

City Clerk's Copy

INDUSTRIAL DEVELOPMENT LEASE AND  
OPTION TO PURCHASE  
BETWEEN  
THE CITY OF SACRAMENTO  
AND  
PACKARD BELL ELECTRONICS, INC.

City Agreement No. 94-194

City Agreement No. 94-194

## TABLE OF CONTENTS

Recitals .....	1
Section 1. Definitions .....	2
Section 2. Leased Premises .....	8
(a) <u>Lease of Premises</u> .....	8
(b) <u>Expansion of the Leased Premises</u> .....	8
(c) <u>Possession</u> .....	8
(d) <u>Approval of Other Tenants and Uses</u> .....	8
(e) <u>Identity of Project; Street Names</u> .....	9
Section 3. Use of Leased Premises .....	9
(a) <u>In General</u> .....	9
(b) <u>Corporate Headquarters</u> .....	9
(i) <u>Relocation; Duration</u> .....	9
(ii) <u>Definition of Corporate Headquarters</u> .....	10
(iii) <u>Executive Officer's Certificate</u> .....	10
(c) <u>Prohibitions</u> .....	11
(i) <u>Prohibited Actions</u> .....	11
(ii) <u>Prohibited Installations; Containment of Waste</u> .....	11
(d) <u>Exterior Alterations; Waste</u> .....	11
(e) <u>Compliance with Laws</u> .....	11
(f) <u>High-Pile Combustible Storage</u> .....	11
(g) <u>Army Lease</u> .....	12
Section 4. Lease Term .....	12
(a) <u>Initial Term</u> .....	12
(b) <u>Extension Rights</u> .....	12
(c) <u>Co-termination of Lease on Warehouse Premises</u> .....	12
(d) <u>Enterprise Zone Termination Option</u> .....	12
(e) <u>Non-conveyance Termination Option</u> .....	13
Section 5. Base Rent and Other Payments by Tenant .....	13
Section 6. Common Area and Other Operating Expenses .....	14
(b) <u>Definition of Common Area Expenses</u> .....	15
(c) <u>Exclusions from Common Area Expenses</u> .....	17
(d) <u>Possessory Interest Taxes</u> .....	17
(e) <u>No Provision of Services by Landlord</u> .....	17
(f) <u>Reimbursement of Landlord</u> .....	18
(g) <u>Tenant's Operating Expenses</u> .....	18
Section 7. Landlord's Covenants .....	19
(a) <u>Economic Development Assistance</u> .....	19

(b)	<u>Foreign Trade Zone</u>	19
(c)	<u>Building Exteriors; Restricted Access</u>	19
(d)	<u>SMUD</u>	19
(e)	<u>Cafeteria Building Improvements/Concessionaire</u>	20
(f)	<u>Change of Mailing Address</u>	20
(g)	<u>Police Facility</u>	20
(h)	<u>Homebuyer's Package</u>	20
(i)	<u>Zoning and Subdivision</u>	20
(j)	<u>Restrictions on Traffic</u>	20
(k)	<u>Off-Site Improvements</u>	21
(l)	<u>On-Site Improvements</u>	21
(m)	<u>Tax Protections</u>	21
	(i) <u>Reassessment Indemnity</u>	21
	(ii) <u>Special Assessments Indemnity</u>	21
	(iii) <u>Indemnity For Certain Taxes</u>	21
(n)	<u>Landlord Agreement</u>	22
(o)	<u>No Survival</u>	22
<b>Section 8.</b>	<b>Option to Purchase Project.</b>	22
(a)	<u>No Purchase Option Without Lease</u>	22
(b)	<u>Option Payments</u>	22
(c)	<u>Purchase of Portion of Project</u>	23
(d)	<u>Time and Manner of Exercise of Purchase Option</u>	23
	(i) <u>Purchase Price</u>	23
	(ii) <u>Property Purchased "As-Is"</u>	23
	(iii) <u>Inspections by Tenant</u>	24
	(iv) <u>Approval of Condition of Title</u>	24
	(v) <u>Close of Escrow and Payment of Costs</u>	25
	(vi) <u>Financing</u>	25
	(vii) <u>Deed Restrictions</u>	25
<b>Section 9.</b>	<b>Common Area</b>	26
(a)	<u>Definition</u>	26
(b)	<u>Control of Common Area</u>	26
<b>Section 10.</b>	<b>Delivery of Possession.</b>	26
(a)	<u>Condition of Leased Premises</u>	26
(b)	<u>Access to Leased Premises; Occupancy of Buildings</u>	26
<b>Section 11.</b>	<b>Hazardous Substances.</b>	26
(a)	<u>Landlord's Warranty and Indemnity</u>	26
(b)	<u>Tenant's Warranty and Indemnity</u>	27
(c)	<u>Compliance with Environmental Laws</u>	27
(d)	<u>Remediation by Tenant</u>	27
(e)	<u>Notification Obligations</u>	27
(f)	<u>Restrictions on Use of Hazardous Substances</u>	27
(g)	<u>Testing Wells</u>	27

