure and the casualty damage provisions of Article XIII hereof, accommodate the use of the Leased Premises for the Olympics (if awarded to Houston, Harris County, Texas) and shall negotiate in good faith with the City and other necessary Persons to agree upon the terms and conditions of a use, lease, sublease, license, concession, service, occupancy or other agreement for the use or occupancy of the Leased Premises ("Use Agreement") under which Tenant will permit use of the Leased Premises for events held as part of the Olympics (including test events). The City agrees that any use, renovation, improvement, expansion or set up of the Leased Premises for the Olympics, or return thereof to its previously existing condition, will not (i) conflict with the terms of this Lease, or (ii) cause Tenant to conduct religious worship services at another location for more than a ninety (90) consecutive day period in total during such use, renovation, improvement, expansion, set up and return of the Improvements to its previously existing condition. The parties agree to work together in good faith on any scheduling, operational and cost matters related to the use of the Leased Premises for the Olympics (including test events). Such use, renovation, improvement, expansion, set up of the Leased Premises and return thereof to its previously existing condition shall be conditioned upon the City and Tenant reaching an agreement in writing regarding scheduling, operational, indemnity, insurance, allocation of risk and cost matters. The monetary terms of any such Use Agreement shall provide for reasonable compensation to Tenant for the use of the Leased Premises on terms to be negotiated at the appropriate time. The City (or its designees) shall receive the benefit of all revenue generated at the Leased Premises as a direct result of the Olympics. Should the Leased Premises require

physical modifications and improvements in order to accommodate the Olympics, the City shall be responsible for funding the costs associated with such modifications and improvements and the costs associated with thereafter (i.e. following the occurrence of the Olympics) returning the Leased Premises to its previously existing condition on an expedited basis (and the City covenants and agrees with Tenant to promptly return the Leased Premises to Tenant in its previously existing condition), and the City shall perform such modifications, or cause such modifications to be performed, in accordance with plans that are provided to Tenant for Tenant's prior written approval, which approval will not be unreasonably withheld, conditioned or delayed, and such work shall be otherwise performed by the City, or caused to be performed by the City, in accordance with Sections 10.2.2, 10.2.3 and 10.3 of this Lease, as if the City were the Tenant under those Sections for this purpose (it being anticipated that the cost of such restoration work will be funded through the Houston 2012 Foundation). Construction of such modifications and return of the Leased Premises to its previously existing condition shall be performed on an expedited basis so as to minimize disruption to the Leased Premises and Tenant's use thereof for the Permitted Uses and to otherwise mitigate any adverse impact with respect to the rights of Tenant hereunder. Notwithstanding the foregoing, Tenant may elect, by written notice to Landlord, to perform such modifications to return the Leased Premises to its previously existing condition, which construction shall be in accordance with the provisions regarding construction of Alterations by Tenant in this Lease, and Landlord shall, within sixty (60) days after Tenant's completion of such modifications and payment therefor, upon presentation of supporting documentation reasonably acceptable to Landlord, reimburse Tenant for the cost thereof. The parties will use reasonable efforts to address matters as raised by the Olympic Committee (i.e., signage and concessions). Neither the Landlord, nor any other Person using all or any part of the Property as provided in this Section 4.6(b) may use the name or any logo or trademark or service mark of Tenant without the prior written Approval of Tenant, which Approval may be withheld, conditioned or delayed in Tenant's sole and absolute discretion.

ARTICLE V

CONDITION OF LEASED PREMISES

5.1 Condition of Leased Premises; Disclaimer of Representations and Warranties.

TENANT ACKNOWLEDGES AND AGREES:

(a) EXCEPT AS EXPRESSLY PROVIDED HEREIN, THAT NEITHER LANDLORD NOR ANY AFFILIATE OR RELATED PARTY OF LANDLORD MAKES OR HAS MADE ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, CONCERNING (i) THE PHYSICAL CONDITION OF THE LEASED PREMISES (INCLUDING, BUT NOT LIMITED TO, THE GEOLOGY OR THE CONDITION OF THE SOILS OR OF ANY AQUIFER UNDERLYING THE LAND AND ANY ARCHEOLOGICAL OR HISTORICAL ASPECT OF THE LAND), (ii) THE SUITABILITY OF THE LEASED PREMISES OR FITNESS FOR A PARTICULAR PURPOSE AS TO ANY USES OR ACTIVITIES WHICH TENANT

MAY MAKE THEREOF OR CONDUCT THEREON AT ANY TIME DURING THE TERM, (iii) THE LAND USE REGULATIONS APPLICABLE TO THE LEASED PREMISES OR THE COMPLIANCE THEREOF WITH ANY APPLICABLE LAWS, (iv) THE FEASIBILITY OF THE PROJECT IMPROVEMENTS WORK, (v) THE EXISTENCE OF ANY HAZARDOUS MATERIALS OR ENVIRONMENTAL CLAIMS, (vi) THE CONSTRUCTION OF THE IMPROVEMENTS ON THE LAND OR (vii) ANY OTHER MATTER RELATING TO THE IMPROVEMENTS OR ANY OTHER IMPROVEMENTS AT ANY TIME CONSTRUCTED OR TO BE CONSTRUCTED THEREON;

(b) THAT NO REVIEW, APPROVAL OR OTHER ACTION BY LANDLORD UNDER THIS LEASE SHALL BE DEEMED OR CONSTRUED TO BE SUCH A REPRESENTATION OR WARRANTY;

(c) THAT TENANT HAS BEEN AFFORDED FULL OPPORTUNITY TO INSPECT, AND TENANT HAS INSPECTED AND HAS HAD FULL OPPORTUNITY TO BECOME FAMILIAR WITH, THE CONDITION OF THE LEASED PREMISES, THE BOUNDARIES THEREOF, ALL LAND USE REGULATIONS APPLICABLE THERETO AND OTHER MATTERS RELATING TO THE DEVELOPMENT THEREOF; AND

(d) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THAT TENANT'S ACCEPTANCE OF THE LEASED PREMISES ON THE DELIVERY DATE WILL BE STRICTLY ON AN "AS IS, WHERE IS" BASIS IN THE CONDITION IN WHICH THEY EXIST ON SAID DELIVERY DATE INCLUDING, WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION OF THE LEASED PREMISES.

5.2 Tenant's Risks. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, TENANT AGREES THAT NEITHER LANDLORD NOR ANY LANDLORD RELATED PARTIES SHALL HAVE ANY RESPONSIBILITY FOR ANY OF THE FOLLOWING (COLLECTIVELY, THE "TENANT'S RISKS"):

(a) THE ACCURACY OR COMPLETENESS OF ANY INFORMATION SUPPLIED BY ANY PERSON;

(b) THE CONDITION, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, DESIGN, OPERATION OR VALUE OF THE LEASED PREMISES;

(c) THE COMPLIANCE OF THE LEASED PREMISES OR ANY OTHER PROPERTY OF LANDLORD WITH ANY APPLICABLE LAND USE REGULATIONS AND/OR ANY APPLICABLE LAW, AND TENANT ACKNOWLEDGES THAT THE EXISTING IMPROVEMENTS DO NOT COMPLY WITH TITLE III OF THE AMERICANS WITH DISABILITIES ACT.

(d) THE FEASIBILITY OF ANY ALTERATIONS;

(e) THE EXISTENCE OR ABSENCE OF ANY HAZARDOUS MATERIALS OR ENVIRONMENTAL CLAIMS, AND TENANT ACKNOWLEDGES THAT THE EXISTING IMPROVEMENTS MAY CONTAIN ASBESTOS;

(f) THE CONSTRUCTION OF ANY ALTERATIONS ON THE LEASED PREMISES; AND

(g) ANY OTHER MATTER RELATING TO THE IMPROVEMENTS.

NEITHER LANDLORD NOR ANY LANDLORD RELATED PARTIES SHALL BE LIABLE AS A RESULT OF THE FAILURE BY ANY PERSON (OTHER THAN LANDLORD OR ANY LANDLORD RELATED PARTY) UNDER THIS LEASE TO PERFORM THEIR RESPECTIVE OBLIGATIONS THEREUNDER. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, IT IS UNDERSTOOD AND AGREED BY TENANT (FOR ITSELF OR ANY PERSON CLAIMING BY, THROUGH OR UNDER IT) THAT IT HAS ITSELF BEEN, AND WILL CONTINUE TO BE, SOLELY RESPONSIBLE FOR MAKING ITS OWN INDEPENDENT APPRAISAL OF, AND INVESTIGATION INTO, THE FINANCIAL CONDITION, CREDITWORTHINESS, CONDITION, AFFAIRS, STATUS AND NATURE OF ANY PERSON UNDER THE LEASE, THE LAND, THE EXISTING IMPROVEMENTS OR ANY OTHER PROPERTY.

ARTICLE VI

ACCESS TO LEASED PREMISES

Landlord hereby grants Tenant access to the Leased Premises, beginning on the Effective Date, to conduct feasibility studies, physical inspections and tests which may be desired by Tenant, including but not limited to those necessary or desirable for the design, engineering and planning of Tenant's proposed Alterations. Tenant agrees that it shall not unreasonably interfere with the use of the Leased Premises by any existing operator of the Leased Premises in connection with such access to the Leased Premises.

ARTICLE VII

USE AND OCCUPANCY; PERMITTED USES

7.1 Permitted Uses. Notwithstanding anything to the contrary contained in Section 7.1 and Section 7.2 hereof, Tenant agrees to comply with the Deed Restrictions to the extent the Deed Restrictions are valid, enforceable and in effect, subject to Tenant's right to contest the Deed Restriction as set forth below. Tenant covenants and agrees that it shall use and occupy the Leased Premises and the Improvements solely for sporting events, productions, conventions, receptions, trade shows, exhibitions, performances, religious services and other religious uses, office, retail, library, conferences, seminars, radio, television, internet, cable, satellite or any other broadcasting, publishing, training, education, fitness, community outreach, child development, counseling, youth activities, visitors center, nursery and child care, wellness care and training, job training, restaurant, charitable purposes, fund raising activities, parking garage, and other parking facilities, chilled water plant, design, development and construction of Improvements related thereto, the uses described in Section 4.6 above, and other similar and

related uses, and uses ancillary and incidental to all of the foregoing and for no other purpose (collectively, "Permitted Uses").

Tenant agrees that the Permitted Uses are subject to (i) all Applicable Laws at any time applicable to the Leased Premises and (ii) the Permitted Exceptions, including the Deed Restrictions, to the extent that the same affect or relate to the Property and the Leased Premises and to the extent they are valid, enforceable and in effect; Landlord agrees to cooperate with Tenant to the extent deemed necessary by Tenant to contest any element of the Deed Restrictions which conflicts with any of the Permitted Uses and any attempted enforcement thereof, and Tenant agrees to reimburse Landlord (or Landlord's designee) for reasonable legal fees and expenses incurred by Landlord from and after the Effective Date in connection with any such contest or enforcement action prior to any termination of this Lease by Tenant pursuant to Section 23.1(b) below, but only to the extent that such legal fees and costs are for payment of outside counsel selected by Tenant and reasonably approved by Landlord and provided that Landlord provides Tenant with reasonable supporting documentation for such fees and costs. Nothing in this Article VII or elsewhere in this Lease shall constitute or be deemed to constitute a waiver by Landlord of the performance of its Governmental Functions or of any such Applicable Laws or of the duty of Tenant to comply with such Applicable Laws.

7.2 Prohibited Uses. Tenant shall not use, or permit the use of, the Leased Premises or the Improvements for any of the following (collectively, the "Prohibited Uses"):

(a) Any use of the Leased Premises for events which could be in competition with the downtown multi-purpose arena to be constructed and leased to Rocket Ball, Ltd., ("Arena"); provided, however, that this restriction shall not prohibit the Leased Premises from being used for religious services and religious activities by religious organizations, K-12 athletic functions, the Olympic Games, the Pan-American Games and for non-revenue generating public or civic ceremonies and forums (the provisions of this Section 7.2(a) shall be in effect only for so long as Landlord is bound to such restrictions and such restrictions affect the Leased Premises and Tenant's use thereof pursuant to any agreement with Rocket Ball, Ltd., its successors or assigns, relating to the use of the Arena). This restriction shall inure to the benefit of, and be enforceable by Rocket Ball, Ltd., and its successors and assigns. Notwithstanding the foregoing, if such restriction is superceded by a less restrictive non-compete agreement, such less restrictive agreement will supercede this restriction.

(b) Cause or permit obnoxious or offensive odors or fumes to emanate or be dispelled from the Improvements other than normal odors incident to any of the Permitted Uses;

(c) Cause or permit excessive accumulations of garbage, trash, rubbish or any other refuse in, on or about the Improvements;

(d) Create, cause, maintain or permit any public or private nuisance in, on or about the Improvements;

(e) Use or allow the Improvements to be used for any unlawful purpose or for any purpose which is violative of any Permitted Exception;

(f) Use or allow the Improvements to be used for the sale or display of any pornographic material or material which is obscene under standards set forth in any Applicable Laws, or operate or allow any Person to operate in, on or about the Improvements any store or other facility, a principal or significant portion of the business of which is a "sexually oriented business," as such term is defined in the City Codes in effect from time to time during the Term, or any similar business;

(g) Use or allow the Improvements to be used for the sale or display of any lewd, offensive or immoral sign or advertisement, including any sign or advertisement that promotes lewd, offensive or immoral activities, including sexually immoral activities;

(h) Use or allow the Improvements to be used as a place of permanent residence by any Person or for any time share purposes;

(i) Use or allow the Improvements to be used for the sale of paraphernalia or other equipment or apparatus which is used primarily in connection with the taking or use of illegal drugs (or their equivalent);

(j) Use or permit the Improvements to be used for the public display or public or private sale of guns and other weapons, ammunition, or explosives other than fireworks, with such permits as may be required by Applicable Law;

(k) Use or permit the Improvements to be used for a target range, vehicle repair facility, car wash facility, warehouse (but any area for the storage of goods necessary or desirable for the operation of the Property or related to any Permitted Use shall not be deemed to be a warehouse), convalescent care facility (although this shall not prevent the use of the Property for wellness care and training purposes including other uses reasonably incidental thereto) or mortuary (although this shall not prevent the use of the Property for funeral services, including the temporary location of a casket at the Property during such services), or use or permit it to be used for any assembly, manufacture, distillation, refining, smelting or other industrial or commercial agricultural operation or use;

(l) Except during the course of performing Alterations (and then only if kept in a neat and orderly condition), use any portion of the Leased Premises, other than portions inside the Improvements, for storage (except for storage related to any Permitted Use);

(m) Use or permit any use or condition of the Improvements which would cause any insurance policies required to be obtained, kept and maintained under this Lease to become void, voidable, unenforceable, suspended or impaired, in whole in part, or which would otherwise cause any sum paid out under any such insurance policy to become repayable, in whole or in part (unless in such event Tenant repays same from sources other than such insurance proceeds), or which would make it impossible to obtain any required insurance at commercially feasible rates;

(n) Cause or permit to exist any structural damage to the Improvements in violation of any Applicable Laws or this Lease;

(o) Use, generate, manufacture, produce, store, treat or dispose of Hazardous Materials (other than the use, storage and disposal of Hazardous Materials customarily used, stored and/or disposed of in the operation and/or cleaning of comparable facilities or facilities operated for uses comparable to any Permitted Use, so long as such Hazardous Materials are used, stored and disposed of in compliance with all Applicable Laws); and

(p) Use or occupy or knowingly permit the Improvements to be used or occupied, or do or knowingly permit to be done any act or thing upon or within the Improvements, in a manner that would in any way give any Governmental Authority legal grounds to revoke any license, permit or certificate affecting the Improvements.

The provisions of this Section 7.2 shall inure to the benefit of, and be enforceable by Landlord and its permitted successors and assigns. No other Person, including any guest or patron of the Improvements, shall have any right to enforce the Prohibited Uses.

7.3 Compliance with Applicable Laws.

7.3.1 Compliance with Applicable Laws. Tenant shall, throughout the Term, within the time periods permitted by Applicable Laws, comply or cause compliance with all Applicable Laws applicable to (i) the Leased Premises or the Improvements, including, but not limited to, any applicable to the manner of use or the maintenance, repair or condition of the Improvements or (ii) any activities or operations conducted in or about the Leased Premises or the Improvements. Tenant shall, however, have the right to contest the validity or application of any Applicable Law, and if Tenant promptly contests and if compliance therewith may legally be held in abeyance during such contest without the imposition of any Liens on the Improvements, Tenant may postpone compliance until the final determination of such contest, provided that such contest is prosecuted with due diligence, except that Tenant shall not so postpone compliance therewith in such a manner as to, or if doing so would, impair the structural integrity of the Improvements, subject Landlord to any fine or penalty or to prosecution for a criminal act, expose Landlord to any civil liability or cause the Improvements to be condemned or vacated. Even though a Lien against the Improvements may be imposed by reason of such noncompliance, Tenant may nevertheless delay compliance therewith during contest thereof provided that Tenant furnishes Landlord with security reasonably acceptable to Landlord against any loss by reason of such Lien and effectively prevents foreclosure thereof. Tenant shall give Landlord reasonable notice [which in no event shall be less than five (5) days of notice] of its intent to carry on such a contest, specifying the Applicable Law that Tenant proposes to contest, the name of counsel or other applicable representative(s), if any, representing Tenant in such contest and the delay, if any, that such contest will cause in any repair, alteration or improvement of the Improvements.

7.3.2 Environmental Condition. Without limiting the generality of Section 7.3.1, during the Term, Tenant agrees that it shall comply with all applicable Environmental Laws.

7.3.3 Insurance Requirements. Tenant shall comply in all material respects with all rules, orders, regulations and requirements of any Board of Fire Underwriters or other

similar body having jurisdiction, in the case of fire insurance policies, and the applicable insurance rating bureau or similar body in the case of all other insurance policies.

7.3.4 Exercise of Powers by the City; Permits. Tenant acknowledges that the City is a municipal corporation operating pursuant to a home-rule charter which, in addition to being the owner of the Leased Premises and the Landlord hereunder, exercises certain police powers, taxation powers and other Governmental Functions of general application which affect the Improvements. This Lease shall not in any way affect the exercise of such powers, duties and authorities. Before commencement of any Alterations, Tenant shall at its expense secure or cause to be secured any and all appropriate permits, licenses or approvals which may be required by the City or other Governmental Authority having jurisdiction over such Alterations. The Approval by the City of any matter submitted to the City pursuant to this Lease, which matter is specifically provided herein to be Approved by the City in its capacity as Landlord, shall not constitute a replacement or substitute for, or otherwise excuse Tenant from, such permitting, licensing or approval processes; and, conversely, no permit so obtained shall constitute a replacement or substitute for, or otherwise excuse the Tenant from any requirement hereunder for the Approval of Landlord. Notwithstanding the foregoing, Landlord agrees to the matters described in Section 22.10.4 below.

7.4 Light and Air. No diminution or shutting off of light, air or view by any structure that may be erected by any Person other than Landlord on lands in the vicinity of the Leased Premises shall in any manner affect this Lease or the obligations of Tenant hereunder or impose any liability on Landlord.

7.5 Tenant's Rights to Economic Benefits. All economic benefits derived from the Property during the Term shall inure to Tenant, including but not limited to all amounts paid or payable in respect to signage, advertising, marketing, naming, license or other use fees, assignment, subletting, royalties, concession fees and all other gross income and revenues and other consideration of whatever kind or nature realized by, from or in connection with Tenant's use or occupancy of the Leased Premises .

ARTICLE VIII

IMPOSITIONS; NET LEASE

8.1 Taxes and Assessments.

8.1.1 Impositions on Leased Premises. In the event it is determined that this Lease creates a possessory interest in the Leased Premises that is subject to property taxation, then, in such event, Tenant shall be subject to and responsible for the payment of property taxes and other Impositions levied on or payable with respect to such interest during the Term, except to the extent that Impositions are caused by the use of the Property as described in Section 4.6 above, as to which Landlord shall be responsible for payment. Except as otherwise set forth in the immediately preceding sentence and in the immediately following sentence, Tenant shall be responsible for and shall pay all Impositions levied or issued against the Property and the Improvements during the Term. Notwithstanding the foregoing, in the event that Impositions become due and payable because a Person other than the City becomes the Landlord under this Lease, such Landlord shall be responsible for any Impositions which are levied on the Leased

Premises, the Property or the Improvements which would not have been levied had the City remained the Landlord under this Lease. Any such Impositions for which Tenant is not responsible as provided above shall be timely paid by Landlord, and if Landlord does not pay any such Impositions before the same are or become delinquent, then Tenant may pay the same and Landlord shall reimburse Tenant therefor within ten (10) days of Tenant's demand. Tenant shall be responsible for the payment of Impositions levied or payable with respect to Tenant's Personal Property located in, on or about the Leased Premises for those periods of time included in the Term.

8.1.2 Payment of Impositions. Throughout the Term, Tenant shall pay, or cause to be paid, Impositions which Tenant is required to pay pursuant to Section 8.1.1. above (the "Tenant Impositions"); provided, however, that (a) all Tenant Impositions for the fiscal year or tax year in which the Commencement Date occurs shall be apportioned so that Tenant shall pay only the portion of the Tenant Impositions that is applicable to the period after the Commencement Date and (b) all Tenant Impositions for the fiscal year or tax year in which the Lease Expiration Date occurs shall be apportioned so that Tenant shall pay only the portion of the Tenant Impositions that is attributable to the period prior to the expiration or termination of this Lease. Tenant shall pay all such Tenant Impositions directly to the taxing authority or other payee therefor. Such payment shall be completed prior to the date on which Tenant Impositions would become delinquent, subject to Section 8.2 below. If any Tenant Impositions legally may be paid in installments prior to delinquency, whether or not interest shall accrue on the unpaid balance thereof, Tenant shall have the option to pay such Tenant Impositions in installments, and Tenant shall be obligated to pay only such installments or portions thereof as shall be properly allocated to periods within the Term. Tenant shall furnish to Landlord, promptly upon receipt thereof, copies of all notices of Property Taxes relating to Impositions payable by Tenant pursuant hereto. Within thirty (30) days after payment by Tenant of Property Taxes which are Tenant Impositions, Tenant shall deliver to Landlord reasonable evidence of the payment thereof. Other than with respect to Property Taxes, Tenant shall be obligated to provide evidence of the payment of Tenant Impositions when requested to do so by Landlord, at any time and from time to time during the Term.