	(h)	<u>Landlord's Hazardous Substances Disclosure</u> . . . . .	28
<b>Section 12.</b>		<b>Repairs and Maintenance.</b> . . . . .	28
	(a)	<u>Maintenance and Repair of Common Area and Facilities</u> . . . . .	28
	(b)	<u>Maintenance and Repair of Leased Premises</u> . . . . .	28
	(c)	<u>Maintenance and Repair</u> . . . . .	29
<b>Section 13.</b>		<b>Alterations.</b> . . . . .	29
	(a)	<u>In General</u> . . . . .	29
	(b)	<u>Initial Alterations</u> . . . . .	29
	(c)	<u>Conditions Precedent to Commencement of Construction</u> . . . . .	30
	(d)	<u>No Mechanic's Liens</u> . . . . .	30
	(e)	<u>Title to Fixtures</u> . . . . .	30
	(f)	<u>Alterations Required By Law</u> . . . . .	30
	(g)	<u>Initial Structure Demolition</u> . . . . .	30
<b>Section 14.</b>		<b>Personal Property and Trade Fixtures.</b> . . . . .	31
	(a)	<u>Lease of Existing Personal Property</u> . . . . .	31
	(b)	<u>Retrieval System</u> . . . . .	31
	(c)	<u>Tenant's Trade Fixtures</u> . . . . .	32
	(d)	<u>Failure to Remove Trade Fixtures Upon Expiration or Termination of Lease</u> . . . . .	32
<b>Section 15.</b>		<b>Insurance.</b> . . . . .	32
	(a)	<u>Tenant's General Insurance Requirements</u> . . . . .	32
	(b)	<u>Tenant's Insurance Requirements During Construction</u> . . . . .	34
	(c)	<u>Adjustments in Coverage Amount</u> . . . . .	34
	(d)	<u>Requirements of Tenant's Insurance</u> . . . . .	34
	(e)	<u>Landlord's Common Area Insurance</u> . . . . .	35
	(f)	<u>Waiver of Subrogation Rights</u> . . . . .	36
	(g)	<u>Combining Insurance Obligations</u> . . . . .	36
<b>Section 16.</b>		<b>Damage and Destruction.</b> . . . . .	36
	(a)	<u>No Termination of Lease; Reconstruction</u> . . . . .	36
	(b)	<u>Nonresponsibility of Landlord</u> . . . . .	36
<b>Section 17.</b>		<b>Condemnation.</b> . . . . .	37
<b>Section 18.</b>		<b>Utilities.</b> . . . . .	37
<b>Section 19.</b>		<b>Assignment and Subletting.</b> . . . . .	37
	(a)	<u>No Assignments or Subleases Generally</u> . . . . .	37
	(b)	<u>Permissible Assignments and Subleases</u> . . . . .	38
	(c)	<u>Notice Requirements</u> . . . . .	38
	(d)	<u>Landlord's Consent</u> . . . . .	39
	(e)	<u>Effect of Consent</u> . . . . .	39
	(f)	<u>Conditions Precedent to Effectiveness of Assignments and Subleases</u> . . . . .	40
	(g)	<u>No Charge for Landlord's Consent</u> . . . . .	40
	(h)	<u>Payment of Sublease Profits; Limitations on Sublease Square Footage</u> . . . . .	40

(i)	<u>Net Profits Defined</u> .....	40
(j)	<u>Assignment or Sublease Without Consent is Void; No Assignment or Sublease During Event of Default</u> .....	40
(k)	<u>Landlord's Remedies</u> .....	40
(l)	<u>Attornment</u> .....	41
(m)	<u>Assignment and Sublease Restrictions Binding on Assignees and Sublessees</u> .....	41
(n)	<u>Consent Not Estoppel or Waiver</u> .....	41
Section 20.	<u>Indemnity.</u> .....	41
(a)	<u>Tenant's Indemnity</u> .....	41
(b)	<u>Landlord's Indemnity</u> .....	42
Section 21.	<u>Default.</u> .....	45
Section 22.	<u>Remedies.</u> .....	46
(a)	<u>In General</u> .....	46
(b)	<u>Removal of Persons and Property</u> .....	47
(c)	<u>No Termination of Lease</u> .....	47
(d)	<u>Application of Revenue</u> .....	47
(e)	<u>Landlord's Cure of Tenant's Default</u> .....	47
(f)	<u>Security not Bar to Eviction</u> .....	47
(g)	<u>Remedies not Exclusive</u> .....	48
Section 23.	<u>Default by Landlord.</u> .....	48
Section 24.	<u>Late Charges.</u> .....	48
Section 25.	<u>Interest on Past Due Obligations.</u> .....	49
Section 26.	<u>Attornment.</u> .....	49
Section 27.	<u>Estoppel Certificates.</u> .....	49
(a)	<u>In General</u> .....	49
(b)	<u>Failure to Deliver</u> .....	50
(c)	<u>Financial Statements</u> .....	50
Section 28.	<u>Transfer by Landlord.</u> .....	50
Section 29.	<u>Severability.</u> .....	50
Section 30.	<u>Time of Essence.</u> .....	51
Section 31.	<u>Additional Rent.</u> .....	51
Section 32.	<u>Entire Agreement.</u> .....	51
Section 33.	<u>Notices.</u> .....	51
Section 34.	<u>Waivers.</u> .....	52
Section 35.	<u>Memorandum of Lease and Abstract of Option.</u> .....	52
Section 36.	<u>Surrender of the Leased Premises.</u> .....	52
(a)	<u>Surrender Upon Expiration or Termination</u> .....	52
(b)	<u>Failure to Surrender</u> .....	52
Section 37.	<u>Holding Over.</u> .....	53
Section 38.	<u>Cumulative Remedies.</u> .....	53
Section 39.	<u>Covenants and Conditions.</u> .....	53
Section 40.	<u>Binding Effect.</u> .....	53

Section 41. Attorney Fees. . . . .	53
Section 42. Entry. . . . .	54
(a) <u>In General</u> . . . . .	54
(b) <u>Emergencies</u> . . . . .	55
Section 43. Parking. . . . .	55
Section 44. Signs. . . . .	55
(a) <u>Signs on Leased Buildings</u> . . . . .	55
(b) <u>Monument Signs for Project</u> . . . . .	55
Section 45. Merger. . . . .	55
Section 46. Broker's Fee. . . . .	56
Section 47. No Joint Venture. . . . .	56
Section 48. Easements. . . . .	56
Section 49. Authority. . . . .	56
Section 50. Governing Law. . . . .	57
Section 51. Offer. . . . .	57
Section 52. Headings. . . . .	57
Section 53. Counterparts. . . . .	57
Section 54. Discrimination. . . . .	57
Section 55. Further Actions. . . . .	58
Section 56. Encumbering The Leasehold Estate . . . . .	58

Exhibit A: Map of Sacramento Army Depot

Exhibit B: Project

Exhibit C: Area Initially Leased to Landlord

Exhibit D: Area Leased to Packard Bell

Exhibit E: Occupiable Buildings (list and map)

Exhibit F: Purchase Parcels

Exhibit G: Common Area

Exhibit H: Map of Current Zoning

Exhibit I: Memorandum of Lease

**INDUSTRIAL DEVELOPMENT LEASE AND  
OPTION TO PURCHASE  
BETWEEN  
THE CITY OF SACRAMENTO  
AND  
PACKARD BELL ELECTRONICS, INC.**

This INDUSTRIAL DEVELOPMENT LEASE AND OPTION TO PURCHASE ("Lease") is entered into as of the 15th day of December, 1994, by and between THE CITY OF SACRAMENTO, a municipal corporation ("Landlord" or "City"); and PACKARD BELL ELECTRONICS, INC., a Delaware corporation ("Tenant").

**Recitals**

A. The United States of America acting by and through the Secretary of the Army (the "Army") owns that certain real property and improvements located in the City of Sacramento, California (the "Army Depot") described on Exhibit A, attached hereto and incorporated herein.

B. The parties hereto anticipate that the Army will lease or convey to Landlord that portion of the Army Depot which is described on Exhibit B, attached hereto and incorporated herein, for the development of an industrial park (together with any portion of the Army Depot which may be leased or conveyed to Landlord, the "Project"). The Army has leased to Landlord that portion of the Army Depot described on Exhibit C attached hereto and incorporated herein pursuant to that certain Department of the Army Lease (the "Army Lease") dated December 13, 1994, made by and between the Army and Landlord, a copy of which has been delivered to Tenant. Landlord has requested an Economic Development Conveyance of the Army Depot (except Expansion Parcel 3) from the Army in accordance with P.L. 103-160, as amended.

C. Landlord desires to lease to Tenant and Tenant desires to lease from Landlord that portion of the Project which is described as the "Office Premises" and the "Warehouse Premises" on Exhibit D, attached hereto and incorporated herein, (together with any portion of the Project which may hereafter be leased to Tenant, the "Leased Premises"; stated otherwise, from and after the date on which the Army Depot is fully leased or conveyed to Landlord, the Project will consist of the entire Army Depot, and the "Leased Premises" will consist of the entire Project excepting the Common Area and the Ball Field Parcel). Landlord also desires to grant to Tenant an option to purchase all or part of the Project on the terms and conditions hereinafter set forth, subject to approval of the Economic Development Conveyance of the Project by the Army.

D. The Leased Premises are divided into two portions (as shown on Exhibit D) which are hereinafter referred to as the "Office Premises" and the "Warehouse Premises". The Office Premises include Building 150 (the "Administration Building"); and 555 (the "Training Building"). The Warehouse Premises include Building 153 and 154 (the "Recruiting Buildings"); 149 (the "Cafeteria"); 140, 141 and 142 (the "Employee Recreation

Center"); 164 (the "Visitor Center"); 251, 253, 255, 257, 242 and 248 (the "Production Buildings"); and 240, 241, 557 and 558 (the "Utility Buildings"). The foregoing Buildings on both the Office Premises and the Warehouse Premises, together with buildings which may hereafter be constructed by Tenant, but only after they are constructed, and Buildings on any other portion of the Army Depot which may hereafter be leased to Tenant, but only after they are leased are hereinafter collectively referred to as the "Leased Buildings".

E. The terms and conditions in this Lease (including, without limitation, the Purchase Option), were offered solely to Tenant as an inducement to conduct an environmentally safe manufacturing operation creating not less than 1500 full-time jobs on the Leased Premises and to locate Tenant's Corporate Headquarters in the City of Sacramento, as hereinafter set forth in this Lease. Landlord would not lease the Leased Premises, as hereinafter set forth in this Lease, on the favorable terms and conditions contained in this Lease (including, without limitation, the Purchase Option), but for Tenant's agreement to the foregoing. In agreeing to the terms and conditions of this Lease (including, without limitation, the Purchase Option), Landlord is specifically relying on the identity of Tenant, Tenant's ability to create substantial numbers of jobs in an industry that does not involve significant environmental hazards and Tenant's agreement to relocate its Corporate Headquarters to the City of Sacramento, as hereinafter set forth in this Lease.

F. The Redevelopment Agency of the City of Sacramento has initiated the process pursuant to the Community Redevelopment Law (Health and Safety Code Section 33000, *et seq.*) for adopting a redevelopment project area which will include the Army Depot and surrounding properties. The parties hereto have entered this Lease anticipating that the adoption of this redevelopment project area will facilitate the performance of their respective obligations under this Lease and the development of surrounding properties. Further, the parties anticipate the use of redevelopment to make available additional land for potential expansion of Tenant's operations.

#### Section 1. Definitions.

As used in this Lease the following terms shall have the following meanings:

**Administration Building** is defined in Recital D.

**Affiliate** is defined in Section 19(b).

**Alterations** is defined in Section 13(a).

**Army** is defined in Recital A.

**Army Depot** is defined in Recital A.

**Army Lease** is defined in Recital B.

Assignee is defined in Section 19(a).

Assignment is defined in Section 19(a).

Ball Field Parcel means the parcel described on Exhibit F attached hereto as "Ball Field Parcel."

Base Rent is defined in Section 5.

Building means any building located on the Army Depot; any numerically numbered Building means the Building designated with that number on Exhibit E, attached hereto and incorporated herein.

Business Days means any day except Saturday, Sunday and any day which shall be in Sacramento, California, a legal holiday or a day on which banking institutions are authorized or required by law or other government action to close.

Cafeteria is defined in Recital D.

City is defined in the Preamble.

Commencement Date is defined in Section 4(a).

Common Area is defined in Section 9(a).

Common Area Expenses is defined in Section 6(b).

Comparable Space means rental space within the City of Sacramento which is of a similar type and location as the space to be leased by Tenant taking into consideration age and condition differences.

Corporate Headquarters is defined in Section 3(a).

Event of Default or Default is defined in Section 21.