8.2 Tenant's Right to Contest Impositions.

8.2.1 Notice. Tenant shall have the right (and Landlord hereby authorizes Tenant, and assigns to Tenant the right) in Tenant's own name, and at its sole cost and expense, to contest the validity or amount, in whole or in part, of any Tenant Impositions, by appropriate proceedings timely instituted in accordance with any protest procedures permitted by applicable Governmental Authority (a "Tax Proceeding"), provided Tenant gives Landlord at least ten (10) business days prior notice of Tenant's intention to contest and diligently prosecute such contest by a Tax Proceeding and at all times effectively stays or prevents any non judicial or judicial sale of any part of the Property, the Leasehold Estate created by this Lease, the Improvements, or any interest of Landlord in any of the foregoing, by reason of non-payment of any Tenant Impositions. Tenant shall diligently pursue all such Tax Proceedings in good faith. Further, Tenant shall, incident to any such Tax Proceeding, provide such bond or other security as may be required by the applicable Governmental Authority. **TENANT SHALL INDEMNIFY, DEFEND, AND HOLD LANDLORD HARMLESS FROM ANY AND ALL SUCH TENANT IMPOSITIONS BEING SO CONTESTED AND ALL COSTS, FEES, AND EXPENSES RELATED TO ANY SUCH TENANT IMPOSITIONS OR TAX**

PROCEEDING, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL PENALTIES AND INTEREST THEREON, and Tenant shall promptly pay any valid final adjudication enforcing any Tenant Impositions and shall cause any such final adjudication to be timely satisfied prior to any time period within which any non judicial or judicial sale could occur to collect any such Tenant Impositions.

8.2.2 Payment. Upon the entry of any determination, ruling or judgment in any Tax Proceedings, it shall be the obligation of Tenant to pay the amount of such Tenant Imposition or part thereof, as is finally determined in such Tax Proceedings, the payment of which may have been deferred during the prosecution thereof, together with any costs, fees, interest, penalties, charges or other liabilities in connection therewith.

8.2.3 Rendition. Tenant is obligated to notify each Governmental Authority imposing Tenant Impositions that all certificates, advices, bills or statements regarding Tenant Impositions should be sent directly to Tenant and Landlord shall join therein as may be necessary or required. Landlord hereby grants and gives permission to Tenant to render the Property, the Improvements and the Leased Premises from time to time during the Term.

8.2.4 Joinder of Landlord not Required. Landlord shall not be required to join in any Tax Proceeding or other action or proceeding referred to in this Section 8.2 unless required by Applicable Law in order to make such action or proceeding effective, in which event any such action or proceeding may be taken by Tenant in the name of but without expense to Landlord, and **TENANT HEREBY AGREES TO INDEMNIFY, DEFEND AND HOLD LANDLORD HARMLESS FROM ALL COSTS, FEES, EXPENSES, CLAIMS, LOSSES OR DAMAGES BY REASON OF, IN CONNECTION WITH, OR IN ACCOUNT OF, GROWING OUT OF, RESULTING FROM, ANY SUCH ACTION OR PROCEEDING.** To the extent such cooperation is required by applicable Governmental Authority for such action or proceeding, Landlord shall cooperate in any such action or proceeding as reasonably requested by Tenant, at Tenant's sole cost and expense, whether or not Landlord is joined pursuant thereto, and Landlord agrees to use its good faith best efforts to take no action that would be materially adverse to Tenant in any proceeding where Tenant seeks in good faith to reduce its obligation to pay Tenant Impositions.

8.2.5 Prima Facie Evidence. The certificate, advice, bill or statement issued or given by any Governmental Authority authorized by law to issue the same or to receive payment of an Imposition shall be prima facie evidence of the existence, non-payment or amount of such Imposition.

8.3 Net Lease.

8.3.1 No Landlord Obligations. For so long as this Lease remains in effect, and except as specifically set forth in Section 7.1, Section 8.1.1, Section 4.6, Section 12.4 and Section 14.4.5 of this Lease and any other provisions of this Lease which expressly so require, Landlord shall not be required to make any expenditure, incur any obligation or incur any liability of any kind whatsoever in connection with this Lease, the Improvements or any Impositions, and it is expressly understood and agreed that this is otherwise a completely net lease intended to assure Landlord the Rent herein reserved on an absolutely net basis.

8.3.2 Tenant's Obligations for Payment of Rent.

(a) Except as otherwise specifically provided in Section 2.3.1, Section 2.3.2, this Section 8.3.2, Section 13.4.1, Section 15.1.1, Section 19.3 and Article XXIII hereof, no happening, event, occurrence or situation, whether foreseen or unforeseen and howsoever extraordinary or beyond the contemplation of the Parties, shall relieve Tenant from its liability to pay Rent or the amounts of any other of its obligations under this Lease, receive any refund of Rent or permit Tenant to terminate this Lease or to surrender Tenant's Leasehold Estate. Tenant waives any right now or hereafter conferred upon it (other than as may be provided in Articles II, VIII, XIII, XV, XIX or XXIII) at law or in equity to any abatement, deduction, suspension, deferment, diminution or reduction of, or set-off, defense or counterclaim against or return of any Rent and any other sums for which Tenant is obligated under this Lease on account of such event, happening, occurrence or situation.

(b) This Lease shall not terminate, and the respective obligations of Landlord and Tenant shall not be affected (except as otherwise specifically provided in Section 2.3.1, Section 2.3.2, this Section 8.3.2, Section 13.4.1, Section 15.1.1, Section 19.3 and Article XXIII hereof) by reason of (i) damage to or destruction of the Leased Premises and/or the Improvements from whatever cause, (ii) any taking of the Leased Premises and/or the Improvements by condemnation or eminent domain, (iii) the lawful or unlawful prohibition, limitation, restriction or prevention of Tenant's use, occupancy or enjoyment of the Leased Premises and/or the Improvements, (iv) the interference with such use, occupancy or enjoyment by any Person other than Landlord or any Landlord Related Party, (v) any Landlord Default or breach of any warranty or agreement by Landlord under this Lease, (vi) the impossibility or illegality of performance by Landlord, Tenant or both under this Lease, (vii) any actions by a Governmental Authority, or (viii) any other cause, whether similar or dissimilar to the foregoing, any Applicable Law to the contrary notwithstanding. Tenant and Landlord hereby agree that the obligations of Tenant hereunder shall be separate and independent obligations, covenants and agreements and that all Rent and all other sums payable by Tenant hereunder shall continue to be payable in full in all circumstances unless, and solely to the extent that, the obligation to pay such Rent shall be adjusted (including any refund of Rent to Tenant) pursuant to the provisions of Section 2.3.1, Section 2.3.2, this Section 8.3.2, Section 13.4.1, Section 15.1.1, Section 19.3 and Article XXIII hereof. Tenant covenants and agrees that it shall remain obligated under this Lease in accordance with its terms, and that it shall not take any action to terminate, rescind or avoid this Lease by reason of filing by Landlord of a voluntary petition in bankruptcy; adjudication of Landlord as a bankrupt; approval as properly filed by a court of competent jurisdiction of any petition or other pleading in any action seeking reorganization, rearrangement, adjustment, or composition of, or in respect of Landlord under the United States Bankruptcy Code or any other similar state or federal law dealing with creditors' rights generally; or appointment of a receiver, trustee or other similar official for Landlord or its Property.

ARTICLE IX

REPAIRS AND MAINTENANCE; UTILITIES

9.1 Repairs and Maintenance.

9.1.1 Tenant's Obligation. Tenant shall, throughout the Term, at its own expense and at no cost or expense to Landlord, keep and maintain, or cause to be kept and maintained, and promptly make, or cause to be made, all repairs, interior and exterior, structural and non-structural to the Leased Premises necessary to keep the Leased Premises in the same or better condition as the Leased Premises existed on the Delivery Date and in compliance with all Applicable Law (collectively, the "Maintenance and Repair Work").

This Section 9.1 shall not apply to any damage or destruction by fire or other casualty within the scope of Section 13.4 in the event Tenant is entitled to, and timely makes the election permitted under Section 13.4 to, terminate this Lease.

9.1.2 Standards Required for Maintenance and Repair Work. (a) Tenant shall perform all Maintenance and Repair Work necessary to avoid or repair waste or structural damage to the Improvements, subject to the applicable provisions of this Lease; (b) Tenant shall perform, or cause to be performed, all Maintenance and Repair Work in accordance with Article X and Article XIV hereof; and (c) all Maintenance and Repair Work done, or caused to be done, by Tenant in respect to the Improvements shall result in the Improvements being at least equal in quality to the original in their state on the Delivery Date.

9.1.3 No Services Provided by Landlord; Tenant's Sole Responsibility. Landlord shall not be required to furnish any services or facilities or to perform any maintenance, repair or alterations in or to the Leased Premises or the Improvements other than as Landlord may be obligated to furnish pursuant to its Governmental Function or as required under the terms of this Lease. Except as set forth in Section 12.4, Section 14.4.5 and Section 4.6 of this Lease, Tenant hereby assumes the full and sole responsibility for the condition, operation, security, repair, replacement, maintenance and management of the Leased Premises and the Improvements throughout the Term. No security of any kind will be provided by Landlord to Tenant during the Term.

9.2 Utilities.

9.2.1 Utility Costs. Landlord shall not be obligated to furnish or pay for any utilities (including chilled water) for the Improvements, except to the extent that the furnishing of utilities is a Governmental Function. Tenant shall cause the necessary mains, conduits and other facilities to be provided and maintained (from and within the property lines of the Leased Premises and beyond, to the connection with the supplying utility in the streets immediately adjacent to the Leased Premises) to supply chilled water, water, gas, telephone, electricity and other utility services to the Leased Premises. Tenant shall pay, or cause to be paid during the Term, all rents or charges imposed for water used, and for any sewage charge or assessment, whether imposed by meter or otherwise, in connection with the Improvements. Tenant shall also pay, or cause to be paid during the Term, for all gas, electricity, fuel and other utilities used or consumed to heat, cool, light, illuminate or otherwise power the Improvements and outside

lighting and signs, if any, for the Improvements on or surrounding the Improvements (excluding costs of municipal street lighting) or otherwise delivered thereto. No interruption or malfunction of any utility services shall constitute an eviction or disturbance of Tenant's possession of the Leased Premises or a breach of the covenant of quiet enjoyment, and no such interruption or malfunction shall result in any abatement or reduction in the Rent.

9.2.2 Utility Upgrade and Extension Costs. Tenant shall cause the necessary mains, conduits and other facilities to be provided and maintained (from and within the property lines of the Leased Premises and beyond, to the connection with the supplying utility in the streets immediately adjacent to the Leased Premises) to supply any additional volume or type of utility services in connection with Alterations and Tenant shall, at its sole cost and expense, subject to the obligations of the applicable utility provider, maintain and repair such additional or other utility service facilities in, on or servicing only the Improvements during the Term, provided that to the extent the same are not located in or on the Leased Premises, the obligation of Tenant shall be only to maintain such pipes, conduits, lines and/or other facilities to the connection points located in the streets immediately adjacent to the Improvements. Tenant shall pay, or cause to be paid, rents, charges and fees imposed for use of such additional volume or type of utility services. No interruption or malfunction of any additional volume or type of utility services shall constitute an eviction or disturbance of Tenant's possession of the Leased Premises or a breach of the covenant of quiet enjoyment, and no such interruption or malfunction shall result in any abatement or reduction in the Rent.

ARTICLE X

OWNERSHIP OF IMPROVEMENTS AND TENANT'S PERSONAL PROPERTY ALTERATIONS; SIGNAGE

10.1 Title to the Project Improvements.

10.1.1 During Term; Upon Termination of Term. Landlord hereby acknowledges that, during the Term, Tenant shall be and remain the owner of all Alterations. Tenant shall retain and have all rights to depreciation or similar type deductions and tax credits arising from Tenant's ownership of such Alterations accruing throughout the Term. Upon expiration or earlier termination of this Lease, ownership of and to any then existing permanent Alterations which are real property shall, except as may be otherwise agreed to by and between Landlord and Tenant (in this Lease or otherwise), revert to Landlord without cost or offset and Tenant shall thereafter have no further rights with respect thereto. All Tenant's Personal Property installed in, affixed to or placed or used in the operation of the Improvements throughout the Term shall be deemed to be the property of Tenant. Upon the Lease Expiration Date, Tenant shall remove all of Tenant's Personal Property from the Leased Premises in accordance with the provisions of Section 17.2.

10.1.2 Waste. Tenant shall neither do nor permit nor suffer any waste to or upon the Leased Premises.

10.2 Alterations by Tenant.

10.2.1 Alterations. Subject to the limitations and requirements contained elsewhere in this Lease, including, but not limited to, those contained in Article VII, Tenant shall have the right at any time and from time to time to perform work or construct additional or replacement Improvements, at its sole cost and expense, and to make, at its sole cost and expense, changes and alterations in, to or of the Improvements (collectively, "Alterations"); subject, however, in all cases to the terms, conditions and requirements of this Section 10.2. All Material Alterations which do not substantially differ from Tenant's Concept Plans require the Approval of Landlord's Representative, which will not be unreasonably withheld, conditioned or delayed. Material Alterations which substantially differ from Tenant's Concept Plans require the approval of Landlord and Landlord's Representative. Tenant shall submit plans for any Material Alterations to Landlord's Representative for review at least ninety (90) days prior to commencement thereof. Landlord or Landlord's Representative, as the case may be, will have thirty (30) days following receipt of such plans to review and approve or disapprove such plans ("Review Period"). If Landlord or Landlord's Representative, as the case may be, fails to approve or disapprove such plans within the Review Period, then Tenant may provide a second written notice stating that Tenant has not received a response to its request for approval of such plans, which notice must contain a conspicuous statement to the effect that failure to respond to the request for approval within ten (10) days after receipt will constitute the deemed approval of such plans by Landlord or Landlord's Representative, as the case may be ("Second Notice"), and if Landlord or Landlord's Representative, as the case may be, does not respond to Tenant within ten (10) days after receipt of such Second Notice, then such plans shall be deemed to have been Approved by Landlord or Landlord's Representative, as the case may be. If Landlord or Landlord's Representative, as the case may be, delivers written notice to Tenant prior to the end of the Review Period (or within ten (10) days of receipt of the Second Notice) that Landlord or Landlord's Representative, as the case may be, has disapproved all or some portion of such plans (which must be accompanied by a written explanation setting forth the specific reasons for its disapproval of such plans), Tenant shall have an additional thirty (30) days following receipt of such objections to submit revised plans, endeavoring to address any such objections, for review and approval. If, within ten (10) days after receipt of such revised plans, Landlord or Landlord's Representative, as the case may be, fails to approve or disapprove such revised plans, then Tenant may provide a Second Notice stating that Tenant has not received a response to its request for approval of such plans, which notice must contain a conspicuous statement to the effect that failure to respond to the request for approval within ten (10) days after receipt will constitute the deemed approval of such plans, and if Landlord or Landlord's Representative, as the case may be, does not respond to Tenant within ten (10) days after receipt of such Second Notice from Tenant, then such revised plans shall be deemed to have been Approved. Such review process will continue as provided in the previous two (2) sentences if necessary until such plans are approved or deemed approved by Landlord or Landlord's Representative, as the case may be, or abandoned by Tenant. Provided that any Alterations do not constitute Material Alterations, Tenant may make such Alterations without the Approval of Landlord or Landlord's Representative. The Alterations shall in all cases be constructed in accordance with the applicable construction requirements and procedures established by Landlord under the terms of Article VII and this Article X.

10.2.2 General Requirements. Tenant shall not do or permit others to do any work on the Property related to any Alterations, unless Tenant shall have first procured and paid

for all permits and authorizations then required by all applicable Governmental Authorities for the work being performed. All such work shall be prosecuted with due diligence in a good and workmanlike manner in accordance with standard construction practice for construction of improvements similar to the Alterations, using qualified workers and subcontractors and in compliance with the provisions of this Lease, all Applicable Laws and the requirements, rules and regulations of all insurers of the Leased Premises, and shall be completed free of any Liens. Tenant shall take all reasonably necessary measures to minimize damage, disruption or inconvenience caused by such work and make adequate provisions for the safety and convenience of all Persons affected thereby. Tenant shall be responsible for all costs incurred in connection with the Alterations including (without limitation) (i) utility connection fees, (ii) all costs and fees payable to any Governmental Authorities in connection with the Alterations, including, but not limited to, the costs of all building permits and platting, (iii) construction costs of all new utility service lines and infrastructure improvements within the Property made or constructed by Tenant, (iv) title insurance costs associated with leasehold title insurance obtained for the Property by Tenant, (v) any cost of Tenant's relocation of utility lines and other lines crossing the Property, and (vi) all other site preparation costs, fees or expenses incurred in connection with the development and construction of all elements of the Alterations and their maintenance and repair. **TENANT SHALL INDEMNIFY, DEFEND AND HOLD LANDLORD HARMLESS FROM ALL CLAIMS ATTRIBUTABLE TO THE PERFORMANCE OF SUCH WORK, IN ACCORDANCE WITH THE INDEMNIFICATION PROVISIONS SET FORTH IN SECTION 14.4.5.** Dust, noise and other effects of such work shall be controlled using commercially accepted methods so as to comply with all Applicable Law.

10.2.3 Contract Requirements. All contracts entered into by Tenant for the construction of the Alterations shall provide for statutory retainage in accordance with the then current requirements of the Texas Property Code.

10.2.4 Working Drawings and Other Documents. Upon completion of any Material Alterations, Tenant shall furnish to Landlord one (1) certified copy of all approvals, permits and certificates, including (if applicable) a certificate of occupancy or its equivalent, which shall then be required by any Governmental Authority in connection with such Material Alterations. Tenant shall retain and at all times maintain at a business office within the Improvements, or at Tenant's office in Houston, Texas, and shall furnish to Landlord at least one (1) complete, legible, full-size set of all "working drawings" in accordance with accepted industry standards regarding all Material Alterations as they then exist, to the extent appropriate considering all work performed to date and the Material Alterations as they then exist, and certified copies of all approvals, permits and certificates, including (if applicable), but not limited to, all certificates of occupancy or their equivalent for the Improvements as they then exist, as shall then be required by any Governmental Authority.

10.3 Mechanics' Liens and Claims. If any Lien or claim of Lien, whether choate or inchoate (collectively, any "Mechanic's Lien") shall be filed against the interest of Landlord or Tenant in the Leased Premises or against Landlord or any Property of Landlord by reason of any work, labor, services or materials supplied or claimed to have been supplied on or to the Leased Premises by or on behalf of Tenant, Tenant shall, at its sole cost and expense, after notice of the filing thereof but in no event less than thirty (30) days prior to the foreclosure of any such Mechanic's Lien, cause the same to be satisfied or discharged of record, or effectively prevent, to

the reasonable satisfaction of Landlord, by injunction, payment, deposit, bond, order of court or otherwise, the enforcement or foreclosure thereof against the Leased Premises, the Improvements, Landlord or any property of Landlord. If Tenant fails to satisfy or discharge of record any such Mechanic's Lien, or effectively prevent the enforcement thereof, by the date which is thirty (30) days prior to the foreclosure thereof, then Landlord shall have the right, but not the obligation, to satisfy or discharge such Mechanic's Lien by payment to the claimant on whose behalf it was filed, and Tenant shall reimburse Landlord within fifteen (15) days after demand therefor for amounts so paid, together with interest on such amounts at the Default Rate from the date such amounts are paid by Landlord until reimbursed by Tenant, together with reasonable attorneys' fees, costs and expenses so incurred by Landlord, without regard to any defense or offset that Tenant has or may have had against such Mechanic's Lien claim. Tenant shall indemnify, defend and hold Landlord harmless from and against any and all such Mechanic's Liens (including, without limitation, all costs, expenses and liabilities, including reasonable attorneys' fees and costs, so incurred in connection with such Mechanic's Liens). **IT IS THE INTENT OF THE CITY, AS LANDLORD HEREUNDER, AND TENANT THAT NOTHING CONTAINED IN THIS LEASE SHALL (a) BE CONSTRUED AS A WAIVER OF THE CITY'S LEGAL IMMUNITY AGAINST MECHANIC'S LIENS ON ITS PROPERTY AND/OR ITS CONSTITUTIONAL AND STATUTORY RIGHTS AGAINST MECHANIC'S LIENS ON ITS PROPERTY, INCLUDING THE LEASED PREMISES AND THE EXISTING IMPROVEMENTS, OR (b) BE CONSTRUED AS CONSTITUTING THE EXPRESS OR IMPLIED CONSENT OR PERMISSION OF THE CITY FOR THE PERFORMANCE OF ANY LABOR OR SERVICES FOR, OR THE FURNISHING OF ANY MATERIALS TO, TENANT THAT WOULD GIVE RISE TO ANY SUCH MECHANIC'S LIEN AGAINST THE CITY'S INTEREST IN THE LEASED PREMISES, THE IMPROVEMENTS, THE CITY OR ANY PROPERTY OF THE CITY, OR IMPOSING ANY LIABILITY ON THE CITY FOR ANY LABOR OR MATERIALS FURNISHED TO OR TO BE FURNISHED TO TENANT UPON CREDIT. THE CITY SHALL HAVE THE RIGHT AT ALL REASONABLE TIMES DURING ANY CONSTRUCTION ACTIVITY AT THE IMPROVEMENTS TO POST AND KEEP POSTED AT THE IMPROVEMENTS SUCH NOTICES OF NON-RESPONSIBILITY AS THE CITY MAY DEEM NECESSARY FOR THE PROTECTION OF THE CITY AND THE FEE OF THE LEASED PREMISES FROM MECHANIC'S LIENS.**

10.4 Signage. Landlord and Tenant recognize that the Property falls within the Richmond/Weslayan Scenic district pursuant to Section 4602 of the Houston Sign Code. Landlord agrees to assist Tenant in obtaining permits for the placement of signage on or about the Property, in a manner consistent with the Permitted Uses and the goals of the district, and in the manner described in Section 22.10.4 below. Landlord agrees that Tenant will be entitled to, if Tenant so desires, such signage (as to visibility) that will be at least comparable to the signage on or about the improvements known as the "Compaq Center" as of the Effective Date, provided that such signage complies with all Applicable Laws.

ARTICLE XI

LANDLORD'S RIGHT OF ENTRY

11.1 Access to the Property by Landlord.

11.1.1 During Construction of Alterations. For the purposes of assuring compliance with this Lease, Landlord shall have the reasonable right of access, for itself and its authorized representatives, to the Leased Premises, the Improvements and all portions thereof (in addition to Landlord's access rights under its police powers), without charges or fees, at normal construction hours, during the period of construction of any Alterations, provided (i) Landlord notifies Tenant reasonably in advance of such proposed entry and coordinates such entry so as to be accompanied by Tenant or its designee, (ii) Landlord does not hinder or interfere with the construction of any Alterations or the activities of Tenant's contractors, (iii) Landlord takes such reasonable protective caution or measures as Tenant may reasonably request and complies with Tenant's safety rules, given the stage of construction of any Alterations, at the time of such entry, and (iv) Landlord does not unreasonably interfere with Tenant's use or occupancy of the Property. Nothing in this Lease, however, shall be interpreted to impose an obligation upon Landlord to conduct such inspections or impose on Landlord any liability in connection therewith.

11.1.2 Landlord's Access During Times Other Than Construction of Alterations. Tenant shall permit Landlord or its authorized representatives to enter the Improvements at all reasonable times during usual business hours upon reasonable prior notice under the applicable circumstances for the purposes of (a) inspection, (b) the performance of any work in the Improvements made necessary by reason of Tenant's Default to the extent Landlord is permitted to perform such work hereunder, (c) exercising its rights under Section 19.2, or (d) exhibition of the Improvements to others during the last twelve (12) months of the Term (if no extension option has been exercised by Tenant); provided, however, such entry shall be conducted in such a manner so that Landlord does not unreasonably interfere with Tenant's use or occupancy of the Property.

ARTICLE XII

ENVIRONMENTAL PROVISIONS

12.1 No Hazardous Materials. Tenant shall not cause or permit any Hazardous Materials to be generated, used, released, stored or disposed of in or about the Leased Premises, provided that Tenant may use, store and dispose of reasonable quantities of Hazardous Materials commonly used in connection with any Permitted Use, provided such Hazardous Materials are used, stored and disposed of in accordance with all Environmental Laws and commercially reasonable industry standards. Upon the Lease Expiration Date, Tenant shall surrender the Leased Premises to Landlord free of Hazardous Materials introduced to the Leased Premises by Tenant. Tenant agrees that Tenant will be solely responsible for any asbestos remediation within the Leased Premises which is required by applicable law in connection with Tenant's construction or use thereof.

12.2 Notice of Environmental Claims. Tenant shall give Landlord immediate oral and follow-up written notice [within seventy-two (72) hours] of any actual or threatened Environmental Claim of which Tenant obtains knowledge. Tenant shall cure any such Environmental Claim caused by Tenant in accordance with all Environmental Laws. Upon any Environmental Claim caused by Tenant, in addition to all other rights available to Landlord under this Lease, at law or in equity, Landlord shall have the right, but not the obligation, at its option (i) to require Tenant, at its sole cost and expense, to address and remedy such Environmental Claim, in which event Landlord shall have the right to Approve any actions taken by Tenant to address and remedy such Environmental Claim, which Approval will not be unreasonably withheld, conditioned or delayed provided that such actions are commercially reasonable, or (ii) if Tenant has failed to commence action to address and remedy such Environmental Claim within a reasonable time after notice is given to Landlord, and such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant, Landlord shall be entitled to perform, at Tenant's sole cost and expense, any lawful action reasonably necessary to address and remedy the same, in which event Tenant shall pay the actual and reasonable costs thereof to Landlord as Additional Rent, within ten (10) days after written demand therefor.

12.3 Environmental Audit. Landlord shall have the right, but not the obligation, if Landlord reasonably believes that Hazardous Materials are present in, under or about the Leased Premises, to conduct, at Landlord's expense, periodic environmental audits of the Leased Premises (including without limitation, the air, soil, surface water and groundwater at or near the Leased Premises) and Tenant's compliance with Environmental Laws with respect thereto, provided that Landlord first gives Tenant at least ten (10) days prior written notice of such audit and Landlord conducts such audit in such a manner that minimizes any disruption of Tenant's use or occupancy of the Leased Premises. If any Governmental Authority requires testing or other action with respect to any environmental condition at the Leased Premises caused by Tenant and Tenant fails to commence performing such testing or other action within ten (10) days after written notice from Landlord of such failure and Landlord incurs expenses in complying with such requirement, then Tenant shall pay to Landlord the actual and reasonable costs therefor as Additional Rent, within ten (10) days after written demand therefor.

12.4 INDEMNITY. EXCEPT AS OTHERWISE PROVIDED IN SECTION 14.4.5(b) BELOW, TENANT HEREBY AGREES TO INDEMNIFY, DEFEND AND HOLD LANDLORD AND THE LANDLORD RELATED PARTIES HARMLESS FROM AND AGAINST ALL CLAIMS SUFFERED BY OR CLAIMED AGAINST ANY OF THEM, DIRECTLY OR INDIRECTLY, BASED ON OR ARISING OUT OF, IN WHOLE OR IN PART, ANY ENVIRONMENTAL CLAIM CAUSED BY TENANT OR THE VIOLATION BY TENANT OF ANY ENVIRONMENTAL LAW RELATING TO THE LEASED PREMISES OCCURRING OR ARISING DURING THE TERM, UNLESS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD OR ANY LANDLORD RELATED PARTY. THIS INDEMNITY SHALL SURVIVE THE LEASE EXPIRATION DATE.

ARTICLE XIII

CASUALTY DAMAGE

13.1 Damage or Destruction. If, at any time during the Term, the Leased Premises or any part thereof shall be damaged or destroyed by fire or other casualty, and Tenant does not terminate the Lease pursuant to Section 13.4.1 below, then Tenant shall promptly secure the area of damage or destruction to safeguard against injury to Persons or property and, within a reasonable period of time thereafter, commence and thereafter proceed with reasonable diligence (subject to a reasonable time allowance for the purpose of adjusting the insurance loss) to repair, restore, replace or rebuild the Leased Premises as nearly as practicable to a condition substantially equivalent to that existing immediately prior to such damage or destruction or such other condition as may be agreed upon by Landlord and Tenant. Such repair, restoration, replacement or rebuilding, including securing the area of damage or destruction to safeguard against injury to Persons or property, or any demolition and debris removal required are sometimes referred to in this Lease as the "Casualty Repair Work".

13.2 Insurance Proceeds.

13.2.1 Requirements for Disbursement. Insurance proceeds paid pursuant to the policies of insurance required under Section 14.1 and Section 14.2 for loss of or damage to the Leased Premises (herein sometimes referred to as the "Property Insurance Proceeds"), shall be paid and delivered to Tenant, except under the circumstances set forth in Section 13.4.2 below. Except as provided in Section 13.2.2 and Section 13.4.2 hereof, Property Insurance Proceeds shall be applied to the payment of the costs of the Casualty Repair Work and shall be paid out to Tenant from time to time as such Casualty Repair Work progresses. Except as set forth in Section 13.4.2 below, Tenant shall be entitled to receive directly the payments or disbursements of such Property Insurance Proceeds, provided that not more than fifteen (15) days after the receipt of any such Property Insurance Proceeds, Tenant shall deliver to Landlord a certificate setting forth the following:

- (a) That the sum received by Tenant represents amounts paid by Tenant or due to contractors, subcontractors, materialmen, architects, engineers or other Persons who have rendered services or furnished materials in connection with the Casualty Repair Work, giving a reasonably detailed description of the services and materials and the several amounts so paid or due; and
- (b) That except for the amount stated in such certificate to be due (and/or except for statutory or contractual retainage not yet due and payable), there is no outstanding indebtedness for such Casualty Repair Work known to the Persons signing such certificate which is then due to Persons being paid, after due inquiry.

Property Insurance Proceeds paid or disbursed to Tenant shall be held by Tenant in trust for the purpose of paying the cost of the Casualty Repair Work and shall be applied by Tenant to such Casualty Repair Work or otherwise in accordance with the terms of this Section 13.2.

13.2.2 Disbursements of Excess Proceeds. If the Property Insurance Proceeds (and other funds, if any) received by Tenant shall exceed the entire cost of the Casualty Repair

Work, Tenant shall be entitled to retain any such excess proceeds, but only after Landlord has been furnished with reasonably satisfactory evidence that all Casualty Repair Work has been completed and that no Mechanic's Liens exist or may arise in connection with the Casualty Repair Work and after all Rent (including Additional Rent) then due hereunder has been paid and after any Tenant Defaults hereunder have been cured.

13.2.3 No Obligation of Landlord. Under no circumstances shall Landlord be obligated to make any payment, disbursement or contribution toward the cost of the Casualty Repair Work.

13.2.4 Uninsured Losses/Policy Deductibles. As Casualty Repair Work progresses during the Term, Tenant shall be obligated to pay for all costs and expenses of any such Casualty Repair Work that are not covered by Property Insurance Proceeds or for which Property Insurance Proceeds are inadequate (collectively, "Casualty Expenses").

13.3 Non-Abatement of Rent. Except as specifically provided in Section 2.3.1, Section 13.4 and Section 15.1 hereof, Tenant shall not be entitled to any abatement, allowance, reduction or suspension of the Rent as a result of or in connection with the partial or total destruction of the Leased Premises or any part thereof. Notwithstanding anything herein or in any Applicable Law to the contrary, no such damage or destruction shall affect in any way the obligation of Tenant to pay the Rent and other charges herein reserved, or release Tenant from any obligations imposed upon Tenant hereunder, except as specifically provided in Section 2.3.1, Section 13.4 and Section 15.1 hereof. Tenant hereby waives the provisions of any statute or law now or hereafter in effect to the contrary.

13.4 Option to Terminate.

13.4.1 Damage or Destruction of Substantially All of the Improvements. In the event that (a) Substantially All of the Improvements shall be damaged or destroyed by fire or other casualty at any time during the Term or (b) any portion of the Improvements shall be damaged or destroyed by fire or other casualty at any time during the Term, and the Applicable Laws then applicable to the Leased Premises do not permit the restoration of the Improvements to a condition adequate for the use of the Leased Premises for the Permitted Uses, then Tenant may, at its option, exercised with reasonable promptness under the circumstances, but in all events within ninety (90) days after such damage or destruction, terminate this Lease by serving upon Landlord notice within such period setting forth Tenant's election to terminate this Lease as a result of such damage or destruction and such termination shall be effective on the date specified by Tenant in such notice. Upon the service of such notice, this Lease shall cease and terminate on the date specified in such notice with the same force and effect as if such date were the date originally fixed as the Lease Expiration Date. Tenant shall thereafter be obligated to raze and remove the Improvements, if Landlord so requires. Failure by Tenant to terminate this Lease within the foregoing time period shall constitute an election by Tenant to keep this Lease in full force and effect, in which event Tenant shall commence to construct new Improvements or restore the Improvements in accordance with the provisions of Article XIV, Sections 13.1 and Section 10.2 and thereafter prosecute such construction to completion as provided in Section 10.2.

13.4.2 Excess Proceeds. In the event this Lease shall be terminated pursuant to the provisions of Section 13.4.1, Property Insurance Proceeds payable with respect to demolition or debris removal shall be used for that purpose and, until so used, shall be paid to Landlord for that purpose and held in trust by Landlord, and all other Property Insurance Proceeds, if any, payable in respect of such damage or destruction (the "Excess Proceeds") shall be payable to, and shall be the property of, Tenant, after (a) paying the costs of razing the Improvements and clearing the Leased Premises of debris in accordance with this Lease and all Applicable Law, and (b) causing all Mechanic's Liens and any other Encumbrances caused by Tenant or arising out of work performed with respect to the Leased Premises or the Improvements by, or in satisfaction of any obligation of, Tenant hereunder to be released from the Leased Premises and from any interest of Landlord hereunder. Tenant hereby grants to Landlord a security interest in and lien on the Excess Proceeds for the purpose of securing the obligations of Tenant under this Article XIII and agrees to take such action as Landlord may from time to time reasonably request to perfect such security interest and lien, which security interest and lien shall be released by Landlord upon fulfillment of all of the obligations of Tenant under this Article XIII.

13.4.3 Definition of Substantially All of the Improvements. For the purposes of this Section 13.4, "Substantially All of the Improvements" shall be deemed to be damaged or destroyed if, within sixty (60) days of the date of the casualty, an independent architect mutually and reasonably selected by Landlord and Tenant determines that the Improvements cannot be repaired, reconfigured or rebuilt within one (1) year of the date of such architect's determination to a condition adequate for the use of the Leased Premises for the Permitted Uses.

ARTICLE XIV

INSURANCE AND INDEMNIFICATION

14.1 Policies Required.

14.1.1 Policies Required During Construction of Alterations. Tenant shall obtain and maintain continuously, or cause to be obtained and maintained continuously, during the construction of any Alterations, the following minimum insurance coverages, in one or more policies, the cost of which (including but not limited to the cost of premiums, deductibles, and claims processing) shall be borne by Tenant: builders "all-risk" insurance policies (collectively, the "Builder's All Risk Policies") affording coverage of the Improvements, whether permanent or temporary, and all Insured Materials and Equipment related thereto against loss or damage due to Insured Casualty Risks on commercially reasonable terms from time to time available with respect to similar work in Houston, Harris County, Texas. The Builder's All Risk Policies shall be written on an occurrence basis and on a "replacement cost" basis, insuring one hundred percent (100%) of the insurable value of the cost of the Improvements, using a completed value form (with permission to occupy upon completion of work or occupancy), naming Tenant as the insured and Landlord as loss payee, as their respective interests may appear, with replacement cost coverage in an amount designated by Tenant subject to the Approval of Landlord Representative, which Approval shall not be unreasonably withheld, conditioned or delayed, and with any deductible not exceeding Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) per loss. The Builder's All Risk Policies additionally shall (i) provide for reimbursement to the City for any City services expended or expenses incurred as a result of any

loss due to any Insured Casualty Risk, and (ii) comply with the requirements set forth in this Article XIV. The cost of any such Builder's All Risk Policies shall be borne entirely by Tenant.

14.1.2 Property Insurance Policy. Commencing on the first day of the Term, and at all times during the remainder of the Term, Tenant shall, at its sole cost and expense, obtain, keep, and maintain a hazard and casualty insurance policy (the "Property Insurance Policy") providing for coverage of the Leased Premises against loss or damage due to Insured Casualty Risks and such other perils covered by the broadest form of expanded coverage insurance generally available on commercially reasonable terms from time to time available with respect to improvements similar to the Leased Premises in Houston, Harris County, Texas, and affording coverage for, among other things, demolition and debris removal and losses from malicious acts of any employee or agent of an insured, naming Tenant as the first named insured and Landlord as additional named insured, as their respective interests may appear, for a sum at least equal to one hundred percent (100%) of the insurable replacement cost of the Improvements, without reduction for physical depreciation and/or obsolescence, and including the cost of excavation, foundations, and footings plus soft costs defined as attorneys fees, architectural, engineering and other consulting costs and permit fees that may be incurred due to damage to the Improvements, and with any deductible not exceeding Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) per loss. The Property Insurance Policy shall also include an agreed amount clause or waiver of coinsurance and shall not contain any exclusion for freezing, mechanical breakdown, loss or damage covered under any guarantee or warranty or any exclusion for resultant damage caused by faulty workmanship, design or materials. Such Property Insurance Policy shall include flood insurance, or, alternatively, Tenant shall obtain a separate policy covering flood risks, if such coverage is available to Tenant for the Leased Premises on commercially reasonable terms.

14.1.3 Additional Policies Required by Tenant During the Term. Commencing on the first day of the Term, and at all times during the remainder of the Term and continuing thereafter until Tenant has fulfilled all of its obligations under Article XVII (unless otherwise provided below), Tenant shall, at its sole cost and expense, obtain, keep and maintain or cause to be obtained, kept and maintained, the following insurance policies:

(a) **Commercial General Liability Policy.** A commercial general liability insurance policy ("Tenant's GL Policy"), written on an occurrence basis and limited to the Leased Premises, naming Tenant as the named insured (with the effect that Tenant and its employees are covered) and Landlord as an additional insured, affording protection against liability arising out of personal injury, bodily injury and death and/or property damage occurring, in, upon or about the Leased Premises or resulting from, or in connection with, the construction, use, operation or occupancy of the Leased Premises and containing provisions for severability of interests. Tenant's GL Policy must specifically include premises and operations coverage with explosion, collapse and underground exclusions deleted, if applicable; owners' and contractors' protective coverage; blanket contractual coverage; personal injury and advertising injury; broad form property damage coverage, incidental medical malpractice liability, cross liability endorsement and hoists and elevators or escalators, if exposure exists. Tenant's GL Policy shall be in such amount and such policy limits so that (i) the coverage and limits are adequate to maintain the Tenant's Excess/Umbrella Policies (hereinafter defined) without gaps in coverage between the Tenant's GL Policy and the Tenant's

Excess/Umbrella Policies and (ii) the following minimum policy limits: \$2,000,000.00 Each Occurrence; \$2,000,000.00 Personal and Advertising Injury; \$5,000,000.00 Completed Operations Aggregate; \$5,000,000.00 General Aggregate/all insureds; and \$250,000.00 Fire Legal Liability.

(b) Auto Policy. A business automobile liability insurance policy ("Auto Policy") covering all vehicles, whether owned, non-owned and hired or borrowed vehicles, used by Tenant in connection with the construction, maintenance or operation of the Improvements, naming Tenant as the insured and Landlord as additional insured, affording protection against liability for bodily injury and death and/or for property damage in an amount not less than One Million and No/100 Dollars (\$1,000,000.00) combined single limit per occurrence or its equivalent.

(c) Workers' Compensation Policy. A workers' compensation insurance policy and any and all other statutory forms of insurance now or hereafter prescribed by applicable law, providing statutory coverage under the laws of the State of Texas for all Persons employed by Tenant in connection with the Leased Premises and employers liability insurance policy (collectively, the "Tenant's Workers' Compensation Policy") affording protection of not less than One Million and No/100 Dollars (\$1,000,000.00) for bodily injury by accident (each accident), not less than One Million and No/100 Dollars (\$1,000,000.00) for bodily injury by disease (each employee) and not less than One Million and No/100 Dollars (\$1,000,000.00) bodily injury by disease (policy limit). Notwithstanding the foregoing, Tenant may at any time elect to institute and maintain an alternative work-place injury or "opt out" subscribers plan in accordance with applicable state law in lieu of the above-described Tenant's Workers' Compensation Policy.

(d) Excess/Umbrella Policies. Excess or umbrella liability insurance policies ("Tenant's Excess/Umbrella Policies"), written on an occurrence basis, in an amount not less than (i) Fifty Million and No/100 Dollars (\$50,000,000.00) per occurrence and in the aggregate for personal injury, bodily injury and death and/or property damage liability combined, and (ii) Fifty Million and No/100 Dollars (\$50,000,000.00) per occurrence and in the aggregate for hazard and casualty coverage, such policies to be written on an excess basis above the coverages required hereinabove (specifically listing such underlying policies) and following the form of such underlying policies.

14.1.4 Other Required Policies/Adjustments in Policy Limits.

(a) In addition to all insurance policies and coverage required above in this Section 14.1, Tenant covenants, at its sole cost and expense, commencing on the first day of the Term and at all times necessary during the Term and through the date Tenant has fulfilled its obligations under Article XVII, to obtain, keep and maintain or cause to be obtained, kept and maintained, all other additional insurance policies on the Leased Premises, as they exist at all times from time to time (i) as required by Applicable Laws, and (ii) for facilities similar to the Property and as may be commercially reasonably required by Landlord, which reserves the right, at any time the Improvements are exposed to hazards and risk for which Landlord reasonably deems the existing insurance inadequate to protect the interests of Landlord, due to changes in any Applicable Law or other circumstances affecting the Leased Premises, to require the time, types of coverage,

limits and deductible amounts of the insurance policies required hereunder to be adjusted, if such additional coverages or policies are commonly required for properties similar to the Property and available to Tenant on commercially reasonable terms. Such other additional insurance policies shall, as applicable, name the Landlord as loss payee or additional insured in a manner consistent with it being named a loss payee or additional insured in the policies required above under this Section 14.1.

(b) Without limiting the other provisions of this Lease with respect to policy limits, Tenant covenants and agrees that at least every five (5) years during the Term, Tenant will cause an independent, nationally recognized insurance advisor to conduct a comprehensive analysis and review of, and to provide a written report on, the insurable risk involved in the use, occupancy and operation of the Leased Premises, specifically addressing the types of coverage and policy limits reasonably necessary to insure against such risks. Such analysis and review shall set forth the written report and a copy of the report shall be provided to Landlord. Tenant agrees that periodically during the Term, and at least once every five (5) years during said Term, Tenant will adjust the policy limits, deductibles and coverage provided under the insurance policies required under this Lease to be in such amounts and to contain such coverage as is recommended by such advisor, if such additional coverages or policies are available to Tenant on commercially reasonable terms.