Environmental Laws means all federal, state, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any government authority regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance (as later defined), or pertaining to occupational health or industrial hygiene, or occupational or environmental conditions on, under, or about the Project and/or the Leased Premises, as now or may at any later time be in effect, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) [42 USCS §§ 9601 et seq.]; the Resource Conservation and Recovery Act of 1976 (RCRA) [42 USCS §§ 6901 et seq.]; the Clean Water Act, also known as the Federal Water Pollution Control Act (FWPCA) [33 USCS §§ 1251 et seq.]; the Toxic

Substances Control Act (TSCA) [15 USCS §§ 2601 et seq.]; the Hazardous Materials Transportation Act (HMTA) [49 USCS §§ 1801 et seq.]; the Federal Insecticide, Fungicide, Rodenticide Act [7 USCS §§ 136 et seq.]; the Clean Air Act [42 USCS §§ 7401 et seq.]; the Safe Drinking Water Act [42 USCS §§ 300f et seq.]; the Surface Mining Control and Reclamation Act [30 USCS §§ 1201 et seq.]; the Emergency Planning and Community Right to Know Act [42 USCS §§ 11001 et seq.]; the Occupational Safety and Health Act [29 USCS §§ 655 and 657]; the California Underground Storage of Hazardous Substances Act [Health and Safety Code §§ 25280 et seq.]; the California Hazardous Substances Account Act [Health and Safety Code §§ 25300 et seq.]; the California Hazardous Waste Control Act [Health and Safety Code §§ 25100 et seq.]; the California Safe Drinking Water and Toxic Enforcement Act [Health and Safety Code §§ 24249.5 et seq.]; the Porter-Cologne Water Quality Act [Water Code §§ 13000 et seq.] together with any amendments of or regulations promulgated under the statutes cited above and any other federal, state, or local law, statute, ordinance, or regulation now in effect or later enacted that pertains to occupational health or industrial hygiene, or the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, or land use.

Expansion Parcel(s) means the parcels described on Exhibit D, attached hereto, as "Expansion Parcel 1," "Expansion Parcel 2" and "Expansion Parcel 3."

Extended Term is defined in Section 4(b).

Extension Date is defined in Section 4(b).

Extension Option Notice is defined in Section 4(b).

Fair Market Rent shall mean the going market rent for the proposed premises as of the commencement of the lease period in question, based upon the following:

(i) Fair Market Rent shall be established taking into account the value of all improvements in the proposed premises, except improvements developed by Tenant;

(ii) Fair Market Rent shall be established based upon a tenant in possession proposing to sign a lease for Comparable Space, for a similar term and having financial qualifications similar to Tenant; and

(iii) To the extent comparable lease transactions are used to establish Fair Market Rent, the effect of concessions then prevailing in the marketplace shall be taken into account.

If Landlord and Tenant are unable to agree on the Fair Market Rent as provided in or required by any provision of this Lease, Fair Market Rent shall be determined by an appraisal performed by one (1) or three (3) real estate appraisers, all of whom shall be members of the American Institute of Real Estate Appraisers with not less than five (5)

years experience appraising industrial and office real property located in the City of Sacramento, in accordance with the following procedures:

(i) The party demanding an appraisal (the "Notifying Party") shall notify the other party (the "Non-Notifying Party") thereof by delivering a written demand for appraisal, which demand, to be effective, must give the name, address and qualifications of an appraiser selected by the Notifying Party. Within ten (10) Business days after receipt of said demand, the Non-Notifying Party shall select its appraiser and notify the Notifying Party, in writing, of the name, address and qualifications of the appraiser selected by it. Failure by the Non-Notifying Party to select a qualified appraiser within said ten (10) Business Day period shall be deemed a waiver of its rights to select a second appraiser on its own behalf and the appraiser selected by the Notifying Party shall be deemed to have been jointly selected by Landlord and Tenant pursuant to paragraph (v) below. Within ten (10) Business days after the date the second appraiser has been appointed, the two appraisers selected by the parties shall appoint a third appraiser. If the two appraisers fail to select a third qualified appraiser, the third appraiser shall be selected by the American Arbitration Association at the request of either party or, if there is then no American Arbitration Association or if it refuses to perform the function, then at the request of either Landlord or Tenant, the third appraiser shall be appointed by the then Presiding Judge of the Superior Court of Sacramento County.

(ii) The three appraisers selected by the parties shall meet in Sacramento, California, not later than twenty (20) days following the selection of the third appraiser. At said meeting the appraisers shall attempt to determine the Fair Market Rent for the proposed premises.

(iii) If the appraisers are unable to complete their determination in one meeting, they may continue to consult at such times as they deem necessary for a fifteen (15) day period from the date of their first meeting, in an attempt to have at least two (2) of them agree. If, at the initial meeting or at any time during said fifteen (15) day period, two (2) or more of the appraisers agree on the Fair Market Rent for the proposed premises, such agreement shall be determinative and binding on the parties hereto, and the agreeing appraisers shall, in simple letter form executed by the agreeing appraisers, notify both Landlord and Tenant of the amount set by such agreement.

(iv) If two (2) or more appraisers do not agree within said fifteen (15) day period as set forth above, then each appraiser shall, within five (5) days after the expiration of said fifteen (15) day period, submit an independent appraisal in simple letter form to Landlord and Tenant stating their determination of the Fair Market Rent for the proposed premises. Landlord and Tenant shall then determine the Fair Market Rent for the proposed premises by determining the average of the Fair Market Rent set by each of the appraisers; provided, however, if the lowest appraisal is less than eighty-five percent (85%) of the middle appraisal, then such lowest appraisal shall be disregarded, and/or if the highest appraisal is greater than one

hundred fifteen percent (115%) of the middle appraisal then, such highest appraisal shall be disregarded. If any appraisal is disregarded, then the average shall be determined by computing the average of the appraisal(s) that have/has not been disregarded.

(v) Nothing contained in this definition shall prevent Landlord and Tenant from electing, in writing, to jointly select a single appraiser to determine the Fair Market Rent for the proposed premises, in which event the determination of such appraiser shall be conclusively deemed to be the Fair Market Rent for the proposed premises.