14.2 Blanket or Master Policy. Any one or more of the types of insurance coverages required in Section 14.1 may be obtained, kept and maintained through a blanket or master policy and/or excess/umbrella policies insuring other entities (such as the parent company or Affiliates of Tenant), provided that (a) such blanket or master policy and/or excess/umbrella policies and the coverage effected thereby comply with all applicable requirements of this Lease and (b) the protection afforded under such blanket or master policy and/or excess/umbrella policies shall be no less than that which would have been afforded under a separate policy or policies relating only to the Leased Premises. If any excess or umbrella liability insurance coverage required pursuant hereto is subject to an aggregate annual limit and is maintained through such blanket or master policy, and if such aggregate annual limit is impaired as a result of claims actually paid by more than fifty percent (50%), Tenant shall immediately give notice thereof to Landlord and, within sixty (60) days after discovery of such impairment, to the fullest extent reasonably possible, cause such limit to be restored by purchasing additional coverage.

14.3 Failure to Maintain. If at any time and for any reason Tenant fails to provide, maintain, keep in force and effect, or deliver to Landlord proof of, any of the insurance required under Section 14.1, Landlord may, if such failure continues for five (5) business days after written notice thereof from Landlord to Tenant (or at such earlier time as any such policy may expire following such written notice as is in such circumstance reasonably practicable) but shall have no obligation to, procure single interest insurance for such risks covering Landlord (or, if no more expensive, the insurance required by this Lease), and Tenant shall, within ten (10) days following Landlord's demand and notice, pay and reimburse Landlord the actual and reasonable cost therefor with interest at the Default Rate from the date of Tenant's receipt of written notice from Landlord of payment by Landlord until repayment of Landlord in full by Tenant.

14.4 Additional Policy Requirements.

14.4.1 Approval of Insurers; Certificate and Other Requirements.

(a) All insurance policies required to be procured under Section 14.1 shall be effected under valid policies issued by insurers which have an Alfred M. Best Company, Inc. rating of "A" or better and a financial size category of not less than "X" (or, if Alfred M. Best Company, Inc. no longer uses such rating system, then the equivalent or most similar ratings under the rating system then in effect, or if Alfred M. Best Company, Inc. is no longer the most widely accepted rater of the financial stability of insurance companies providing coverage such as that required by this Lease, then the equivalent or most similar rating under the rating system then in effect of the most widely accepted rater of the financial stability of such insurance companies at the time).

(b) Each and every policy required to be carried hereunder shall provide for waivers of subrogation by endorsement or other means, which waivers of subrogation shall be effective as to any Person even though such Person may otherwise have a duty of indemnification, contractual or otherwise, may not have paid any insurance premiums directly or indirectly and may or may not have an insurable interest in the insured Property damage.

(c) Each such insurance policy shall contain such standard "City" special endorsement forms as are from time to time reasonably required by Landlord with respect to similar insurance relating to other property from time to time owned or leased by Landlord (so long as the City is Landlord), if such endorsements are commonly required for properties similar to the Property and available to Tenant on commercially reasonable terms.

(d) Each and every insurance policy required to be carried hereunder in which Landlord is named as loss payee or additional insured shall contain an endorsement to the effect that the "other insurance" clause which may appear therein is not applicable to Landlord.

(e) Each and every insurance policy required to be carried hereunder by or on behalf of Tenant shall provide (and any certificate evidencing the existence of each such insurance policy shall certify) that such insurance policy shall not be canceled, nonrenewed or coverage thereunder materially reduced unless Landlord shall have received written notice of cancellation, non-renewal or material reduction in coverage, in each such case (except for notice of cancellation due to non-payment of premiums) such written notice to be sent to Landlord not less than thirty (30) days [or the maximum period of days permitted under applicable law, if less than thirty (30) days] prior to the effective date of such cancellation, non-renewal or material reduction in coverage, as applicable. In the event any insurance policy is to be canceled due to non-payment of premiums, the requirements of the preceding sentence shall apply except that the written notice shall be sent to Landlord on the earliest possible date but in no event less than ten (10) days prior to the effective date of such cancellation.

(f) Except as otherwise provided for herein, each and every insurance policy required to be carried hereunder shall provide that the policy is primary and that any other insurance of any insured or additional insured thereunder with respect to matters covered by such insurance policy shall be excess and non-contributing. Each of said insurance policies shall also provide that any loss shall be payable in accordance with the terms of such policy notwithstanding any action, inaction or negligence of the insured or of any other Person (including, but not limited to, Landlord) which might otherwise result in a diminution or loss of coverage, including, but not limited to, "breach of warranty", and the respective interests of Landlord shall be insured regardless of any breach or violation by Tenant or any other Person of any warranty, declaration or condition contained in or with regard to such insurance policies. Each of the policies obtained pursuant to Section 14.1 shall not limit waiver of subrogation by the insured (or, if waiver of subrogation is limited, shall contain a waiver of subrogation by the insurer in favor of Landlord).

(g) Tenant shall require all subcontractors performing any Alterations to carry insurance naming the City as an additional insured and otherwise complying with the requirements of Section 14.1 of this Lease. The amount of such subcontractor's insurance must be commensurate with the amount of the subcontract, but in no case less than \$500,000.00 per occurrence. Tenant shall provide copies of all such subcontractor policies to Landlord. The provisions of this Section 14.4.1.(g) shall not be applicable to contractors which are within the definition of "MWBE," as described in Section 18.2 below, to the extent that such requirements are not commercially obtainable by such contractors.

14.4.2 Delivery of Evidence of Insurance. With respect to each and every one of the insurance policies required to be obtained, kept or maintained under the terms of this Lease, on or before the date on which each such policy is required to be first obtained and at least thirty (30) days before the expiration of any policy required hereunder previously obtained, Tenant shall deliver to Landlord evidence reasonably acceptable to Landlord showing that such insurance is in full force and effect. Such evidence shall include certificates of insurance issued by the issuer of such policies, or in the alternative, an agent authorized to bind the named issuer, setting forth the name of the issuing company, the coverage, limits, deductibles, endorsements, term and termination provisions thereon and confirmation that the required premiums have been paid, along with a similar certificate executed by a Responsible Officer of Tenant.

14.4.3 Waiver of Right of Recovery. To the extent permitted by law, and without affecting the insurance coverage required to be maintained hereunder, Landlord and Tenant each waive all rights of recovery, claim, action or cause of action against the other for any damage to property, to the extent that such damage (i) is covered (and only to the extent of such coverage without regard to deductibles) by insurance actually carried by the Party holding or asserting such right of recovery, claim, action or cause of action or (ii) would be insured against under the terms of any insurance required to be carried under this Lease by the Party holding or asserting such right of recovery, claim, action or cause of action. This provision is intended to (i) restrict each Party (if and to the extent permitted by law) to recovery against insurance carriers to the extent of such coverage and to waive (to the extent of such coverage), for the benefit of each Party, rights and/or claims which might give rise to a right of subrogation in any insurance carrier. Neither the issuance of any insurance policy required under, or the minimum limits

specified in, Section 14.1 with respect to Tenant's insurance coverage shall be deemed to limit or restrict in any way Tenant's liability arising under or out of this Lease. Tenant shall be liable for any losses, damages or liabilities suffered or incurred by Landlord as a result of Tenant's failure to obtain, keep and maintain or cause to be obtained, kept and maintained, the types and/or amounts of insurance required under the terms of this Lease.

14.4.4 Landlord as Additional Insured under Liability Insurance of Licensee. Tenant shall require that all Licensees of Tenant name Landlord as an additional insured under their respective policies of liability insurance.

14.4.5 Indemnity by Tenant.

(a) Agreement to Indemnify. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TENANT HEREBY AGREES AND COVENANTS TO INDEMNIFY, DEFEND AND HOLD HARMLESS LANDLORD AND THE LANDLORD RELATED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITIES OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND REASONABLE ATTORNEYS' FEES, FOR INJURY TO OR SICKNESS OR DEATH OF ANY PERSON, OR FOR LOSS OR DAMAGE TO ANY PROPERTY (INCLUDING, WITHOUT LIMITATION, CLAIMS RELATING TO HAZARDOUS MATERIALS AND ENVIRONMENTAL CLAIMS, BUT ONLY TO THE EXTENT SET FORTH IN ARTICLE XII HEREOF) OR FOR ANY OTHER LOSS, LIABILITY OR DAMAGE, INCLUDING, BUT NOT LIMITED TO, ANY CIVIL OR CRIMINAL FINES OR PENALTIES, DIRECTLY OR INDIRECTLY ARISING OR ALLEGED TO ARISE OUT OF OR ANY WAY INCIDENTAL TO (1) ANY USE, OCCUPANCY OR OPERATION OF THE LEASED PREMISES OR THE IMPROVEMENTS BY OR ON BEHALF OF TENANT AND/OR ANY OF TENANT'S EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, INVITEES AND/OR REPRESENTATIVES DURING THE TERM, OR DURING ANY PERIOD OF TIME, IF ANY, BEFORE OR AFTER THE TERM THAT TENANT MAY HAVE POSSESSION OF THE LEASED PREMISES (EXCEPT FOR ANY CLAIMS ASSERTED PRIOR TO THE DELIVERY DATE), (2) THE CONDITION OF THE LEASED PREMISES OR THE IMPROVEMENTS DURING THE TERM (EXCEPT RELATING TO ANY CONDITION WHICH IS A BREACH BY LANDLORD OF ANY EXPRESS REPRESENTATION, WARRANTY OR COVENANT OF LANDLORD CONTAINED HEREIN) OR (3) THE PERFORMANCE OF ANY WORK (OTHER THAN WORK DONE BY LANDLORD) IN, ON OR ABOUT THE LEASED PREMISES OR ANY IMPROVEMENTS DURING THE TERM BY OR ON BEHALF OF TENANT (COLLECTIVELY, THE "LIABILITIES"), *even though caused by or arising from the active or passive, joint or concurrent or sole negligence of Landlord (but not if caused by the gross negligence or willful misconduct of Landlord or any Landlord Related Party or by the breach of contract or other legal duty or fault of Landlord or any Landlord Related Party).* THIS INDEMNITY INCLUDES TENANT'S AGREEMENT TO PAY ALL COSTS AND EXPENSES OF DEFENSE, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES, INCURRED BY LANDLORD OR ANY LANDLORD RELATED PARTY IN THE EVENT TENANT FAILS TO SO DEFEND LANDLORD OR THERE IS A CONFLICT OF INTEREST WITH

COUNSEL SELECTED BY TENANT. THIS INDEMNITY SHALL APPLY WITHOUT LIMITATION TO ANY LIABILITIES IMPOSED ON ANY PARTY INDEMNIFIED HEREUNDER AS A RESULT OF ANY STATUTE, RULE, REGULATION OR THEORY OF STRICT LIABILITY. TENANT EXPRESSLY ASSUMES THE ENTIRE LIABILITY PURSUANT TO THIS INDEMNIFICATION PROVISION FOR ANY AND ALL LIABILITIES ARISING IN FAVOR OF ANY THIRD PARTY OR GOVERNMENTAL AUTHORITY, THE PARTIES HERETO, THEIR EMPLOYEES AND THEIR EMPLOYEES' REPRESENTATIVES AND BENEFICIARIES. THIS INDEMNIFICATION SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. ALTHOUGH TENANT HAS CAUSED LANDLORD TO BE NAMED AS LOSS PAYEES OR ADDITIONAL INSUREDS UNDER TENANT'S INSURANCE POLICIES, TENANT'S LIABILITY UNDER THIS INDEMNIFICATION PROVISION SHALL NOT BE LIMITED TO THE LIABILITY LIMITS SET FORTH IN SUCH POLICIES.

(b) Exclusions from Indemnity. Notwithstanding the provisions of Section 14.4.5(a), Tenant shall not be liable for any liabilities, damages, suits, claims, and/or judgments of any nature (including reasonable attorneys' fees and expenses) arising from or in connection with:

(i) Any injury to or death of any Person or any damage to property (including loss of use) in connection with any use of the Property by Landlord or any other entity pursuant to the provisions of Section 4.6 above;

(ii) The violation of any agreement affecting the Property or the use thereof or any violation of this Lease by Landlord or any other entity in its use of the Property pursuant to the provisions of Section 4.6 above;

(iii) The existence of any Hazardous Materials in, on or under the Leased Premises prior to the Delivery Date, but the foregoing shall not apply to any Hazardous Materials that are introduced to the Leased Premises by Tenant or any of its employees or agents;

(iv) Any Environmental Event caused by Landlord, any Landlord Related Party, or any Person other than Tenant or Tenant's employees or agents;
or

(v) Any injury to or death of any Person or any damage to property (including loss of use) to the extent caused by a condition of the Property existing as of the Delivery Date.

(c) Scope. TENANT FURTHER AGREES, EXCEPT AS MAY BE OTHERWISE SPECIFICALLY PROVIDED HEREIN, THAT THE OBLIGATION OF INDEMNIFICATION HEREUNDER SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(i) LIENS BY THIRD PERSONS AGAINST LANDLORD OR THE LANDLORD RELATED PARTIES, OR ANY OF THEIR PROPERTY, BECAUSE OF LABOR, SERVICES, OR MATERIALS FURNISHED TO TENANT, ITS CONTRACTORS, SUBCONTRACTORS OR ASSIGNEES, IN CONNECTION WITH ANY WORK IN, ON OR ABOUT THE LEASED PREMISES OR ANY IMPROVEMENTS; AND

(ii) EXPENSES, CLAIMS, FINES AND PENALTIES OR OTHER ENFORCEMENT CHARGES RESULTING FROM THE FAILURE OF TENANT TO ABIDE BY ANY AND ALL VALID AND APPLICABLE LAWS.

(d) Conduct of Claims. Landlord shall, reasonably promptly after the receipt of notice of any legal action or claim against Landlord in respect of which indemnification may be sought pursuant to this Section 14.4.5, notify Tenant of such action or claim. In case any such action or claim shall be made or brought against Landlord, Tenant may, or if so requested by Landlord shall, assume the defense thereof with counsel of Tenant's selection reasonably acceptable to Landlord and which shall be reasonably competent and experienced to defend Landlord. In such circumstances, Landlord shall (i) at no cost or expense to Landlord, cooperate with Tenant and provide Tenant with such information and assistance as Tenant shall reasonably request in connection with such action or claim, and (ii) at Landlord's expense, have the right to participate and be represented by counsel of Landlord's own choice in any such action or with respect to any such claim. If Tenant assumes the defense of the relevant claim or action, (i) Tenant shall not be liable for any settlement thereof which is made without Tenant's Approval and (ii) Tenant shall control the settlement of such claim or action; provided, however, that Tenant shall not conclude any settlement which requires any action or forbearance from action or payment or admission by Landlord without the prior Approval of Landlord, which will not be unreasonably withheld, conditioned or delayed. The obligations of Tenant shall not extend to any loss, damage and expense of whatever kind and nature (including all related costs and expenses) to the extent the same results from the taking by Landlord of any action (unless required by law or applicable legal process) after the assertion of any claim which gave rise to the obligation to indemnify which prejudices the successful defense of the action or claim without, in any such case, the prior written Approval of Tenant (such Approval not to be required in a case where Tenant has not assumed the defense of the action or claim). Landlord agrees to afford Tenant and Tenant's counsel the opportunity to be present at, and to participate in, conferences with all Persons, including Governmental Authorities, asserting any claim or action against Landlord covered by the indemnity contained in this Section 14.4.5 or conferences with representatives of or counsel for such Person.

(e) No Waiver of Governmental Indemnity. NOTHING CONTAINED IN THIS SECTION SHALL WAIVE ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER APPLICABLE LAW OR IN ANY WAY WAIVE OR LIMIT ANY DEFENSES OF LANDLORD OR ANY LANDLORD RELATED PARTY UNDER APPLICABLE LAW. THE PROVISIONS OF THIS SECTION 14.4.5 ARE SOLELY FOR THE BENEFIT OF LANDLORD AND THE LANDLORD RELATED PARTIES AND ARE NOT INTENDED TO CREATE OR

GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON.

(f) Survival. The indemnities contained in this Section 14.4.5 shall survive the expiration or earlier termination of this Lease, but only insofar as such indemnities relate to any liabilities, damages, suits, claims or judgments that arose prior to the expiration or earlier termination of this Lease.

ARTICLE XV

CONDEMNATION

15.1 Condemnation of Substantially All of the Improvements.

15.1.1 Termination Rights. If, at any time during the Term, title to the whole or Substantially All of the Improvements shall be taken in any Condemnation Action (or conveyed in lieu of any such Condemnation Action), other than for a temporary use or occupancy that is for one (1) year or less in the aggregate, this Lease shall, at Tenant's option (with respect to a taking of the whole or Substantially All of the Improvements), or at Landlord's option (with respect to a taking of the whole of the Property), by written notice to the other party, terminate and expire on the date of such taking (or conveyance).

15.1.2 Condemnation Awards. Any award, compensation or damages in connection with any taking of the whole or any portion of the Leased Premises (or settlement in lieu thereof) shall be distributed to the parties in proportion to the value of their respective interests in the Leased Premises and the Improvements. In any condemnation proceeding, Landlord and Tenant shall each represent their own interests and shall present and prosecute their own claims for damages insofar as possible. If the parties are not permitted to proceed as separate parties, Landlord and Tenant shall select counsel mutually acceptable to both parties to present and prosecute their claim, and all costs thereof shall be paid by the parties in proportion to the amount of the award or settlement proceeds that each party receives. Any apportionment of the final award by the court and any settlement entered into by Landlord and Tenant with respect to the allocation thereof shall be binding upon the parties. If no such apportionment is made by the court, Tenant shall be entitled to the amount of the award attributable to (i) the value of Tenant's leasehold estate for the remainder of the Term (including the First Extended Term), (ii) relocation costs (to the extent awarded to Tenant in the Condemnation Proceeding or mutually agreed upon by Landlord and Tenant with respect to any settlement), (iii) the value of Tenant's personal property taken, and (iv) to the extent not included above, the unamortized cost of any Alterations made by Tenant (collectively, "Tenant's Condemnation Award"). Landlord shall be entitled to the amount of the award attributable to Landlord's fee interest in the Leased Premises and the remainder of any Condemnation Award after the deduction of Tenant's Condemnation Award ("Landlord's Condemnation Award").

15.1.3 Definitions of Substantially All of the Improvements. For purposes of this Article XV, "Substantially All of the Improvements" shall be deemed to have been taken if, by reason of the taking of title to or possession of the Leased Premises or any portion thereof by Condemnation Actions, an Untenantable Condition exists or is reasonably expected to exist for longer than one (1) year.

15.2 Condemnation of Part. In the event of a Condemnation Action affecting less than the whole or less than Substantially All of the Improvements, the Term shall not be reduced or affected in any way. Landlord's Condemnation Award shall be paid to Landlord and applied by Landlord in the following order of priority: (a) payment of all Condemnation Expenses as provided in Section 15.3 and (b) paying any remainder to Landlord. Tenant's Condemnation Award shall be paid to Tenant and applied by Tenant in the following order of priority; (i) payment of all Condemnation Expenses in excess of the portion of Landlord's Condemnation Award required to be applied thereto and (b) paying any remainder to Tenant.

15.3 Restoration of the Leased Premises. Following a condemnation of either less than the whole or Substantially All of the Improvements during the Term, and if Tenant does not terminate this Lease pursuant to Section 15.1.1 above, Tenant shall, subject to the requirements of Section 10.2, with reasonable diligence, commence and thereafter proceed to repair, alter and restore the remaining part of the Leased Premises to substantially their former condition to the extent that the same may be feasible and necessary to the extent practicable and permitted by Applicable Laws or such other condition as may be agreed upon by Landlord and Tenant. Such repairs, alterations or restoration, including temporary repairs for the protection of Persons or property pending the completion of any part thereof are sometimes referred to in this Article XV as the "Condemnation Repair Work". Subject to City Council approval and appropriation, Landlord shall be obligated to make payment, disbursement, reimbursement or contribution toward the costs of Condemnation Repair Work and the acquisition of any parking rights necessary to replace any parking rights lost by Tenant in any Condemnation Action ("Condemnation Expenses") in an amount up to but not to exceed the amount of Landlord's Condemnation Award which is attributable to Improvements. Landlord shall make such payments or disbursements for Condemnation Expenses upon request from Tenant when accompanied by a certificate dated not more than fifteen (15) days prior to such request, signed by a Responsible Officer of Tenant and any architect, engineer or construction manager in charge of the Condemnation Repair Work selected by Tenant, setting forth the following:

(a) That the sum then requested either has been paid by Tenant or is due to contractors, subcontractors, materialmen, architects, engineers or other Persons who have rendered services or furnished materials in connection with the Condemnation Repair Work, giving a reasonably detailed description of the services and materials and the several amounts so paid or due; and

(b) That except for the amount stated in such certificate to be due (and/or except for statutory or contractual retainage not yet due and payable), there is no outstanding indebtedness for such Condemnation Repair Work known to the Persons signing such certificate which is then due to Persons being paid, after due inquiry.

Upon Tenant's compliance with the requirements of this Section 15.3, Landlord shall pay or cause to be paid to Tenant, or the Persons named in Tenant's request, the respective amounts stated therein to have been paid by Tenant or to be due to such Persons, as the case may be, but in no event shall the aggregate amount paid or payable by Landlord under this Article XV exceed the amount of Landlord's Condemnation Award which is attributable to Improvements. Amounts paid to Tenant by Landlord under this Section 15.3 shall be held by Tenant in trust for the purpose of paying Condemnation Expenses and shall be applied by Tenant to any such Condemnation Expenses or otherwise in accordance with the terms of this Section 15.3. All

Condemnation Expenses in excess of Landlord's Condemnation Award attributable to Improvements shall be paid by Tenant.

15.4 Temporary Taking. If the whole or any part of the Leased Premises or the Leasehold Estate shall be taken in any Condemnation Action for a temporary use or occupancy, the Term shall not be reduced, extended or affected in any way, and Tenant shall continue to pay in full the Rent, without reduction or abatement, in the manner and the time herein specified. Except to the extent that Tenant is prevented from doing so pursuant to the terms of the order of the condemning authority and/or because it is not possible as a result of such taking, Tenant shall continue to perform and observe all of the other covenants, agreements, terms and provisions of this Lease as though such temporary taking had not occurred. In the event of any such temporary taking, Tenant shall be entitled to receive the entire amount of any Condemnation Award made for such taking, whether such award is paid by way of damages, rent or otherwise, less any Condemnation Expenses paid by Landlord, provided that if the period of temporary use or occupancy shall extend beyond the Lease Expiration Date or earlier termination of this Lease, Tenant shall be entitled to receive only that portion of any Condemnation Award (whether paid by way of damages, rent or otherwise) allocable to the period of time from the date of such condemnation to the Lease Expiration Date or earlier termination of this Lease, and Landlord shall be entitled to receive the balance of such Condemnation Award.

15.5 Condemnation Proceedings. Notwithstanding any termination of this Lease, (i) Tenant and Landlord each shall have the right, at its own expense, to appear in any Condemnation Action and to participate in any and all hearings, trials and appeals therein, and (ii) subject to the other provisions of this Article XV, Tenant shall have the right in any Condemnation Action to assert a claim for, and receive all condemnation awards for items comprising Tenant's Condemnation Award as described in Section 15.1.2 above. In the event of the commencement of any Condemnation Action, Landlord and Tenant shall cooperate with each other in any such Condemnation Action which is initiated by any entity other than Landlord and provide each other with such information and assistance as each shall reasonably request in connection with such Condemnation Action. Landlord shall not accept any Condemnation Award in settlement of any Condemnation Action without Tenant's prior written consent, which shall not be unreasonably withheld. Landlord shall not accept or agree to any conveyance in lieu of any condemnation or taking without the prior written consent of Tenant, which shall not be unreasonably withheld.

15.6 Notice of Condemnation. In the event Landlord or Tenant shall receive notice of any proposed or pending Condemnation Action affecting the Leased Premises, the Party receiving such notice shall promptly notify the other Party hereto.

15.7 Condemnation by the City. The provisions of this Article XV for the allocation of any Condemnation Awards are not intended to be, and shall not be construed or interpreted as, any limitation on or liquidation of any claims or damages (as to either amount or type of damages) of Tenant against the City in the event of a condemnation by the City of any portion or all of the Leasehold Estate.

15.8 Survival. The provisions contained in this Article XV shall survive the expiration or earlier termination of this Lease, but only insofar as such provisions relate to any

Condemnation Actions or Condemnation Awards that arose prior to the expiration or earlier termination of this Lease.

ARTICLE XVI

ASSIGNMENT, TRANSFER AND SUBLEASING

16.1 No Assignment or Subletting. Except as otherwise permitted by this Article XVI, Tenant may not (and Tenant agrees that it will not), voluntarily or involuntarily sell, assign, transfer, pledge, mortgage or encumber this Lease or the Leasehold Estate (each, a "Transfer"), or Sublease the Leased Premises, without first obtaining the Approval of Landlord Representative pursuant to this Article XVI, which Approval shall not be unreasonably withheld, delayed or conditioned, so long as Tenant, or a Person capable of operating the Leased Premises for the use permitted hereunder to be made therein, shall remain in control of the operation of the Leased Premises. Approval by Landlord Representative to any Transfer or Sublease shall not operate as a waiver of the rights of Landlord with respect to any subsequent Transfer or Sublease. All Transfers and Subleases shall be subject to the provisions of Section 7.1 and Section 7.2. Notwithstanding the above, Tenant may, without the consent of Landlord, (a) assign this Lease or Sublease all or any portion of the Leased Premises to an Affiliate of Tenant and (b) grant any License or Sublease for the temporary or periodic use of all or any portions of the Leased Premises (each a "Permitted Transfer").

16.2 Requirements for Transfer or Disposition of Lease. Tenant may not make any Transfer or Sublease of Tenant's interest in the Leasehold Estate unless such Transfer or Sublease is a Permitted Transfer or to a Person who Landlord has determined, in Landlord's business judgment, reasonably exercised: (a) is or is controlled by a Person having financial net worth and liquidity sufficient to discharge the obligations of Tenant under this Lease (given the nature and extent of such obligations in light of all provisions of this Lease), such that the proposed Transfer or Sublease will not materially adversely affect the long-term viability of the Improvements, (b) is or is controlled by Persons having, or who will engage Persons having, real estate ownership and property operation or management experience which is sufficient, in Landlord's reasonable discretion, to conduct the operation of the Improvements in accordance with the terms and provisions of this Lease, and (c) is or is controlled by a Person having good local or national business and character reputation and has (or, on or prior to any such Transfer or Sublease will have) obtained all permits and licenses required, and has (or, on or prior to any such Transfer or Sublease, will have) met all other requirements of Applicable Laws to be met in order for the proposed Transfer or Sublease to be made and for the proposed transferee to own and operate the interest proposed to be transferred or subleased (and, if the proposed transferee is an entity to which the same are applicable, the proposed transferee is in good standing in its place of formation and in the State of Texas and is qualified to do business there and in the City of Houston, Texas). The burden of establishing the qualifications of the proposed transferee shall be on Tenant. In determining whether or not to Approve a proposed Transfer, Landlord shall be entitled to consider all relevant factors.

Such Transfer or Sublease documents shall (a) be on terms and conditions similar to those that would otherwise be acceptable to unrelated third parties for similar services and (b) expressly provide that such agreement shall automatically terminate upon the expiration or termination of this Lease unless Landlord delivers written notice to the transferee within thirty

(30) days after the expiration or termination of this Lease that Landlord has elected to assume the agreement between Tenant and such transferee; provided, however, that Landlord shall have no duty or obligation to assume any such agreement, but rather the assumption of such agreement by Landlord shall be at Landlord's sole option.

16.3 Information and Assurances Required; Review by Landlord.

16.3.1 Information. The following information and assurances shall be provided to Landlord as part of Tenant's request for Approval to any proposed Transfer or Sublease requiring Landlord's Approval:

(a) The name and address of the proposed transferee (and, if not an individual, reasonable information concerning its legal structure, organization, qualification and licensing) together with information regarding its business experience and expertise;

(b) Financial information regarding the proposed transferee or the Person controlling such transferee, in a form reasonably acceptable to Landlord; and

(c) Such other information as Landlord may reasonably request, which request must be made within thirty (30) days following the receipt of the applicable information pursuant to clauses (a) and (b) above, to assist Landlord in evaluating the qualifications of the proposed transferee in connection with the information received pursuant to clauses (a) and (b) above.

16.3.2 Approval; Reconsideration; Deemed Approval. Following submission by Tenant to Landlord Representative of the information required in Section 16.3.1, Landlord Representative shall, within thirty (30) days following submission of such information to Landlord, either grant its Approval to such proposed Transfer or refuse its Approval thereof and, in the event of such disapproval, provide to Tenant a reasonably detailed explanation as to the reasons for such disapproval. In the event of any request by Landlord Representative for additional information from Tenant pursuant to Section 16.3.1, the date for Landlord Representative to grant or refuse its Approval shall be the date which is thirty (30) days after the date of receipt by Landlord Representative of any such additional information requested by Landlord Representative. Tenant shall have the right to seek reconsideration of any such refusal by Landlord Representative within thirty (30) days following such refusal and may submit additional information to Landlord Representative in connection therewith. Landlord agrees to diligently process any such request for Approval of a proposed Transfer. Any failure or refusal on the part of Landlord Representative to respond to a proposed Transfer within any such thirty (30) day period shall be deemed to be a disapproval by Landlord Representative to such proposed Transfer. In connection with any request for Approval of Landlord Representative under this Article XVI, and as a condition to the obligation of Landlord Representative to Approve, Tenant shall pay to Landlord Representative all reasonable costs and expenses incurred by Landlord Representative in reviewing Tenant's request for Approval, whether or not Landlord Representative grants such Approval.

16.3.3 Delivery of Assignment Agreement. Prior to the effective date of the Transfer or Sublease requiring Landlord's Approval and as a condition to Landlord's Approval,

Landlord shall have received a duplicate original of the Transfer or Sublease documents duly executed by the transferee with respect to which Landlord gave its Approval.

16.4 No Waiver of Rights by Landlord. Landlord's Approval of any proposed Transfer or Sublease shall not be a waiver of any right to object to further or future proposed Transfers or Subleases, and Landlord's Approval of each such successive proposed Transfer or Sublease must be first obtained in writing from Landlord.

16.5 Conditions to Effectiveness of any Transfer. Any proposed Transfer or Sublease to which Landlord's Approval is required by this Article XVI shall be void and shall confer no right upon the proposed transferee unless and until (a) such Approval of Landlord is obtained (unless such approval is not required), (b) the transferee shall have assumed in writing each and every one of the terms, covenants and provisions of Tenant contained in this Lease, or, with respect to a Sublease, such sublessee shall have acknowledged in writing that such sublease shall be subject to the terms and conditions of this Lease during the term of such sublease with respect to the period from and after the Transfer or Sublease, by an instrument delivered to Landlord, and (c) any then existing default under this Lease is fully cured (it being expressly acknowledged that Landlord may condition its Approval of any Transfer or Sublease on the cure of any and all such defaults existing at the time of such proposed Transfer or Sublease). Any such Transfer or Sublease Approved by Landlord shall not constitute a release of any liability, existing or future, under this Lease unless such Approval specifically includes an express written release by Landlord, which release Landlord has no obligation to provide.

16.6 Transfers by Landlord.

(a) The City, while it is Landlord under this Lease, may effect a Landlord Transfer of its interest in the Leased Premises, or any part thereof or interest therein, and this Lease at any time or from time to time, in accordance with the procedures of Applicable Law, to any Person without the consent of, but with prior written notice to, Tenant, provided that any such Transfer shall be made expressly subject to this Lease and all of Tenant's rights and interests hereunder. However, no successor Landlord shall (and any such successor Landlord agrees that it will not) voluntarily, involuntarily, by operation of law or otherwise, sell, assign or otherwise transfer this Lease or Landlord's interest in the Leased Premises, or any of its rights, obligations or duties hereunder without first obtaining the consent of Tenant, which consent may be withheld, delayed or conditioned in Tenant's sole discretion, and any such Landlord Transfer shall be null and void if Landlord fails to obtain such consent. A transferee in any Landlord Transfer allowed pursuant to this Section 16.6 without the consent of Tenant, or to which the Tenant consents in accordance with the terms of this Section 16.6, is a "Landlord Transferee". For purposes of this Section 16.6, a "Permitted Landlord Transfer" shall mean any sale, conveyance, assignment or other transfer, voluntarily, involuntarily, by operation of law or otherwise, by Landlord of the Leased Premises and this Lease or any part thereof or interest therein or the rights, duties or obligations of Landlord hereunder by Landlord in compliance with the terms of this Section 16.6. Landlord shall give notice to Tenant advising Tenant of the name of any Landlord Transferee. Upon any such Permitted Landlord Transfer, provided that such Landlord Transferee has expressly assumed the obligations of Landlord hereunder: Landlord shall be released from any further obligations under this Lease (but not from obligations accruing up to the time of

such Permitted Landlord Transfer); Tenant shall look solely to the successor in interest of Landlord for performance of those subsequently accruing obligations; and any security given by Tenant to secure performance of Tenant's obligations under this Lease may be transferred by Landlord to the successor in interest of Landlord, and Landlord shall (following written notice thereof to Tenant, accompanied by reasonable evidence of the transferee's assumption of Landlord's obligations with respect thereto) thereby be discharged of any further obligation relating thereto. Tenant may continue to pay all amounts due hereunder to the transferring Landlord until Tenant receives written notice from such transferring Landlord that a Permitted Landlord Transfer has occurred, and directing Tenant to pay all future sums due hereunder to a Landlord Transferee, and such payments by Tenant shall be in satisfaction of its obligations hereunder.

16.7 No Release. Notwithstanding any Transfer or Sublease, and unless otherwise agreed in writing by Landlord, Tenant shall remain fully responsible and liable for the payment of the Rent and for compliance with all of Tenant's other obligations under this Lease (even if future Transfers and Subleases occur after the Transfer or Sublease by Tenant, and regardless of whether or not Landlord's Approval has been obtained for those future Transfers and Subleases).

16.8 Change in Control. A Change in Control of Tenant shall be deemed to be an assignment of the Lease by Tenant for purposes of this Article XVI. The term "Change in Control" shall mean, with respect to Tenant, (a) the sale or other transfer (other than by devise or descent) of more than 50% of its capital stock (or the power, directly or indirectly, to vote or direct the voting of securities constituting more than 50% of the ordinary voting power for the election of directors of Tenant), (b) the sale of all or substantially all of its assets (other than to an Affiliate of Tenant), or (c) the merger, consolidation or other business combination with another entity (other than an Affiliate of Tenant).

16.9 Leasehold Mortgages.

16.9.1 Creation. Tenant may grant liens against or with respect to its interest in the Leased Premises to secure loans ("Leasehold Mortgages"), provided, however, that any such Leasehold Mortgage shall be expressly subject and subordinate in all respects to the provisions of this Lease and all of the obligations of Tenant hereunder and all the rights, titles, interests and estates of Landlord created or arising under this Lease.

16.9.2 Acknowledgement and Agreement by Landlord. Landlord acknowledges and agrees that:

(a) during the Term, in the event of any act or omission by Tenant which would give Landlord the right, either immediately or after a lapse of time, to terminate this Lease or Tenant's right of occupancy of all or any part of the Leased Premises or to claim a partial or total eviction, Landlord will not exercise any such right until:

(i) it has given written notice of such act or omission to any Leasehold Mortgagee of which Landlord has notice; and

(ii) the period of time as is given to Tenant under this Lease to cure such act or omission plus an additional period of sixty (60) days shall have elapsed following such giving of notice to any Leasehold Mortgagee, it being

understood that any Leasehold Mortgagee shall have the opportunity, but not the obligation, to cure Tenant's act or omission.

(b) it shall send a copy of any notice or statement under this Lease to any Leasehold Mortgagee of which Landlord has notice at the same time such notice or statement is sent to Tenant;

(c) it shall not:

(i) grant to any Person or permit any Person, in each case other than Tenant, the right or opportunity to cure any such act or omission during any such period that any Leasehold Mortgagee shall have the opportunity to cure such Tenant act or omission; or

(ii) exercise its rights under Section 19.2 until all such opportunity-to-cure periods shall have expired.

16.9.3 Foreclosure and Sale. In the event of foreclosure of any Leasehold Mortgage or upon a sale of Tenant's Leasehold Estate pursuant to the trustee's power of sale contained therein, or upon a transfer of the Leasehold Estate by conveyance in lieu of foreclosure, then provided that the purchaser or other transferee of such Leasehold Estate cures all defaults of Tenant under the Lease:

(a) this Lease shall continue in full force and effect as a direct lease between the succeeding owner of the Leasehold Estate and Landlord, upon and subject to all of the terms, covenants and conditions of this Lease, for the balance of the Term of this Lease, Landlord hereby agrees to accept any such successor owner of the Leasehold Estate and Improvements as Tenant under this Lease; and

(b) any successor owner of the Leasehold Estate shall not be bound by any agreement or modification of this Lease made without the written consent of the Leasehold Mortgagee.

ARTICLE XVII

SURRENDER OF POSSESSION; HOLDING OVER

17.1 Surrender of Possession. Tenant shall, on or before the Lease Expiration Date, or upon the earlier termination of this Lease, peaceably and quietly leave, surrender and yield up to Landlord the Leased Premises, free of subtenancies, and in a reasonably clean condition and free of debris and in the same or better condition as the Leased Premises existed on the Delivery Date, or as otherwise provided for in this Lease. Upon such expiration or termination of this Lease, Tenant and Landlord shall execute and deliver to one another a recordable termination of the Leasehold Estate, except as otherwise provided for herein.

17.2 Removal of Tenant's Personal Property.

17.2.1 Tenant's Obligation to Remove. All Tenant's Personal Property installed in, affixed to or placed or used in the operation of the Improvements throughout the Term shall

be deemed to be the property of Tenant, as set forth in Section 10.1.1. All such Tenant's Personal Property shall be removed by Tenant within sixty (60) days after the Lease Expiration Date or earlier termination of this Lease, provided that Tenant shall promptly repair any material damage to the Improvements caused by such removal. Notwithstanding the foregoing, any of Tenant's Personal Property which is permanently affixed and is an integral part of and used in connection with the maintenance or operation of the Improvements shall remain in the Improvements and become the property of Landlord upon such expiration or termination of this Lease.

17.2.2 Landlord's Right to Remove. Any of Tenant's Personal Property which shall remain in the Improvements after the Lease Expiration Date or earlier termination of this Lease and said sixty (60) day period, which Tenant is not required to leave in the Leased Premises, may, at the option of Landlord, be deemed to have been abandoned by Tenant and either may thereafter be retained by Landlord as its property or be disposed of, without accountability, in such manner as Landlord Representative may reasonably determine necessary, desirable or appropriate, and Tenant, upon demand, shall pay the actual and reasonable cost of such disposal, together with interest thereon at the Default Rate from the date of Tenant's receipt of written notice that such costs were incurred until reimbursed by Tenant, together with reasonable attorneys' fees, charges and costs.

17.3 Holding Over. In the case of any holding over or possession by Tenant after the Lease Expiration Date or earlier termination of this Lease without the Approval of Landlord, Tenant shall pay Landlord rent on a per diem basis at Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) per day for the first sixty (60) days of any such holdover and Ten Thousand Dollars (\$10,000.00) per day for each day of such holdover after the first sixty (60) days. Further, in the event Tenant shall hold over beyond any date for surrender of the Leased Premises set forth in Landlord's written demand for possession thereof, Tenant shall reimburse Landlord for all actual and reasonable expenses and losses incurred by Landlord by reason of Landlord's inability to deliver possession of the Leased Premises to a successor tenant, together with interest on such expenses at the Default Rate from the date of Tenant's receipt of written notice that such expenses are incurred until reimbursed by Tenant, together with Landlord's reasonable attorneys' fees, charges and costs. The acceptance of Rent under this Section 17.3 by Landlord shall not constitute an extension of the Term of this Lease or afford Tenant any right to possession of the Leased Premises beyond any date through which such Rent shall have been paid by Tenant and accepted by Landlord. Such Rent shall be due to Landlord for the period of such holding over, whether or not Landlord is seeking to evict Tenant; and, unless Landlord otherwise then agrees in writing, such holding over shall be, and shall be deemed and construed to be, without the Approval of Landlord, whether or not Landlord has accepted any sum due pursuant to this Section 17.3.

17.4 Survival. The provisions contained in this Article XVII shall survive the Lease Expiration Date or earlier termination of this Lease.

ARTICLE XVIII

REPRESENTATIONS, WARRANTIES AND COVENANTS

18.1 Tenant's Representations and Warranties. As an inducement to Landlord to enter into this Lease, Tenant represents and warrants to Landlord, as of the Effective Date, as follows:

(a) Organization. Tenant is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas. The business which Tenant carries on and which it proposes to carry on may be conducted by Tenant. Tenant is duly authorized to conduct business as a corporation in Texas.

(b) Authority. The execution, delivery and performance by Tenant of this Lease are within Tenant's powers and have been duly authorized by all necessary action of Tenant.

(c) No Conflicts. Except as set forth on Schedule 18.1 attached hereto, neither the execution and delivery of this Lease nor the consummation of any of the transactions herein or therein contemplated nor compliance with the terms and provisions hereof or thereof will contravene the organizational documents of Tenant or, to Tenant's current actual knowledge, any Applicable Laws to which Tenant is subject or any judgment, decree, license, order or permit applicable to Tenant, or will conflict or be inconsistent with, or will result in any breach of any of the terms of the covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of a lien upon any of the property or assets of Tenant pursuant to the terms of, any indenture, mortgage, deed of trust, agreement or other instrument to which Tenant is a party or by which Tenant is bound, or to which Tenant is subject.

(d) No Consents. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Governmental Authority or regulatory body or third party is, to Tenant's current actual knowledge, required for the execution and delivery by Tenant of this Lease.

(e) Valid and Binding Obligation. This Lease is the valid and binding obligation of Tenant, enforceable against Tenant in accordance with its terms except as limited by applicable relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar laws affecting the rights or remedies of creditors generally, as in effect from time to time.

(f) No Pending Litigation, Investigation or Inquiry. Except as set forth on Schedule 18.1 attached hereto, there is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the knowledge of Tenant, threatened against or affecting Tenant which the management of Tenant in good faith believe that the outcome of which would (a) materially and adversely affect the validity or enforceability of, or the authority or ability of Tenant under, this Lease to perform its obligations under this Lease, or (b) have a material and adverse effect on the consolidated financial condition or results of

operations of Tenant or on the ability of Tenant to conduct its business as presently conducted or as proposed or contemplated to be conducted (including, without limitation, the operation of the Improvements).