(vi) Landlord and Tenant shall each bear the fees and expenses of the appraiser selected by or for it, and the fees and expenses of the third appraiser (or the joint appraiser if one joint appraiser is used) shall be borne fifty percent (50%) by Landlord and fifty percent (50%) by Tenant.

**Hazardous Substances means:**

(a) Those substances included within the definitions of hazardous substance, hazardous waste, hazardous material, toxic substance, or pollutant or contaminant under any Environmental Law;

(b) Those substances listed in the United States Department of Transportation (DOT) Table [49 CFR 172.101], or by the Environmental Protection Agency (EPA), or any successor agency, as hazardous substances [40 CFR Part 302];

(c) Other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state, or local laws or regulations; and

(d) Any material, waste, or substance that is

(i) a petroleum or refined petroleum product,

(ii) asbestos or asbestos-containing materials,

(iii) polychlorinated biphenyl,

(iv) designated as a hazardous substance pursuant to 33 USCS § 1321 or listed pursuant to 33 USCS § 1317,

(v) a flammable explosive, or

(vi) a radioactive material.

Initial Office Term is defined in Section 4(a).

Landlord is defined in the Preamble.

Law shall mean any constitution, statute, ordinance, regulation, rule, judicial decision, administrative order, or other requirement of any governmental entity.

Lease is defined in the Preamble.

Leased Buildings is defined in Recital D.

Leased Premises is defined in Recital C.

Mortgagee is defined in Section 56.

Occupiable Buildings shall mean those buildings located in the Army Depot (except Expansion Parcel 3 prior to conveyance of such parcel to Landlord) which Landlord, in its reasonable discretion, has determined are reasonably occupiable. The Occupiable Buildings as of the Commencement Date are listed in Exhibit E, attached hereto and incorporated herein.

Office Premises is defined in Recital D.

Project is defined in Recital B.

Purchase Option is defined in Section 8.

Purchase Parcel is defined in Section 8(c).

Tenant is defined in the Preamble.

Tenant's Share means that fraction whose numerator is the aggregate square footage of all Occupiable Buildings located on the Leased Premises, and whose denominator is the aggregate square footage of all Occupiable Buildings.

Term of this Lease means the period during which the Lease is effective as to any portion of the Leased Premises, including all extensions.

Trade Fixtures is defined in Section 14(b).

Warehouse Term is defined in Section 4(a).

Warehouse Premises is defined in Recital D.

## Section 2. Leased Premises.

(a) Lease of Premises. Landlord leases to Tenant and Tenant leases from Landlord the Leased Premises for the Term, at the rental, and upon all other terms, covenants, and conditions in this Lease. Landlord may not relocate the Leased Premises, or any portion thereof, during the Term of this Lease.

(b) Expansion of the Leased Premises. The Leased Premises shall automatically expand to include each of the Expansion Parcels, if and only if, and at such time as the subject Expansion Parcel is conveyed to Landlord. Landlord shall use its best efforts to obtain title to and possession of each Expansion Parcel promptly upon default or cessation of use by the tenant in possession thereof as of the Commencement Date. Each Expansion Parcel which is included in the Leased Premises shall become part of the Warehouse Premises. Expansion Parcels shall be included in the Leased Premises under all of the terms and conditions of this Lease without any increase in Base Rent.

(c) Possession. Possession of the portion of the Army Depot described in Exhibit B attached hereto shall be transferred to Tenant on the Commencement Date. Possession of each portion of the remainder of the Leased Premises shall be transferred to Tenant at such time as the subject portion is leased or conveyed by the Army to Landlord. Tenant shall only occupy or use those portions of the Leased Premises for which possession has been transferred by Landlord to Tenant.

(d) Approval of Other Tenants and Uses.

(i) Lease of space to other tenants in the Project shall be subject to Tenant's approval, which approval shall not be unreasonably withheld or delayed. Without limiting the generality of the foregoing, Tenant shall not be deemed unreasonable for withholding approval of any prospective tenant which (A) proposes a use which is incompatible with Tenant's existing or anticipated use of the Project as its Corporate Headquarters, (B) is a competitor of Tenant or (C) would create an increased security risk or cause an increase in Tenant's or the Project's insurance rates.

(ii) Landlord shall not lease, use, license or develop space in the Army Depot or on land fronting on Fruitridge Road or Florin-Perkins Road within one and one-half (1 1/2) miles from the Army Depot as a corrections facility (including a reception center). The Army Depot is not zoned for a childcare facility. Landlord shall not lease, use, license or develop any portion of the Army Depot as a childcare facility without Tenant's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Nothing in this Subsection (ii) shall limit Landlord's exercise of its police power when acting in its capacity as a municipal government; however, if Landlord does act in its capacity as a municipal government in a manner inconsistent with the preceding sentences in this Subsection (d), Landlord shall indemnify Tenant for any losses caused thereby.

(e) Identity of Project; Street Names. Upon request by Tenant at any time after conveyance of the Project by Army to Landlord, the Project shall be named the "Packard Bell Center," and Tenant shall have the right to rename the Project's streets during the Term of this Lease; and the City agrees to use these names in its official activities.

### Section 3. Use of Leased Premises.

(a) In General. The uses of the Leased Premises permitted by this Lease shall include general office, storage, distribution, assembly, manufacturing, repair and research uses. All uses of the Leased Premises shall comply with applicable zoning requirements and the "Sacramento Army Depot Reuse Plan Environmental Impact Report", dated September 26, 1994, and approved by the Sacramento City Council on November 1, 1994, a copy of which has been delivered to Tenant, including the "Mitigation Monitoring Plan." A map showing the current zoning of the Army Depot is attached hereto as Exhibit H and incorporated herein.

(b) Corporate Headquarters.