(g) Tenant's Investment in Alterations. Provided that Tenant does not terminate this Lease pursuant to a termination right set forth herein, Tenant agrees to invest Twenty Five Million and No/Dollars (\$25,000,000.00) or more in Alterations (to include a chilled water or other air conditioning system) within ten (10) years after the Commencement Date, provided that such ten (10) year period shall be extended for a reasonable period of time thereafter if Tenant is then pursuing plan approval or permits for any Alterations provided that Tenant is diligently pursuing such plan approval and/or permits. On or before Tenant's exercise of the option for the First Extended Term, Tenant shall deliver to Landlord Representative a written certification that Tenant's investment in Alterations equals or exceeds Twenty Five Million and No/Dollars (\$25,000,000). Upon request of Landlord Representative, Tenant shall provide reasonable supporting documentation evidencing the expenditure of funds that comprise such investment and the investment(s) contemplated under Section 3.2 hereof. Attached hereto as Exhibit C is a non-exhaustive list of items which qualify as "Tenant's investment in Alterations".

18.2 Tenant's Covenants. As an inducement to Landlord to enter into this Lease, Tenant covenants and agrees during the construction of the Initial Alterations by Tenant as follows:

(a) to require its contractors to comply with the City's Equal Opportunity Ordinance set forth on Appendix B.

(b) to comply with the following Minority and Women Business Enterprise programs of the City:

Tenant shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Tenant shall make good faith efforts to cause its general contractor to award to MWBEs subcontracts in at least 24% of design services, 20% of construction costs, 11% of supplies, and 30% of concession services. Tenant acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Affirmative Action Division and will comply with them.

Tenant shall require its general contractor to enter into written subcontracts with all of its MWBE subcontractors and to submit all disputes with MWBEs to binding arbitration if directed to do so by the Affirmative Action Division Director. MWBE subcontracts must contain the terms set out in Appendix "D". If Tenant is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is \$50,000 or less, the subcontract must also be signed by the attorneys of the respective parties.

(c) Tenant agrees to comply with the following City's Drug Abuse Detection and Deterrence Policy:

(1) It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on property owned by the City is prohibited. Tenant shall make good faith efforts to cause its general contractor ("Contractor") to comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into Tenant's contract with its general contractor and is on file in the City Secretary's Office.

(2) Contractor shall file with the "Contract Compliance Officer" for Drug Testing designated by the City from time to time ("CCODT"):

- (a) a copy of its drug-free workplace policy,
- (b) the Drug Policy Compliance Agreement substantially in the form set forth in Appendix E together with a written designation of all safety impact positions and,
- (c) if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Appendix E.

If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of its general contract or on completion thereof if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Appendix E. Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of the general contract. The first 6-month period begins to run on the date the City issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Contractor begins work under the general contract.

(3) Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.

(4) Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection."

18.3 Section 3-2 of the Houston Code of Ordinances. Tenant covenants and agrees with the City that during the Term of this Lease, Tenant will not seek enforcement of Section 3-2 of the Houston Code of Ordinances with respect to businesses in the vicinity of the Leased Premises, which Section 3-2 reads in pertinent part "[i]t shall be unlawful for any dealer to sell alcoholic beverages within the corporate limits of the city where the place of business of such dealer is within 300 feet of any church" to the extent that Tenant's use of the Leased Premises is considered a "church" for purposes of such ordinance.

18.4 Landlord's Representations, Warranties and Covenants. As an inducement to Tenant to enter into this Lease, Landlord represents and warrants to, and covenants and agrees with, Tenant, as follows:

(a) Landlord is a municipal corporation duly formed and validly existing under the laws of the State of Texas and its home-rule charter, with all necessary power and authority to enter into this Lease and to consummate the transactions herein contemplated. The execution and delivery hereof and the performance by Landlord of its obligations hereunder will not violate or constitute an event of default under any material terms or material provisions of any agreement, document, instrument, judgment, order or decree to which Landlord is a party or by which Landlord is bound.

(b) Upon the Countersignature Date, Landlord will have caused all governmental proceedings required to be taken by or on behalf of Landlord to authorize Landlord to make and deliver this Lease and to perform the covenants, obligations and agreements of Landlord hereunder. No Approval to the execution or delivery of this Lease by Landlord or the performance by Landlord of its covenants, obligations and agreements hereunder is required from any board of directors, shareholder, creditor, investor, judicial, legislative or administrative body, Governmental Authority or other Person, other than any such Approval which already has been unconditionally given.

(c) The naming of the Property as the "Compaq Center" expires on November 30, 2003. The Landlord agrees not to extend such naming rights or enter into any other naming agreements for the Property or the Improvements that extend beyond November 30, 2003.

(d) There are no agreements affecting the Property or the Improvements other than the Permitted Exceptions and the non-compete provision described in Section 7.2(a) above, and Landlord will not enter into any agreements affecting the Property or the Improvements, or modifications to existing agreements, which will extend beyond November 30, 2003, other than the Rockets' Agreement.

(e) To the best of Landlord's knowledge, the Property and all Improvements thereon are in compliance with all Applicable Laws other than the Americans with Disabilities Act.

(f) Landlord shall on or before the Delivery Date: (i) remove or cause to be removed as an encumbrance on the Property the Trust Indenture dated December 1, 1973, between the City of Houston, Texas, and Texas Commerce Bank, National Association contemplating the issuance of Sports Arena First Mortgage Revenue Bonds, Series 1973 in the aggregate principal amount of \$18,000,000 and Supplemental Trust Indenture dated December 1, 1975, between the City of Houston, Texas, and Texas Commerce Bank, National Association, related to Sports Arena First Mortgage Revenue Bonds, Series 1976, in the aggregate principal amount of \$450,000, and (ii) make good faith efforts to cause Rocket Ball, Ltd. to remove as an encumbrance on the Property the Deed of Trust dated June 29, 1990, made by Houston Rockets Professional Basketball Club, Ltd., to Robert G. Brooks, Trustee for the benefit of First City, Texas, Houston-N.A.

ARTICLE XIX

DEFAULTS AND REMEDIES

19.1 Events of Default.

19.1.1 Tenant Default. The occurrence of any of the following shall be an "Event of Default" by Tenant or a "Tenant Default":

(a) The failure of Tenant to pay any Base Rent when due and payable under this Lease if such failure continues for more than fifteen (15) days after Landlord gives notice to Tenant that such amount was not paid when due, but Tenant shall not be permitted to receive more than two (2) such notices per Lease Year under this subparagraph;

(b) The failure of Tenant to pay any Additional Rent when due and payable under this Lease if such failure continues for more than thirty (30) days after Landlord gives notice to Tenant that such amount was not paid when due;

(c) The failure of Tenant to perform any covenants regarding insurance under the terms of Article XIV if such failure is not remedied within the time period described in Section 14.3 above.

(d) The failure of Tenant to keep, observe or perform any of the terms, covenants or agreements contained in this Lease on Tenant's part to be kept, performed or observed [other than those referred to in clauses (a) - (c) above] if (i) such failure is not remedied by Tenant within thirty (30) days after notice from Landlord of such default or (ii) in the case of any such default which cannot with due diligence and good faith be cured within thirty (30) days, Tenant fails to commence to cure such default within thirty (30) days after notice from Landlord of such default or Tenant fails to prosecute diligently the cure of such default to completion within such additional period as may be reasonably required to cure such default with diligence and in good faith; it being intended that, in connection with any such default which is not susceptible of being cured with due diligence and in good faith within thirty (30) days, the time within which Tenant is required to cure such default shall be extended for such additional period as may be necessary for the curing thereof with due diligence and in good faith; provided further, however, that if such default is not cured within one hundred eighty (180) days after notice from Landlord of such default (notwithstanding Tenant's diligent prosecution of curative efforts), then such failure shall constitute an Event of Default under this Lease; or

(e) The (i) filing by Tenant of a voluntary petition in bankruptcy; or (ii) adjudication of Tenant as a bankrupt; or (iii) the filing of any petition or other pleading in any action seeking reorganization, rearrangement, adjustment, or composition of, or in respect of Tenant under the United States Bankruptcy Code or any other similar state or federal law dealing with creditors' rights generally, unless within sixty (60) days after such filing such proceeding is stayed or discharged; or (iv) appointment of a receiver, trustee or other similar official of Tenant or its property.

19.1.2 Landlord Default. The occurrence of the following shall be an "Event of Default" by Landlord or a "Landlord Default":

(a) Any material representation or warranty confirmed or made in this Lease by Landlord shall be found to have been incorrect in any material respect when made or deemed to have been made; or

(b) The failure of Landlord to substantially keep, observe or perform any of the terms, covenants or agreements contained in this Lease on Landlord's part to be kept, performed or observed [other than that referred to in clause (a) above] if (i) such failure is not remedied by Landlord within thirty (30) days after notice from Tenant of such default or (ii) in the case of any such default which cannot with due diligence and good faith be cured within thirty (30) days, Landlord fails to commence to cure such default within thirty (30) days after notice from Tenant of such default or Landlord fails to prosecute diligently the cure of such default to completion within such additional period as may be reasonably required to cure such default with diligence and in good faith, it being intended that in connection with any such default which is not susceptible of being cured with due diligence and in good faith within thirty (30) days, the time within which Landlord is required to cure such default shall be extended for such additional period as may be necessary for the curing thereof with due diligence and in good faith; provided further, however, that if such default is not cured within ninety (90) days after notice from Tenant of such default, (notwithstanding Landlord's diligent prosecution of curative efforts), then such failure, shall constitute an Event of Default under this Lease.

19.2 Landlord's Remedies. Upon the occurrence of any Tenant Default, Landlord may, in its sole discretion, pursue any one or more of the following remedies without any notice or demand whatsoever, other than any notice expressly provided in this Lease:

(a) Landlord may terminate this Lease pursuant to Section 19.11 and upon such termination Landlord may forthwith reenter and repossess the Leased Premises by entry, forcible entry or detainer suit or otherwise, without demand or notice of any kind and be entitled to recover, as damages under this Lease, a sum of money equal to the total of (i) the Landlord's actual and reasonable cost of recovering the Leased Premises, (ii) the Landlord's actual and reasonable cost of removing and storing Tenant's or any other occupant's property, (iii) the unpaid Rent and any other sums accrued and payable by Tenant hereunder at the date of termination, and (iv) any other sum of money or damages owed by Tenant to Landlord. In the event Landlord shall elect to terminate this Lease, Landlord shall at once have all the rights of reentry upon the Leased Premises, without becoming liable for damages or guilty of trespass.

(b) Landlord may terminate Tenant's right of occupancy of all or any part of the Leased Premises and reenter and repossess the Leased Premises by entry, forcible entry or detainer suit or otherwise, without demand or notice of any kind to Tenant and without terminating this Lease, without acceptance of surrender of possession of the Leased Premises, and without becoming liable for damages or guilty of trespass, in which event Landlord shall use good faith efforts to relet the Leased Premises or any part thereof for the account of Tenant for a period equal to or lesser or greater than the remainder of the Term on whatever terms and conditions Landlord, in Landlord's sole

discretion, subject to commercially reasonable standards, deems advisable. Tenant shall be liable for and shall pay to Landlord all Rent payable by Tenant under this Lease plus an amount equal to (i) the Landlord's actual and reasonable cost of recovering possession of the Leased Premises, (ii) the Landlord's actual and reasonable cost of removing and storing any of Tenant's or any other occupant's property left on the Leased Premises after reentry, (iii) the cost of any increase in insurance premiums caused by the termination of possession of the Leased Premises, and (iv) any other sum of money or damages owed by Tenant to Landlord at law, in equity or hereunder, all reduced by any sums received by Landlord through any reletting of the Leased Premises; provided, however, that in no event shall Tenant be entitled to any excess of any sums obtained by reletting over and above Rent provided in this Lease to be paid by Tenant to Landlord. For the purpose of such reletting, Landlord is authorized to make any repairs (but the cost of any alterations or additions made by Landlord shall not be recoverable from Tenant) in or to the Leased Premises that may be necessary. Landlord may file suit to recover any sums falling due under the terms of this Section 19.2(b) from time to time. No reletting shall be construed as an election on the part of Landlord to terminate this Lease unless a written notice of such intention is given to Tenant by Landlord. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such Tenant Default and exercise its rights under Section 19.2(a) of this Lease.

(c) Landlord may enter upon the Leased Premises and do whatever Tenant is obligated to do under the terms on this Lease; and Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may actually and reasonably incur in effecting compliance with Tenant's obligations under this Lease, and Tenant further agrees that Landlord shall not be liable for any damages resulting to Tenant from such action. No action taken by Landlord under this Section 19.2(c) shall relieve Tenant from any of its obligations under this Lease or from any consequences or liabilities arising from the failure to perform such obligations.

(d) Landlord may exercise any and all other remedies available to Landlord at law or in equity, subject to any limitations set forth in this Lease.

(e) Notwithstanding the foregoing, nothing herein shall be deemed to limit, reduce or eliminate any duty of Landlord to mitigate damages pursuant to Applicable Laws in effect from time to time.

19.3 Tenant's Remedies. Upon the occurrence of any Landlord Default, Tenant may, at its sole discretion, have the option to pursue any one or more of the following remedies without any notice or demand whatsoever, other than any notice expressly provided in this Lease:

(a) Tenant may terminate this Lease; and

(b) Tenant may exercise any and all other remedies available to Tenant at law or in equity, but subject to any limitations thereon set forth in this Lease.

In the event that Tenant terminates this Lease as provided in this Section 19.3, Landlord shall pay to Tenant within thirty (30) days after such termination the portion of the Base Rent

applicable to the period after the termination of this Lease calculated by amortizing the Base Rent over the Term (including the First Extended Term) at an interest rate equal to the Base Rate.

19.4 Cumulative Remedies. Subject to the provisions of this Article XIX, each right or remedy of Landlord and Tenant provided for in this Lease shall be cumulative of and shall be in addition to every other right or remedy of Landlord or Tenant provided for in this Lease, and the exercise or the beginning of the exercise by Landlord or Tenant of any one or more of the rights or remedies provided for in this Lease shall not preclude the simultaneous or later exercise by Landlord or Tenant of any or all other rights or remedies provided for in this Lease or hereafter existing at law or in equity, by statute or otherwise.

19.5 No Indirect Damages. IN NO EVENT SHALL LANDLORD OR TENANT BE LIABLE UNDER ANY PROVISION OF THIS LEASE FOR LOST PROFITS, INCLUDING LOST OR PROSPECTIVE PROFITS, OR FOR ANY OTHER SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, IN CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT CAUSED BY OR RESULTING FROM THE SOLE OR CONCURRENT NEGLIGENCE OF LANDLORD OR TENANT OR ANY OF THEIR AFFILIATES OR RELATED PARTIES. WITHOUT LIMITING THE FOREGOING, THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS OF LANDLORD OR TENANT ARISING OUT OF THIRD PARTY CLAIMS AGAINST LANDLORD OR TENANT FOR ANY OF THE FOREGOING.

19.6 Limited Recourse. Tenant covenants and agrees that any claim, judgment or decree of any court against Landlord and in favor of Tenant as a result of any default or breach of any of the terms, covenants, conditions or limitations contained in this Lease on Landlord's part to be kept, observed and performed, shall be limited to the interest of Landlord in and to the Leased Premises, including Landlord's interest in Rent.

19.7 Interest on Overdue Obligations and Post-Judgment Interest. If any sum due hereunder is not paid by the due date thereof, the Party hereto owing such obligation to the other Party shall pay to the other Party interest thereon at the Default Rate concurrently with the payment of the amount, such interest to begin to accrue as of the date of the obligated party's receipt of written notice of Landlord Default or Tenant Default (as the case may be). Any payment of such interest at the Default Rate pursuant to this Lease shall not excuse or cure any default hereunder. All payments shall first be applied to the payment of accrued but unpaid interest.

19.8 No Waivers.

19.8.1 General. No failure or delay of any Party, in any one or more instances (i) in exercising any power, right or remedy under this Lease or (ii) in insisting upon the strict performance by the other Party of such other Party's covenants, obligations or agreements under this Lease, shall operate as a waiver, discharge or invalidation thereof, nor shall any single or partial exercise of any such right, power or remedy or insistence on strict performance, or any abandonment or discontinuance of steps to enforce such a right, power or remedy or to enforce strict performance, preclude any other or future exercise thereof or insistence thereupon or the

exercise of any other right, power or remedy. The covenants, obligations, and agreements of a defaulting Party and the rights and remedies of the other Party upon a default shall continue and remain in full force and effect with respect to any subsequent breach, act or omission.

19.8.2 No Accord and Satisfaction. Without limiting the generality of Section 19.8.1, the receipt by Landlord of the Rent with knowledge of a breach by Tenant of any covenant, obligation or agreement under this Lease shall not be deemed or construed to be a waiver of such breach (other than as to the Rent received). The payment by Tenant of the Rent with knowledge of a breach by Landlord of any covenant, obligation or agreement under this Lease shall not be deemed or construed to be a waiver of such breach. No acceptance by Landlord or Tenant of a lesser sum than then due shall be deemed to be other than on account of the earliest installment of the amounts due under this Lease, nor shall any endorsement or statement on any check, or any letter accompanying any check, wire transfer or other payment, be deemed an accord and satisfaction. Landlord and Tenant may accept a check, wire transfer or other payment without prejudice to its right to recover the balance of such installment or pursue any other remedy provided in this Lease.

19.8.3 No Waiver of Termination Notice. The receipt by Landlord of any Rent paid by Tenant after the termination in any manner of the Term, or after the giving by Landlord of any notice hereunder to effect such termination, shall not, except as otherwise expressly set forth in this Lease, reinstate, continue or extend the Term, or destroy, or in any manner impair the efficacy of, any such notice of termination as may have been given hereunder by Landlord to Tenant prior to the receipt of any such Rent or other consideration, unless so agreed to in writing and executed by Landlord. Neither acceptance of the keys nor any other act or thing done by Landlord or by its agents or employees during the Term shall be deemed to be an acceptance of a surrender of the Leased Premises, excepting only an agreement in writing executed by Landlord accepting or agreeing to accept such a surrender.

19.9 Effect of Termination. If Landlord or Tenant elects to terminate this Lease, as provided herein (whether such termination occurs pursuant to this Article XIX or any other provision hereof), this Lease shall, on the effective date of such termination, terminate with respect to all future rights and obligations of performance hereunder by the Parties (except for the rights and obligations herein that expressly are to survive termination hereof). Termination of this Lease shall not alter the then existing claims, if any, of either Party for breaches of this Lease occurring prior to such termination and the obligations of the Parties hereto with respect thereto shall survive termination.

19.10 Court Proceedings. Subject to the agreement of the Parties contained in this Lease regarding arbitration or other alternative procedures for dispute resolution, any suit, action or proceeding against any Party arising out of or relating to this Lease or any transaction contemplated hereby or any judgment entered by any court in respect thereof shall be brought in any federal or state court located in the City of Houston, Texas, and each Party hereby submits to the nonexclusive jurisdiction of such courts for the purpose of any such suit, action or proceeding.

19.11 Termination. Subject to the agreement of the Parties contained in this Lease regarding alternative procedures for dispute resolution, upon the occurrence of a Landlord Default or a Tenant Default, the non-defaulting party, in addition to its other remedies at law or

in equity, shall have the right to give the defaulting party notice (a "Final Notice") of the non-defaulting party's intention to terminate this Lease after the expiration of a period of thirty (30) days from the date such Final Notice is delivered unless the Event of Default is cured during such period, and upon the expiration of such thirty (30) day period, if the Event of Default is not cured, this Lease shall, at the option of the nondefaulting Party exercised by written Notice to the other Party, terminate as between the Parties without liability to the nondefaulting Party (except as otherwise provided in Section 19.2 and Section 19.3). If, however, within such thirty (30) day period, the defaulting party cures such Event of Default, then the nondefaulting party cannot terminate this Lease. Notwithstanding the foregoing, in the event there is an Action or Proceeding pending or commenced between the Parties with respect to the particular Event of Default covered by such Final Notice, the foregoing thirty (30) day period shall toll until a final non-appealable judgment or award, as the case may be, is entered with respect to such Action or Proceeding. This Section 19.11 shall not limit other termination rights of Landlord or Tenant set forth elsewhere in this Lease.

19.12 Waiver of Liens. Landlord does hereby waive, release and discharge all liens and rights (constitutional, statutory, consequential or otherwise) that Landlord may now or hereafter have on any property of Tenant of any kind, and all additions, accessions and substitutions thereto (except for judgment liens which may hereafter arise in favor of Landlord). This Section 19.12 shall be self-operative and no further instrument or waiver need be required by any lienholder on such property. In confirmation of such waiver, however, Landlord shall, at Tenant's request, execute promptly any appropriate certificate or instrument that Tenant may reasonably request.

19.13 Settlement by Mutual Agreement. In the event any dispute, controversy or claim between the Parties arises under this Lease or is connected with or related in any way to this Lease or any right, duty or obligation arising herefrom or the relationship of the Parties hereunder (a "Dispute or Controversy"), including, but not limited to, a Dispute or Controversy relating to the effectiveness, validity, interpretation, implementation, termination, cancellation or enforcement of this Lease, the Parties shall first attempt in good faith to settle and resolve such Dispute or Controversy by mutual agreement in accordance with the terms of this Section 19.13. In the event a Dispute or Controversy arises, either Party shall have the right to notify the other that it has elected to implement the procedures set forth in this Section 19.13. Within fifteen (15) days after delivery of any such notice by one Party to the other regarding the Dispute or Controversy, the Landlord Representative and Tenant shall meet at a mutually agreed time and place to attempt, with diligence and good faith, to resolve and settle such Dispute or Controversy.

19.14 Emergency Relief. Notwithstanding any provision of this Lease to the contrary, any Party may seek injunctive relief or other form of ancillary relief at any time from any court of competent jurisdiction in Harris County, Texas. In the event that a Dispute or Controversy requires emergency relief before the matter may be resolved pursuant to procedures described in Section 19.13, notwithstanding the fact that any court of competent jurisdiction may enter an order providing for injunctive or other form of ancillary relief, the Parties expressly agree that the procedures described in Section 19.13 will still govern the ultimate resolution of that portion of the Dispute or Controversy not resolved pursuant to said court order.