(i) Relocation; Duration. As a material part of the consideration for this Lease, upon conveyance of substantially all of the Army Depot (other than the Expansion Parcels and the Ball Field Parcel) by Army to Landlord Tenant agrees to relocate its Corporate Headquarters to the Leased Premises, or to another location within the City of Sacramento, CA, on or before the later of six (6) months following the date of such conveyance and January 1, 1996, and thereafter to maintain its Corporate Headquarters in the City of Sacramento, CA, for the period hereinafter described:

(A) If Tenant exercises its Purchase Option under this Lease and pursuant to such exercise acquires fee title to any portion of the Army Depot, then Tenant shall be obligated to maintain its Corporate Headquarters in Sacramento, CA, for the first ten (10) years of the Term of this Lease;

(B) If Tenant fails to exercise its Purchase Option during the first ten (10) years of the Term of this Lease and as a result owns no portion of the Army Depot in fee at the end of such period, then Tenant shall be obligated to maintain its Corporate Headquarters in Sacramento, CA, for the first twenty (20) years of the Term of this Lease; or

(C) Notwithstanding Subsections (A) and (B) above, Tenant's obligation to maintain its Corporate Headquarters in Sacramento, CA, shall cease upon the merger or consolidation of Tenant with, or upon the acquisition of all or substantially all of the stock or assets of Tenant by, any entity that was not an Affiliate prior to such merger, consolidation or acquisition of Tenant and that itself does not maintain its corporate headquarters in Sacramento.

(ii) Definition of Corporate Headquarters. As used in this Lease, the term "Corporate Headquarters" means the main office of Tenant in the United States. The parties recognize that Tenant engages in business in other nations and may have corporate headquarters for its activities in such other nations. Tenant shall be deemed to have fulfilled its obligation to relocate and maintain its "main office" in Sacramento, CA, by meeting all of the following five tests:

(A) Conducting a majority of all meetings of Tenant's world-wide Board of Directors in Sacramento, CA.

(B) Basing a majority of Tenant's "key executive-level functions" in Sacramento, CA. Over time, in a changing industry, the functions that can fairly be considered "key executive-level functions" may change. By way of illustration, however, as of the commencement of the Term of this Lease, Tenant's "key executive-level functions" include:

- Manufacturing
- Engineering
- Planning
- Purchasing
- Corporate administration
- Inventory management
- Inventory control
- Production control
- Distribution warehousing
- Distribution logistics
- Remanufacturing
- Human resources
- Security

(C) Basing a majority of Tenant's "senior managers" in Sacramento, CA. "Senior managers" shall mean Tenant's full-time managers in the United States with the title of "manager" or above.

(D) Providing office space for all (not just a majority) of Tenant's "senior executive officers" in Sacramento, CA, except for Tenant's senior executive officers responsible for sales. "Senior executive officers" shall mean Tenant's senior officers responsible for operations in the United States and holding the title of "executive vice president" or above.

(E) Making reasonable efforts to have press releases for world-wide announcements issued with a dateline of Sacramento, CA.

(iii) Executive Officer's Certificate. On January 31 of each year, Tenant shall deliver a certificate signed by an executive officer of Tenant, stating that Tenant has complied with the provisions of this Section 3(b) during the previous calendar year, or setting forth the specific facts relating to Tenant's failure to comply with said provisions.

(c) Prohibitions.

(i) Prohibited Actions. Tenant shall not do or permit any act, nor operate or permit the operation of any equipment or machinery on the Project and/or the Leased Premises, that could cause material damage to any part of the Project or the Leased Premises, except to the extent reasonably necessary for the installation of Trade Fixtures, equipment, machinery, or the construction of alterations as permitted under this Lease or as approved in writing in advance by Landlord.

(ii) Prohibited Installations; Containment of Waste. Tenant shall not install or attach anything on the Leased Premises in excess of the load limits (including, without limitation, structural and electrical load limits) established from time to time for the Leased Premises. Tenant shall contain and dispose of all fumes, or waste products generated by Tenant's use of the Leased Premises so as to avoid:

(A) unreasonable fire or health hazards,

(B) damage to the Project and/or the Leased Premises or any improvements located on the Project and/or the Leased Premises, or

(C) any violation of any Law.

(d) Exterior Alterations; Waste. Except as may be approved by Landlord pursuant to Section 13 hereof, Tenant shall not change the exterior of the Leased Buildings or install any equipment or machinery on or make any penetrations of the exterior or roof of the Leased Buildings. Tenant shall have the right to install satellite dishes on the roofs of the Leased Buildings subject to Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. Tenant shall not commit any waste in or around the Leased Premises and shall keep the Leased Premises in a neat, clean, attractive and orderly condition, free of any nuisances.

(e) Compliance with Laws. Tenant shall use the Leased Premises and the Common Area in compliance with all applicable laws, statutes, ordinances, rules, regulations, orders, recorded covenants and restrictions, and commercially reasonable requirements of any fire insurance underwriters or rating bureaus, now or later in effect.

(f) High-Pile Combustible Storage. Landlord shall permit "high-pile combustible storage" (as defined in the Uniform Fire Code, as amended from time to time) on the Leased Premises, subject to all Laws applicable to the Project, whether now in effect or hereafter enacted.

(g) Army Lease. Tenant shall use the Leased Premises and Common Area subject to and in compliance with the Army Lease (except for Sections 4, 5, 10, 12(a) and 15 thereof) and with any obligations or restrictions contained in any deed given to Landlord by the Army or otherwise imposed by the Army in connection with such deed (to the extent such obligations and restrictions are relevant to this Lease and reasonably approved by Tenant). Tenant shall not interfere with the reasonable access and use of the Ball Field Parcel. So long as the Expansion Parcels are not leased to Tenant, Tenant shall not interfere with reasonable the access and use of the Expansion Parcels.

#### Section 4. Lease Term.

(a) Initial Term. The initial term of this Lease shall commence on December 15, 1994 (the "Commencement Date"), and (i) with respect to the Office Premises, end on December 14, 2014, unless sooner terminated according to this Lease (the "Initial Office Term"), and (ii) with respect to the Warehouse Premises, end on December 14, 2049, unless sooner terminated according to this Lease (the "Warehouse Term").