22.10.2 Capacity of Parties Acting on Behalf of Landlord.

Notwithstanding anything to the contrary in this Lease, all references in this Lease to employees, agents, representatives, contractors and the like of "Landlord" shall refer only to Persons acting in the City's capacity as the "Landlord" hereunder and thus all such references specifically exclude any employees, agents, representatives, contractors and the like acting in connection with the performance of the City's Governmental Functions. Without limiting the foregoing, all police, fire, permitting, regulatory, water and power, health and safety and sanitation employees, agents, representatives and contractors of the City shall be deemed to be acting in connection with the performance of the City's Governmental Functions.

22.10.3 No Limitation on City's Governmental Functions.

Except as provided in Section 22.10.4 below, the Parties acknowledge that no representation, warranty, Approval or agreement in this Lease by the City (as a party to this Lease) shall be binding upon, constitute a waiver by or estop the City from exercising any of its rights, powers or duties in its Governmental Functions. For example, Approval by the "Landlord" of plans for Material Alterations shall not constitute satisfaction of any requirements of City Codes, or the need to obtain any approval by, the City's Fire Department, Building Inspections Department, Public Works Department, Planning Department and Economic Development Department acting in connection with the performance of the City's Governmental Function.

22.10.4 Landlord Cooperation.

Landlord agrees to reasonably cooperate with Tenant (at no expense to Landlord) in connection with Tenant's application for and obtaining of any required permits, adjustments of setback lines in and around the Leased Premises, re-plats, plat amendments, street and/or easement vacations, relocations of utility lines and facilities, and the waiver, grant or issuance of variances and permits required in connection with Tenant's proposed Alterations and the Permitted Uses; provided, however, that in no event shall Landlord's aforesaid covenant of cooperation waive or modify in any manner the terms and conditions of Section 22.10.3 above, but neither shall Tenant be treated any differently in any such application process than any other lessee of public property; provided further, that Tenant shall in any event be required to comply with any and all parking requirements under applicable laws, codes and ordinances pertaining to the Permitted Uses (and, to the extent that any such parking requirements are satisfied by Tenant's use of "off-site" parking, Tenant shall be required to assure that any such off-site parking rights are assignable and are assigned to Landlord for Landlord's benefit in connection with the City Dates and for Olympic games as provided in Section 4.6 of this Lease)

22.11 Table of Contents; Headings. The table of contents and headings of the various articles, sections and other subdivisions of this Lease are for convenience only and shall not modify, define or limit any of the terms and provision hereof.

22.12 Incorporation of Appendices, Exhibits and Schedules. All Appendices, Exhibits and Schedules attached to this Lease are incorporated herein by reference in their entirety and made a part hereof for all purposes.

Exhibit A – Legal Description of Property

Exhibit B – Permitted Exceptions

Exhibit C – Items that Qualify as "Tenant Investment in Alterations"

Exhibit D – Tenant's Concept Plans

Appendix A – Rules as to Usage/Glossary of Defined Terms
Appendix B – City of Houston, Texas Equal Opportunity Ordinance
Appendix C – Intentionally Omitted
Appendix D – Terms for MWBE Subcontracts
Appendix E – Drug Policy Compliance Agreement
Schedule 2.3.1 – Schedule of Personal Property to Remain with the Leased Premises
Schedule 18.1 – Exceptions to Representations and Warranties of Tenant

22.13 Counterparts. This Lease may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same Lease. All signatures need not be on the same counterpart.

22.14 Governing Law. THIS LEASE, AND THE ACTIONS OF THE PARTIES HEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS (EXCLUDING PRINCIPLES OF CONFLICT OF LAWS).

22.15 Interpretation and Reliance. No presumption will apply in favor of any Party in the interpretation of this Lease or in the resolution of any ambiguity of any provisions thereof.

22.16 Entire Agreement. This Lease constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior written and oral agreements and understandings with respect to such subject matter, including but not limited to, the Request for Proposals for Redevelopment of the Compaq Center and the Lakewood Church's Response to Request for Proposals.

22.17 Estoppel Certificate. Either Party shall, without charge to the other Party, at any time and from time to time hereafter, within ten (10) days after the written request of the other Party, certify by written instrument duly executed and acknowledged to any mortgagee, purchaser, assignee, sublessee, licensee, or other successor or assign, or proposed mortgagee, purchaser, assignee, sublessee, licensee, successor or assign, or any other Person reasonably specified by such requesting Party, as to the validity and force and effect of this Lease, in accordance with its tenor, as then constituted, as to the existence of any default on the part of any Party, as to the existence of any offsets, counterclaims, or defenses thereto on the part of such Party, and as to any other matters that may be reasonably requested by such Party.

ARTICLE XXIII

TENANT'S TERMINATION RIGHTS/LANDLORD'S RECAPTURE RIGHTS UPON VACATION OR ABANDONMENT

23.1 Termination of Lease by Tenant. In addition to any other rights of Tenant hereunder to terminate this Lease, Tenant may terminate this Lease by written notice to Landlord if:

(a) (i) the Delivery Date does not occur on or before November 30, 2005, or by such date as Tenant has extended the time period for satisfaction of the Delivery Condition pursuant to Section 20.1 above or (ii) the Impositions condition described in Section 20.2 above is not satisfied within the time period described in Section 20.2;

(b) Tenant at any time determines that it will be hindered in or prevented from using the Leased Premises for those Permitted Uses which are material to Tenant (including at any time prior to the Deed Restriction Litigation, if any, being fully and finally resolved in a manner which allows Tenant's use of the Leased Premises for those Permitted Uses which are material to Tenant); or

(c) Tenant is unable, after reasonable good faith efforts, to obtain any necessary approval for the construction of any Alterations which Tenant intends to make to the Leased Premises and which are material to a material use for which Tenant intends to use the Leased Premises.


In the event that Tenant terminates this Lease pursuant to this Section 23.1, this Lease shall terminate as of the date specified in Tenant's notice, and the parties shall be relieved from all further obligations to each other hereunder, except for those obligations which expressly survive termination of this Lease. In the event of any termination of this Lease by Tenant pursuant to this Article XXIII, Landlord shall return to Tenant the Letter of Credit, if such Letter of Credit is still in place.

23.2 Recapture of Leased Premises by Landlord. In the event that Tenant abandons or vacates the entirety, or any significant portion, of the Leased Premises for a period exceeding two (2) consecutive years, provided that such two (2) consecutive year period shall be extended for the period of time associated with any cessation or failure to occupy resulting from a casualty, eminent domain proceeding, construction of Alterations or event of Force Majeure, then Landlord shall have the right, but not the obligation, to terminate this Lease upon ninety (90) days prior written notice to Tenant (the effective date of termination shall be such ninetieth (90th) day) unless Tenant, or (to the extent permitted under this Lease), a subtenant or assignee, cures the abandonment or vacation of the Leased Premises within ninety (90) days following receipt of such notice. For purposes of this recapture right of Landlord, Tenant will not be deemed to have vacated the Leased Premises provided that periodic activity occurs within the Leased Premises, some of which activity is visible from the exterior of the Leased Premises (e.g., parking). Landlord acknowledges and agrees that due to the nature of the Leased Premises, the Leased Premises may not be used at all for periods of time, and Tenant shall not be deemed to have vacated the Leased Premises if Tenant continues to use the Leased Premises in the manner and to the extent that is dictated by Tenant's needs from time to time (e.g., certain portions of the

Leased Premises which are not necessary for Tenant's needs may not be in use from time to time and such shall not constitute a vacation of the Lease Premises). However, Tenant recognizes that in any event, it has a duty under this Lease to maintain, secure and insure the Leased Premises and to keep the systems within the Leased Premises operating in a manner necessary to prevent deterioration thereof.

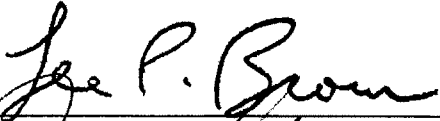
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ATTEST:

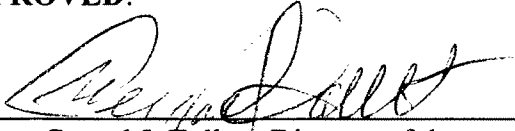
By: 
Anna Russell, City Secretary

LANDLORD:

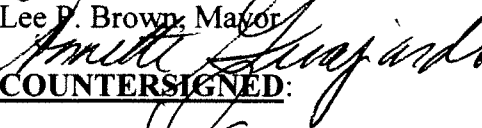
CITY OF HOUSTON, TEXAS, a home-rule city organized under the laws of the State of Texas

By: 
Lee P. Brown, Mayor

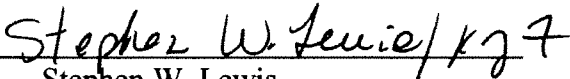
APPROVED:

By: 
Gerard J. Tollett, Director of the Convention & Entertainment Facilities Department

COUNTERSIGNED:

By: 
Sylvia Garcia, Controller

APPROVED AS TO FORM:

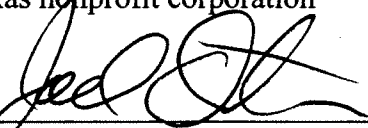
By: 
Stephen W. Lewis
Senior Assistant City Attorney
L.D. #025-0100031-001

DATE OF COUNTERSIGNATURE:

12/28/01

TENANT:

LAKWOOD CHURCH, INC.,
a Texas nonprofit corporation

By: 
Joel Osteen, President

APPENDIX A
TO
LEASE AGREEMENT

RULES AS TO USAGE

The terms defined below have the meanings set forth below for all purposes, and such meanings are equally applicable to both the singular and plural forms of the terms defined.

(1) "Include", "includes" and "including" shall be deemed to be followed by "without limitation" whether or not they are in fact followed by such words or words of like import.

(2) "Writing", "written" and comparable terms refer to printing, typing, and other means of reproducing in a visible form.

(3) Any agreement, instrument or Applicable Laws defined or referred to above means such agreement or instrument or Applicable Laws as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of Applicable Laws) by succession of comparable successor Applicable Laws and includes (in the case of agreements or instruments) references to all attachments thereto and instruments incorporated therein.

(4) References to a Person are also to its permitted successors and assigns.

(5) Any term defined above by reference to any agreement, instrument or Applicable Laws has such meaning whether or not such agreement, instrument or Applicable Laws are in effect.

(6) "Hereof", "herein", "hereunder" and comparable terms refer, unless otherwise expressly indicated, to the entire agreement or instrument in which such terms are used and not to any particular article, section or other subdivision thereof or attachment thereto. References in an instrument to "Article", "Section", "Subsection" or another subdivision or to an attachment are, unless the context otherwise requires, to an article, section, subsection or subdivision of or an attachment to such agreement or instrument. All references to exhibits or appendices in any agreement or instrument that is governed by this Appendix are to exhibits or appendices attached to such instrument or agreement.

(7) Pronouns, whenever used in this Lease and of whatever gender, shall include natural Persons, corporations, limited liability companies, partnerships and associations of every kind and character.

(8) References to any gender include, unless the context otherwise requires, references to all genders.

(9) The word "or" will have the inclusive meaning represented by the phrase "and/or".

(10) "Shall" and "will" have equal force and effect.

(11) Unless otherwise specified, all references to a specific time of day shall be based upon Central Standard Time or Central Daylight Savings Time, as applicable on the date in question in Houston, Texas.

(12) References to "\$" or to "dollars" shall mean the lawful currency of the United States of America.

GLOSSARY OF DEFINED TERMS

"Actions or Proceedings" means any lawsuit, proceeding, Governmental Authority investigation, hearing, audit, appeal, administrative proceeding or judicial proceeding.

"Additional Addressees" has the meaning set forth in Article XXI(b).

"Additional Rent" has the meaning set forth in Section 4.4.

"Affiliate of Tenant" means any other Person directly or indirectly controlling, directly or indirectly controlled by or under direct or indirect common control with Tenant. As used in this definition, the term "control," "controlling," or "controlled by" shall mean the possession, directly or indirectly, of the power either to (a) vote fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of such Person or (b) direct or cause the direction of management or policies of such Person, whether through the ownership of voting securities or interests, by contract or otherwise.

"Alterations" has the meaning set forth in Section 10.2.1.

"Applicable Laws" means any and all laws, ordinances, statutes, regulations, judicial decisions, orders, injunctions, writs, rulings, interpretations, rules, permits or certificates of any court, arbitrator or other Governmental Authority. Applicable Laws shall include, but not be limited to, the City Codes.

"Approval," "Approve" or "Approved" means (a) with respect to any item or matter for which the approval or consent of Landlord or the Landlord Representative, as the case may be, is required under the terms of the Lease, the specific approval or consent of such item or matter by Landlord pursuant to a written instrument executed by Landlord or the Landlord Representative delivered to Tenant, and, except as otherwise provided herein, shall not include any implied or imputed approval or consent, and no approval or consent by Landlord or the Landlord Representative pursuant to the Lease shall be deemed to constitute or include any approval or consent required under any City Code or in connection with any Governmental Functions of the City, unless such written approval or consent shall so specifically state and (b) with respect to any item or matter for which the approval or consent of Tenant is required under the terms of the Lease, the specific approval or consent of such item or matter by the Tenant pursuant to a written instrument executed by a duly authorized officer of Tenant and delivered to Landlord, and shall not include any implied or imputed approval or consent. No approval of Landlord Representative may be vacated, modified or reversed by Landlord or Landlord Representative (including any successor Landlord or Landlord Representative) without Tenant's written consent thereto.

"Base Rate" means for any day a fluctuating rate per annum equal to the rate of interest in effect for such day as publicly announced from time to time by the Wall Street Journal as its "prime rate."

"Base Rent" has the meaning set forth in Section 4.2.

"Business Day" shall mean a day of the year that is not a Saturday, Sunday, Legal Holiday or a day on which commercial banks are not required or authorized to close in Houston, Texas.

"Business Hours" means 9:00 a.m. through 5:00 p.m. on Business Days.

"Change in Control" has the meaning set forth in Section 16.8.

"City" has the meaning set forth in Recital A.

"City Governmental Authority" means the City and any governmental or quasi-governmental body controlled or regulated, directly or indirectly, by the City.

"City Codes" means the City Charter and Code of Ordinances, the City Building Code-General Provisions, the City Electrical Code, the City Mechanical Code, the City Plumbing Code, the City Fire Code, the City Unified Development Code and the City Sign Code, as same may be amended up to the time that applicable construction or building permits are issued for the Project Improvements.

"Claims" shall mean and include any and all actions, causes of action, suits, disputes, controversies, claims, debts, sums of money, offset rights, defenses to payment, agreements, promises, notes, losses, damages and demands of whatsoever nature, known or unknown, whether in contract or in tort, at law or in equity, for money damages or dues, recovery of property, or specific performance, or any other redress or recompense which have accrued or may ever accrue, may have been had, may be now possessed, or may or shall be possessed in the future by or in behalf of any Person against any other Person for, upon, by reason of, on account of, or arising from or out of, or by virtue of, any transaction, event or occurrence, duty or obligation, indemnification, agreement, promise, warranty, covenant or representation, breach of fiduciary duty, breach of any duty of fair dealing, breach of confidence, breach of funding commitment, undue influence, duress, economic coercion, conflict of interest, negligence, bad faith, malpractice, violations of any Applicable Law, intentional or negligent infliction of mental distress, tortious interference with contractual relations, tortious interference with corporate governance or prospective business advantage, breach of contract, deceptive trade practices, libel, slander, usury, conspiracy, wrongful acceleration of any indebtedness, wrongful foreclosure or attempt to foreclose on any collateral relating to any indebtedness, action or inaction, relationship or activity, service rendered, matter, cause or thing, whatsoever, express or implied.

"Commencement Date" means the date that is the later of ninety (90) days after (i) the Delivery Date or (ii) the date that the Deed Restriction Litigation, if any, is fully and finally resolved in a manner which allows Tenant's use of the Leased Premises for all of the Permitted Uses.

"Condemnation Actions" shall mean a taking by any Governmental Authority (or other Person with power of eminent domain) by exercise of any right of eminent domain or by appropriation and an acquisition by any Governmental Authority (or other Person with power of eminent domain) through a private purchase in lieu thereof.

"Condemnation Award" shall mean all sums, amounts or other compensation for the Leased Premises payable to Landlord or Tenant as a result of or in connection with any Condemnation Action.

"Condemnation Expenses" shall have the meaning set forth in Section 15.3.

"Condemnation Repair Work" shall have the meaning set forth in Section 15.3.

"Contractor" means any contractor which performs Alterations.

"Countersignature Date" means the date the Lease is executed by the Comptroller of the City of Houston.

"Deed Restriction Litigation" means any litigation which is currently pending or may exist in the future regarding the Deed Restrictions.

"Deed Restrictions" means the restrictions set forth in the two (2) deeds from Greenway Plaza, Ltd. to the City of Houston each dated October 30, 1973 and recorded on December 21, 1973 in the real property records of Harris County, Texas under County Clerk File Numbers E-048381, Film Code Number 172-24-2150 and E-048382, Film Code Number 172-24-2156 ("Vesting Deeds").

"Default Rate" means on any date the annual rate of interest that is equal to the lesser of (i) the sum of (y) three percent (3%) plus (z) the Base Rate in effect on such date, or (ii) the Maximum Lawful Rate in effect on such date.

"Delivery Condition" has the meaning set forth in Article XX.

"Delivery Date" means the date Landlord delivers written notice to Tenant that the Delivery Condition has been satisfied.

"Effective Date" has the meaning set forth in the preamble to the Lease.

"Encumbrances" means any defects in, easements, covenants, conditions or restrictions affecting, or liens or other encumbrances on, the title to the Leased Premises, whether evidenced by written instrument or otherwise evidenced.

"Environmental Claim" means any of the following: (i) a violation of an Environmental Law; (ii) a release, spill or discharge of a Hazardous Material on or from the Leased Premises of such a nature as to require reporting to applicable Governmental Authorities unless such Hazardous Material was not introduced to the Property by Tenant or its employees or agents; or (iii) an environmental condition requiring responsive action, unless the Hazardous Material was not introduced to the Property by Tenant or its employees or agents.

"Environmental Event" means (i) the existence or discovery of any spill, discharge, leakage, pumpage, drainage, pourage, interment, emission, emptying, injecting, escaping, dumping, disposing, migration or other release or any kind of Hazardous Materials which causes a threat or actual injury to human health, the environment, plant or animal life, (ii) the

occurrence of any Actions or Proceedings pursuant to any Environmental Laws arising out of any of the foregoing or (iii) any claims, demands, actions, causes of actions, remedial and/or abatement response, remedial investigations, feasibility studies, environmental studies, damages, judgments or settlements arising out of any of the foregoing.

"Environmental Law(s)" means any applicable federal, state or local statute, law, rule, regulation, ordinance, code, permits, concessions, grants, franchises, licenses, policy or rule of common law now in effect or adopted in the future (including common law tort law, common law nuisance law and common law in general), and in each case as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the environment, health, safety or Hazardous Materials, including, without limitation those laws relating to the storage, handling, emission, discharge, release and use of chemicals and other Hazardous Materials, those laws relating to the generation, processing, treatment, storage, transport, disposal, investigation, remediation or other management of waste materials of any kind, and those relating to the protection of environmentally sensitive areas, including, without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 1801 et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 3808 et seq.; the Endangered Species Act, as amended, 16 U.S.C.A. § 1531 et seq.; the Texas Solid Waste Disposal Act, Tex. Health & Safety Code Ann. Ch. 361 (Vernon 1990); the Texas Clean Air Act, Tex. Health & Safety Code Ann. Ch. 382 (Vernon 1990); the Texas Water Code, Tex. Water Code Ann. (Vernon 1988 and Supp. 1990); the Texas Hazardous Substances Spill Prevention and Control Act, Tex. Water Code Ann. (Vernon 1988 and Supp. 1990); the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq.; and the Emergency Preparedness and Response Community Right-to-Know Act, 42 U.S.C. § 11001.

"Events of Default" has the meaning set forth in Section 19.1.

"Excess Proceeds" has the meaning set forth in Section 13.4.2.

"Existing Improvements" means any and all improvements, structures, buildings and fixtures situated on the Property on the Commencement Date including, without limitation, the improvements currently commonly known as the Compaq Center.

"Federal Reserve Discount Rate" means the interest rate charged to individual banks for loans they obtain from central banks of the Federal Reserve System, as such rate is published from time to time by the Wall Street Journal or similar financial publication.

"Fiscal Year" means the twelve (12) month period from time to time established by the City as its fiscal year, which is currently the twelve (12) month period from July 1 through June 30.

"Governmental Authority" means any federal, state, local or foreign governmental entity, authority or agency, court, tribunal, regulatory commission or other body, whether legislative, judicial or executive (or a combination or permutation thereof).

"Governmental Function" means any regulatory, legislative, permitting, zoning, enforcement (including police power), licensing or other functions which the City is authorized or required to perform in its capacity as a Governmental Authority.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls, lead paint, putrescible and infectious materials, and radon gas; (b) any chemicals or substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous wastes", "restricted hazardous wastes", "toxic substances", "toxic pollutants", "contaminants" or "pollutants", or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law or Governmental Authority or which is regulated because of its effect or potential effect on health and the environment.