(b) Extension Rights. Tenant shall have the option to extend the Term of this Lease, with respect to either of the parcels composing the Office Premises or both, four (4) times, the first three extensions for a period of ten (10) years each and the fourth extension for a period of five (5) years, (the "Extended Term(s)") following the Extension Dates (defined below) on all of the terms and conditions in this Lease, except that during such Extended Term(s), the monthly rent shall be set at ninety percent (90%) of the then Fair Market Rent for Comparable Space as of the beginning date of the subject Extended Term. Tenant may only exercise this option as to the parcel(s) Tenant is then leasing pursuant to this Lease. To exercise this option, Tenant must give Landlord written notice of exercise of the option (the "Extension Option Notice") at least twelve (12) months prior to the Extension Date(s). The "Extension Dates" are (i) December 14, 2014; (ii) December 14, 2024; (iii) December 14, 2034; and (iv) December 14, 2044. Notwithstanding the foregoing, if, at the time of giving the Extension Option Notice, Tenant has received notice from Landlord of a material Default under this Lease, which remains uncured, the Extension Option Notice shall be totally ineffective.

(c) Co-termination of Lease on Warehouse Premises. In the event Tenant fails to timely extend the Term of this Lease, as to either of the parcels composing the Office Premises or both, beyond the Initial Office Term or any Extended Term, Tenant may, at its sole option, without penalty, terminate this Lease as to the Warehouse Premises concurrently with the expiration of this Lease as to either of the parcels composing the Office Premises or both. Such termination may be effected only by written notice to Landlord given not less than twelve (12) months prior to such termination.

(d) Enterprise Zone Termination Option. In the event Tenant's "Enterprise Zone" designation is terminated prior to December 14, 2009, and is not replaced by an equivalent tax credit under a similar designated-zone program, Landlord may, at its option, use tax increment monies received from the redevelopment project area referred to in

Recital F hereof to indemnify Tenant against any losses actually incurred by Tenant due to such termination. If such designation is terminated and Landlord fails to indemnify Tenant against such losses within six (6) months following receipt of Tenant's statement(s) of such losses (which statement shall be reasonably approved by Landlord), Tenant shall have the option to terminate this Lease with respect to the entire Leased Premises (but not as to a portion) without penalty at any time after the termination of said designation, but in no event prior to December 14, 2004; provided, that Tenant shall have used its best efforts, and take any and all actions requested by Landlord, to obtain an extension of Tenant's Enterprise Zone designation. Such termination may be effected only by written notice to Landlord given not less than twelve (12) months prior to such termination.

(e) Non-conveyance Termination Option. In the event the Army does not convey substantially all of the Army Depot (other than the Expansion Parcels and the Ball Field Parcel) to Landlord on or before December 31, 1995, Tenant shall have the option to terminate this Lease with respect to the entire Leased Premises (but not as to a portion) without penalty at any time after December 31, 1995. Said termination may only be effected by written notice to Landlord given not less than twelve (12) months prior to such termination.

#### Section 5. Base Rent and Other Payments by Tenant.

(a) During the Initial Office Term and the Warehouse Term, Tenant shall pay to Landlord rental ("Base Rent") in the amount of One Dollar (\$1.00) per year payable on January 2nd of each year. Base Rent may be prepaid. During any Extended Term of this Lease (with respect to the Office Premises), Base Rent for the Office Premises shall be payable monthly on or before the first day of the month and shall be increased to ninety percent (90%) of the then prevailing Fair Market Rent for Comparable Space.

(b) Tenant may withhold "offset amounts" equal to reasonable expenditures made by Tenant for asbestos removal, upgrades for water pressure, seismic upgrades, lead-based paint removal, ground water contamination (except ground water contamination caused by Tenant) and radiation abatement; provided that (i) Tenant has provided to Landlord, prior to the date of withhold, copies of invoices for work actually performed or material delivered and such other information as Landlord may from time to time reasonably request, and (ii) Landlord has promptly and reasonably approved thereof. In connection with such approval, Landlord shall have the right to inspect the work which is the subject of such expenditures in order to determine that such expenditures are reasonable. As used in this subsection 5(b), the term "offset amounts" means amounts from all of the following sources:

- (i) Sublease payments payable to Landlord pursuant to Section 19(h);
- (ii) Purchase Option payments payable to Landlord pursuant to Section 8(b); and

(iii) Purchase price payments in excess of Five Million Dollars (\$5,000,000) payable to Landlord pursuant to Section 8(d)(i) which excess amount shall not exceed One Million Nine Hundred Thousand Dollars (\$1,900,000).

#### Section 6. Common Area and Other Operating Expenses.

(a) Responsibility for Provision of Common Area Services and Payment of Common Area Expenses.

(i) Tenant shall be responsible for the provision of all Common Area services set forth in Section 6(b).

(ii) The parties shall bear the Common Area Expenses incurred by Tenant in providing such services as hereinafter provided:

(A) Until the conveyance of substantially all of the Army Depot (other than the Expansion Parcels and the Ball Field Parcel) by the Army to the City, Tenant shall be responsible for payment of (1) a pro rata share of all Common Area Expenses except for landscape maintenance and capital expenditures, and (2) Tenant's Share of the cost and expense of capital expenditures. The said pro rata share shall be calculated on a building-by-building basis (provided, however, with respect to Building 150, that the pro rata share shall be based upon the square footage within Building 150 that is actually used and occupied by Tenant), as Tenant commences its use and occupancy of each such Occupiable Building for business activities of the kind specified in Section 3 (not merely for the purpose of engaging in construction activities to prepare for such use). Unlike the defined term "Tenant's Share," the numerator for the calculation of the pro rata share referred to in the preceding sentence shall be the square footage of the Occupiable Buildings (or portion of Building 150) so used and occupied by Tenant (rather than the square footage of all Occupiable Buildings located on the Leased Premises); and like the defined term "Tenant's Share," the denominator shall be the aggregate square footage of all Occupiable Buildings. Until the conveyance of substantially all of the Army Depot (other than the Expansion Parcels and the Ball Field Parcel) by the Army to the City, Landlord shall be responsible for payment of all Common Area Expenses attributable to the Leased Premises that are not made Tenant's responsibility by reason of its use and occupancy as provided in this Subsection (i).