"Impositions" means all real estate taxes, all personal property taxes and all possessory interest taxes imposed or assessed upon the Leasehold Estate, including any interest of Tenant or Landlord hereunder, or in the Property or the Improvements, or on any items of real property or Tenant's Personal Property owned by Tenant and located in the Improvements, all use and occupancy taxes, all excises, levies, license and permit fees, general and special, ordinary and extraordinary, foreseen and unforeseen, that are, with respect to the Lease, assessed, levied, charged, confirmed or imposed upon or with respect to or become payable out of or become a lien on the Leasehold Estate, the Property, the Improvements or the Leased Premises, or the appurtenances thereto, or for any use or occupation of the Property or the Improvements, or such franchises, licenses and permits as may be appurtenant or related to the use of the Property or the Improvements, this transaction or any documents to which Tenant is a party, creating or transferring an interest or estate in the Leasehold Estate, or any real estate taxes, assessments, excises, levies or fees, general or special, ordinary or extraordinary, foreseen or unforeseen, that are levied, imposed or assessed upon the fee simple estate of Landlord in and to the Leased Premises (except any tax, assessment, excise, levy or fee payable with respect to the receipt of Rent and/or other sums under the Lease). The term "Impositions" shall not mean or include, and Landlord and not Tenant shall pay, prior to delinquency, any municipal, state, county or Federal income, excess profits or sales taxes assessed against Landlord or any municipal, state, county or Federal capital, levy, estate, succession, inheritance or transfer taxes of Landlord (on a sale or other transfer of the fee estate in the Leased Premises by Landlord other than a transfer to Tenant) or any franchise taxes imposed upon any corporate owner of the fee estate in the Leased Premises or any part thereof; provided, however, that if, at any time during the Term, the methods or scope of taxation or assessment of real estate prevailing on the Effective Date shall be so changed that there shall be substituted for the whole or any part of the taxes, assessments, levies, impositions or charges now or hereafter levied, assessed or imposed on real estate and the improvements thereon or upon the possessory interest of Tenant in the Leasehold Estate, or upon the Property, the Improvements or any of the Tenant's Personal Property described above in this definition, a capital levy or other tax levied, assessed and/or imposed on any of the Rent payable

by Tenant to Landlord under the Lease, then all such capital levies or other taxes shall, to the extent that they are so substituted, be deemed to be included within the term "Impositions". Notwithstanding the foregoing, Landlord and Tenant may not, due to each Party's form of organization and/or purpose, be subject to Impositions and nothing contained in this Lease shall be construed as an admission or agreement of either party to be subject to Impositions as to which it would not otherwise be subject to under Applicable Law.

"Improvements" means (i) the Existing Improvements and (ii) any Alterations.

"Initial Alterations" means Alterations performed by Tenant prior to the commencement of Tenant's operation of the Leased Premises for Tenant's intended use.

"Insured Casualty Risks" means physical loss or damage from whatever cause including fire and extended coverage, lightning, windstorm, hail, flooding, earth movement (including, but not limited to, earthquake, landslide, subsidence and volcanic eruption), collapse, water damage, leakage from fire protection equipment or sprinkler systems, explosion (except steam boiler explosion), smoke, aircraft (including objects falling therefrom), motor vehicles, sonic shock wave, riot, riot attending a strike, civil commotion, sabotage, terrorism, vandalism, malicious mischief, theft, molten material, civil or military authority and all other peril (including resultant loss or damage arising from faulty materials, workmanship or design).

"Insured Materials and Equipment" means all materials intended for incorporation into the Leased Premises, whether stored on-site or off-site, and all machinery, equipment and tools, whether owned, leased or borrowed and brought on-site and/or otherwise utilized but not incorporated into the Improvements, by Tenant or Tenant's other contractors and subcontractors, including temporary buildings, site huts, trailers and offices and their contents and all other property of the insured or in their care, custody or control while at the construction site or in storage facilities on- or off-site.

"Landlord" has the meaning set forth in the preamble to the Lease.

"Landlord Default" shall have the meaning set forth in Section 19.1.2.

"Landlord Related Parties" means the successors, assigns, elected and appointed officials, employees and volunteers of Landlord.

"Landlord Representative" shall have the meaning set forth in Section 1.2.

"Landlord Transfer" shall have the same meaning as "Permitted Landlord Transfer" except that Tenant's consent was not obtained to such transfer (when such consent was required by Section 16.6).

"Landlord Transferee" shall have the meaning set forth in Section 16.6.

"Landlord's Condemnation Award" shall have the meaning set forth in Section 15.1.2.

"Landlord's Delivery Address" means Convention and Entertainment Facilities Department, Administration, City Hall, 901 Bagby, Houston, Texas 77002.

"Lease" has the meaning set forth in the preamble to the Lease.

"Lease Expiration Date" means the last day of the Term unless soon terminated pursuant to any applicable provision of the Lease, in which event such date of termination shall be the Lease Expiration Date.

"Lease Year" means a period of twelve (12) consecutive calendar months beginning on the first day of the month following the Commencement Date.

"Leasehold Estate" means the leasehold estate in the Leased Premises granted under the Lease and all other rights, titles and interest granted under the Lease.

"Leasehold Mortgagee" means the mortgagee named in any mortgage that is a Leasehold Mortgage, the beneficiary named in any deed of trust that is a Leasehold Mortgage or the holder of any lien or security interest named in any other security interest that is a Leasehold Mortgage.

"Leasehold Mortgages" shall have the meaning set forth in Section 16.9.1.

"Leased Premises" shall have the meaning set forth in Section 2.1.

"Legal Holiday" means any day, other than a Saturday or Sunday, on which the City's administrative offices are closed for business.

"Liabilities" shall have the meaning set forth in Section 14.4.5(a).

"License" means any license, concession agreement, occupancy agreement or similar agreement.

"Licensee" means a licensee, concessionaire, occupant or anyone claiming by, through or under such person or entity.

"Lien" means any mortgage, charge, pledge, lien, privilege, security interest, hypothecation or other encumbrance upon or with respect to any property or assets of any kind, whether real or personal tangible or intangible, now owned or hereafter acquired.

"Maintenance and Repair Work" shall have the meaning set forth in Section 9.1.1.

"Material Alterations" means any Alterations (i) that do not substantially conform in any material respect to the Permitted Uses, (ii) that would weaken or impair the structural integrity of the Improvements, or (iii) that are visible from the exterior of the Property. With respect to any Alterations after the Initial Alterations made by Tenant, such Alterations shall not be deemed "Material Alterations" unless, in addition to meeting one of the above listed three criteria, such Alterations will exceed Five Million Dollars (\$5,000,000.00) in cost. The \$5,000,000.00 threshold in the previous sentence shall be increased by ten percent (10%) at the end of every fifth (5th) Lease Year of the Term.

"Maximum Lawful Rate" means the maximum non-usurious interest rate, if any, that at any time, or from time to time, may be contracted for, taken, reserved, charged or received on

any indebtedness or other sum becoming due and owing under the Lease, under the laws which are presently in effect of the United States and the State of Texas applicable to the person entitled to collect such interest and such indebtedness or, to the extent permitted by law, under such applicable laws of the United States and the State of Texas which may hereafter be in effect and which allow a higher maximum non-usurious interest rate than applicable laws now allow.

"Mechanic's Lien" shall have the meaning set forth in Section 10.3.

"Notice" has the meaning set forth in Article XXI.

"Parties" has the meaning set forth in the preamble to the Lease.

"Permitted Exceptions" means those certain exceptions to title to the Property that are referenced and/or described on Exhibit B attached hereto, but only to the extent that such matters affect or relate to the Property and only to the extent that such matters are valid, enforceable and in effect.

"Permitted Landlord Transfer" shall have the meaning set forth in Section 16.6.

"Permitted Transfers" shall have the meaning set forth in Section 16.1.

"Permitted Uses" shall have the meaning set forth in Section 7.1.

"Person" means any individual, corporation, limited or general partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or any other form of entity.

"Prohibited Uses" shall have the meaning set forth in Section 7.2.

"Property" shall have the meaning set forth in Recital A, and being the Land legally described on Exhibit A hereto.

"Property Insurance Policy" shall have the meaning set forth in Section 14.1.2.

"Property Insurance Proceeds" has the meaning set forth in Section 13.2.1.

"Property Taxes" means all Impositions that are real estate ad valorem taxes and assessments, or any other similar form of tax or assessment now or hereinafter levied and assessed against the Property, the Leased Premises and/or the Improvements for the fiscal tax years that are included in the Term.

"Rent" means the Base Rent, the Additional Rent and all other sums and amounts that Tenant shall be liable for or obligated to pay under or pursuant to the Lease.

"Responsible Officer" means with respect to the subject matter of any certificate, representation or warranty of any Person contained in the Lease, an authorized officer of such Person (or in the case of a partnership, an individual who is a general partner of such Person or such an authorized officer of a general partner of such Person) who, in the normal performance

of his operational responsibility, would have knowledge of such matter and the requirements with respect thereto.

"Review Period" shall have the meaning set forth in Section 10.2.

"Sublease" means any sublease covering all or any portion of the Leased Premises. The term "Subtenant" means a tenant under or pursuant to a Sublease.

"Substantially All of the Improvements" has the meaning set forth in Section 13.4.3 and Section 15.1.3.

"Tenant" has the meaning set forth in the preamble to the Lease.

"Tenant's Concept Plans" means the concept sketches of Tenant's proposed Alterations attached hereto as Exhibit D and made a part hereof, which attached sketches have been (and are hereby) approved by Landlord and which are Tenant's preliminary plans for the alteration or improvement of the Existing Improvements and construction of additional Improvements (provided, however, that Tenant's Concept Plans are solely for the purpose of obtaining approvals from Landlord and do not prevent Tenant from altering or improving the existing Improvements in a manner different from that shown on Tenant's Concept Plans or of constructing additional or different Improvements, provided that Tenant obtains any approvals thereof from Landlord as may be required by the terms of this Lease).

"Tenant Default" shall have the meaning set forth in Section 19.1.1.

"Tenant's Delivery Address" means 7317 E. Houston Road, Houston, Texas 77028, Attn: Kevin Comes.

"Tenant's Excess Umbrella Policies" shall have the meaning set forth in Section 14.1.3(d).

"Tenant's GL Policy" shall have the meaning set forth in Section 14.1.3(a).

"Tenant's Personal Property" means any and all movable equipment, furniture, fixtures and other tangible personal property (including, but not limited to equipment, inventory, and supplies) that are owned by Tenant and located on or within the Leased Premises and that do not constitute real property, excluding, however, any of Landlord's personal property which Tenant replaced during the Term.

"Tenant's Risks" shall have the meaning set forth in Section 5.2.

"Term" has the meaning set forth in Section 3.2.

"Transfer" shall have the meaning set forth in Section 16.1.

"Untenantable Condition" means the existence of any one of the following conditions but only to the extent the same is not the result of the failure of Tenant to perform its obligations under the Lease:

(a) An independent architect mutually and reasonably selected by the Landlord and Tenant determines that the remainder of the Improvements cannot be repaired, reconfigured or rebuilt within one (1) year from the date of such architect's determination to a condition adequate for the use of the Leased Premises for the Permitted Uses.

(b) twenty percent (20%) or more of the total parking spaces available to Tenant (on the Leased Premises and on other property in the vicinity thereof owned, leased, licensed or subject to an easement or other use agreement in favor of Tenant) are restricted or unusable or are subject to a material restriction on access;

(c) The proceeds of the Condemnation Action are insufficient to rebuild or reconstruct the Improvements to substantially the same condition and function as before such Condemnation Action (including the acquisition of rights to use of reasonably convenient replacement parking); or

(d) Access to the Leased Premises is materially restricted.

Schedule 2.3.1

Schedule of Personal Property to Remain with the Leased Premises

The below schedule is provided to list certain items of personal property (as described below) that, to the extent owned and/or controlled by Landlord, will remain with the Leased Premises, but is not intended to be a complete list of such personal property that will remain with the Leased Premises:

1. Zamboni and other surface preparation and cleaning equipment
2. Ice making equipment
3. Ice Floor Cover
4. Basketball Floors (2)
5. Basketball goal assemblies, materials and equipment
6. Portable Seating Units
7. Food Court Equipment

Schedule 18.1

Exceptions to Representations and Warranties of Tenant

1. Tenant hereby acknowledges that certain litigation is pending in the United States District Court for the Southern District of Texas, Houston Division, as Cause No. 01-2274; *Crescent Real Estate Funding III, L.P., et al. vs. The City of Houston, Texas*, and that other litigation may also be pending or threatened or exist in the future with respect to the Deed Restrictions.

Exhibit A

Legal Description of Property

Parcel 1

A tract or parcel of land containing 6.9391 acres located in the A. C. Reynolds Survey, Abstract 61, Harris County, Texas more particularly being a portion of Block 5 and Block 6 and all of Seminole Street between said Block 5 and Block 6 of Lamar-Weslayan Addition, a subdivision of record at Volume 35, Page 48, Map Records, Harris County, Texas (all bearings referenced to the Texas Coordinate System, South Central Zone):

BEGINNING at the southwest corner of Lot 1, of aforementioned Block 6, same being the southwest corner of aforesaid Block 6 and the northeast corner at the intersection of Timmons Lane and the Southwest Freeway;

THENCE with the common line of Timmons Lane and Block 6 and 5, N 04°05'32" W, 457.50 feet to a point for corner;

THENCE leaving said common line, N 85°54'28" E, 736.87 feet to a point for corner on the arc of a curve;

THENCE 127.65 feet along the arc of a curve to the left having a chord of S 00°40'56" W, 127.59 feet, a central angle of 06°07'06" and a radius of 1195.42 feet to a point of tangency;

THENCE S 02°22'37" E, 153.75 feet to the beginning of a curve;

THENCE 134.37 feet along the arc of a curve to the right having a chord of S 41°07'11" W, 121.83 feet, a central angle of 86°59'35" and a radius of 88.50 feet to a point of tangency;

THENCE S 84°36'59" W, 75.00 feet to the beginning of a curve;

THENCE 43.40 feet along the arc of a curve to the left having a chord of S 64°33'39" W, 42.52 feet, a central angle of 40°06'39" and a radius of 62.00 feet to a point of tangency;

THENCE S 44°30'20" W, 38.68 feet to a point for corner;

THENCE S 84°36'58" W, 5.48 feet to the beginning of a curve;

THENCE 141.67 feet along the arc of a curve to the left having a chord of S 76°50'28" W, 141.24 feet, a central angle of 15°33'02" and a radius of 522.00 feet to a point of reverse curve;

THENCE 132.66 feet along the arc of a curve to the right having a chord of S 76°50'28" W, 132.25 feet, a central angle of 15°33'02" and a radius of 488.79 feet to a point of tangency, being in the common line of aforementioned Block 6 and the Southwest Freeway;

THENCE with said common line, S 84°36'59" W, 216.08 feet to the POINT OF BEGINNING and containing 6.9391 acres of land.

Parcel 2

BEING a tract or parcel of land containing 242 square feet (0.0055 acre) located in the A. C. Reynolds Survey, Abstract 61, Harris County, Texas, more particularly being a portion of Block 5 of Lamar-Weslayan Addition, a subdivision of record at Volume 35, page 48, Map Records, Harris County, Texas, said 242 square feet (0.0055 acre) being more particularly described by metes and bounds as follows (all bearings referenced to the Texas Coordinate System, South Central Zone):

COMMENCING for reference at the southwest corner of Lot 1, Block 6, of aforementioned subdivision, same being the southwest corner of aforesaid Block 6 and the northeast corner at the intersection of Timmons Lane and the Southwest Freeway;

THENCE with the common line of Timmons Lane and Block 6 and 5, N 04°05'32" W, 457.50 feet to a point;

THENCE leaving said common line, N 85°54'28"E, 396.00 feet to THE POINT OF BEGINNING;

THENCE N 04°05'32" W, 7.00 feet to a point for corner;

THENCE N 85°54'28" E, 34.50 feet to a point for corner;

THENCE S 04°05'32" E, 7.00 feet to a point for corner;

THENCE S 85°54'28" W 34.50 feet to THE POINT OF BEGINNING and containing 242 square feet (0.0055 acre) of land.

Exhibit B

Permitted Exceptions

1. Restrictions contained in Vesting Deeds
2. Plat of Lamar-Weslayan Addition recorded in Volume 35, Page 48 of Map Records of Harris County, Texas
3. Easement granted by the City of Houston to Houston Lighting & Power Company recorded in Harris County Clerk's File No. E070821.

Exhibit C

ITEMS THAT QUALIFY AS "TENANT INVESTMENT IN ALTERATIONS"

This Exhibit is intended to be a non-exclusive list of items that qualify as "Tenant Investment in Alterations" for the purposes of this Lease

1. Fees of architectural, engineering, environmental and other consultants with respect to feasibility, design, preparation of plans and specifications, platting, permitting, inspection, etc.
2. Costs of negotiating and entering into contracts for construction work, preparation of plans and specifications, and consulting services
3. Impact fees and other similar fees, costs and charges for utilities and other infrastructure
4. Permit fees, tap-in fees, inspection fees, and any other fees and charges of any governmental or quasi-governmental authority
5. Title insurance and survey
6. Legal expenses
7. Demolition
8. Site work (clearing, cut/fill, grading, utility work, etc.)
9. Asbestos removal
10. Rehabilitation/Renovation/Upgrade of Existing Improvements
11. Landscaping
12. Signage
13. Labor, materials and other costs payable to contractors or vendors

Exhibit D

Tenant's Concept Plans

See the plans attached hereto and made a part hereof.

Appendix B

City of Houston, Texas Equal Opportunity Ordinance

1. The contractor, subcontractor, vendor, or supplier will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, or supplier will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, or supplier agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions set forth in this Appendix B.

2. The contractor, subcontractor, vendor, or supplier states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.

3. The contractor, subcontractor, vendor, or supplier will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor, subcontractor, vendor, or supplier will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor of the City and/or the City's Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.

5. The contractor, subcontractor, vendor, or supplier will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, or supplier.

6. In the event of the contractor's, subcontractor's, vendor's, or supplier's non-compliance with the non-discrimination provisions set forth in this Appendix B or with any of such rules, regulations, or orders, its contract with Tenant may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, or supplier may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as

provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.

7. Each contractor shall include the provisions of paragraphs 1-8 of this Appendix B in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Each contractor will take such action with respect to any subcontractor or purchase order as the City may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the City, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

Appendix C

[Intentionally Omitted]

Appendix D

Terms for MWBE Subcontracts

Tenant shall use good faith efforts to cause its general contractor to ensure that all subcontracts with MWBE subcontractors and suppliers are clearly labeled "THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT" and contain the following terms:

1. _____ (MWBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's Affirmative Action Director ("the Director").

2. _____ (MWBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform (1) audits of subcontractor's books and records, and (2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep its books and records available for inspection for at least 4 years after the end of its performance under this subcontract. Nothing in this provision shall change the time for bringing a cause of action.

3. Within 5 business days of execution of this subcontract, Contractor (prime contractor) and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given under Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of the agent.

4. Any controversy between the parties involving the construction or application of any of the terms, covenants, or conditions of this subcontract must, upon the written request of one party served upon the other or upon notice by the Director served on both parties, be submitted to binding arbitration, under the Texas General Arbitration Act (Tex. Civ. Prac. & Rem. Code Ann., Ch. 171 -- "the Act"). Arbitration must be conducted according to the following procedures:

a. Upon the decision of the Director or upon written notice to the Director from either party that a dispute has arisen, the Director shall notify all parties that they must resolve the dispute within 30 days or the matter may be referred to arbitration.

b. If the dispute is not resolved within the time specified, any party or the Director may submit the matter to arbitration conducted by the American Arbitration Association under the rules of the American Arbitration Association, except as otherwise required by the City's contract with the American Arbitration Association on file in the City's Affirmative Action Division Office.

c. Each party shall pay all fees required by the American Arbitration Association and sign a form releasing the American Arbitration Association and its arbitrators from liability for decisions reached in the arbitration.

d. If the American Arbitration Association no longer administers Affirmative Action arbitration for the City, the Director shall prescribe alternate procedures to provide arbitration by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.

e. All arbitrations shall be conducted in Houston, Texas unless the parties agree to another location in writing.

Appendix E

Drug Policy Compliance Agreement

I, _____ as an owner or officer of
(Name) (Print/Type) (Title)

(Contractor)

(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with Tenant; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with Tenant.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract and may result in non-award or termination of the contract.

Date

Contractor Name

Signature

Title

**CONTRACTOR'S CERTIFICATION
OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT**

I, _____, _____
(Name) (Title)

as an owner or officer of _____
(Contractor) (Name of Company)

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no employee safety impact positions, as defined in §5.17 of Executive Order No. 1-31, that will be involved in performing _____
(Project)

Contractor agrees and covenants that it shall immediately notify the City of Houston Director of Personnel and Tenant if any safety impact positions are established to provide services in performing this contract.

Date

Contractor Name

Signature

Title

Drug Policy Compliance Declaration

I, _____ an owner or officer of
(Name) (Print/Type) (Title)

(Name of Company) (Contractor)

have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from _____ to _____, 20__

Initials A written Drug Free Workplace Policy has been implemented and employees notified. The policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

Initials Written drug testing procedures have been implemented in conformity with the Mayor's Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31. Employees have been notified of such procedures.

Initials Collection/testing has been conducted in compliance with federal Health and Human Services (HHS) guidelines.

Initials Appropriate safety impact positions have been designated for employee positions performing on the contract. The number of employees in safety impact positions during this reporting period is _____.

Initials From _____ to _____ the following test has occurred
(Start date) (End date)

	<u>Random</u>	<u>Reasonable Suspicion</u>	<u>Post Accident</u>	<u>Total</u>
Number Employees Tested				
Number Employees Positive				
Percent Employees Positive				

Initials Any employee who tested positive was immediately removed from the City worksite consistent with the Mayor's Policy and Executive Order No. 1-31.

Initials I affirm that falsification or failure to submit this declaration timely in accordance with established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

Date

(Typed or Printed Name)

Signature

(Title)