(B) From and after the conveyance of substantially all of the Army Depot (other than the Expansion Parcels and the Ball Field Parcel) by the Army to the City, Tenant shall be responsible for payment of Tenant's Share (the defined term) of all Common Area Expenses including landscape maintenance.

(C) Tenant may collect a pro rata share of Common Area Expenses (after deducting the portion thereof for which Tenant is responsible) from other tenants of Occupiable Buildings leased to other tenants, or from Landlord, with respect to Occupiable Buildings not leased to other tenants, or from Landlord with respect to Occupiable Buildings leased to Tenant but as to which Tenant is not yet responsible for payment under Subsection (i) above. In the event any other tenant of Landlord occupying space in the Project defaults on its obligation to pay its pro rata share of Common Area Expenses to Tenant, Landlord shall, at Landlord's option, either (1) cause such tenant to cure such default within thirty (30) days after written notice of such default is given to Landlord by Tenant, and/or (2) terminate the lease of such defaulting tenant, and/or (3) pay the delinquent amount to Tenant.

(iii) Notwithstanding any other provision in this Lease to the contrary, Tenant shall not be responsible for the provision of any services, or for the payment of any pro rata or Tenant' Share of expenses, (1) for the Ball Field Parcel (except for the provision of security services), (2) for Expansion Parcel No. 3 until leased to Tenant, or (3) arising from or in any way connected with remediation or other compliance activities under any Environmental Law affecting any portion of the Common Area (except for activities in response to an event as to which Tenant is obligated to indemnify Landlord under Subsection 20(a)). Rather, Landlord shall be responsible for the provision of services, and for payment of all expenses, in connection with those matters described in clauses (1), (2) and (3) of this Subsection (iii), or shall cause the Army to be responsible for the provision of such services and the payment of such expenses.

(b) Definition of Common Area Expenses. Except as provided in Section 6(c), Common Area Expenses means all reasonable costs and expenses incurred in providing services for the benefit of all or any part of the Common Area including, without limitation, the following:

(i) all costs and expenses incurred for the following:

(A) the maintenance, repair, operation, and replacement of plumbing, electrical, or other equipment facilities, if any, for the Common Area;

(B) the premiums paid to maintain the casualty and liability and other commercially customary policies of insurance covering the Common Area;

(C) the provision of utilities to the Common Area, including, but not limited to, gas, electricity, garbage and trash removal, and water for irrigation;

(D) the maintenance of all landscaping in the Common Area, including, without limitation, pest and weed control, the installation and

maintenance of irrigation systems, the planting and maintenance of shrubs, trees, flowering plants, and ground cover;

(E) the compliance with all Laws affecting the Common Area, except to the extent compliance with such Laws is necessitated solely by the activities of Tenant, any other tenant of the Project or Landlord, or by the terms of this Lease is made the sole obligation of Tenant, any other tenant of the Project or Landlord;

(F) the operation, maintenance, repair, cleaning, painting, and resurfacing of the parking lots, roadways, sidewalks, walkways, driveways and striping included in the Common Area;

(G) the installation, repair, and maintenance of all light fixtures and signs located in the Common Area;

(H) the provision of security to the Project and Expansion Parcels 1 and 2, including, without limitation, twenty-four (24) hour perimeter gate security but excluding security to the interior of Buildings;

(I) the maintenance of all fences, and gates contained in the Common Area;

(J) the establishment and maintenance of directories of tenants in the Army Depot;

(K) the maintenance and repair of all fire prevention and detection systems in the Common Area, if any, including smoke detectors and sprinkler systems;

(L) taxes (including possessory interest taxes), if any, imposed on the Common Area;

(ii) the amount of any deductible paid by Landlord or Tenant in connection with an insured loss resulting from damage to the Common Area;

(iii) the amount of any uninsured loss resulting from damage to the Common Area;

(iv) capital expenditures amortized at market interest over their expected useful life;

(v) a commercially reasonable Common Area management fee; and

(vi) all additional costs and expenses incurred in connection with the operation, maintenance, repair, replacement, and protection of the Common Area that (A) would be considered a current expense according to generally accepted accounting principles, or (B) have been reasonably approved in writing by Landlord.

If any cost or expense benefits portions of both the Leased Premises and the Common Area, such cost or expense shall be equitably prorated between the Leased Premises and the Common Area.

(c) Exclusions from Common Area Expenses. Notwithstanding Section 6(b), Common Area Expenses shall not include costs and expenses incurred solely for the benefit of the Leased Premises or solely for the benefit of any other leased portion of the Project or any of the following:

- (i) depreciation;
- (ii) payments on any loans or ground leases affecting the Army Depot;
- (iii) leasing commissions; and
- (iv) the cost of tenant or building improvements installed exclusively for the benefit of Tenant or any other tenant.

(d) Possessory Interest Taxes. Tenant acknowledges that the Leased Premises or portions thereof may be subject to property taxes (including possessory interest taxes) and agrees that the payment of any such taxes shall be the sole responsibility of Tenant, except as otherwise provided in Subsection 7(m). Landlord makes no representations to Tenant as to the current amount of such taxes or the amount which will be assessed upon completion of any Alterations by Tenant. Tenant shall pay all such taxes when due, except as otherwise provided in Subsection 7(m).

(e) No Provision of Services by Landlord. Tenant acknowledges that Landlord shall have no obligation to provide any services, facilities, or improvements except as expressly required by this Lease, or as provided generally by Landlord as a provider of municipal services within the City. Tenant further acknowledges that Landlord shall have no obligation to provide any guard service or other security measures to the Leased Premises, the Leased Buildings, the Project or the Army Depot, and Tenant assumes all responsibility for the protection of Tenant, Tenant's agents, invitees, and customers, and the property of Tenant and of Tenant's agents, invitees, and customers from acts of third parties. Tenant shall contract with a reputable security company to provide 24-hour security to the Project, or shall hire its own security employees to provide such security. Nothing in this Lease shall prevent Landlord from providing security protection or other services for the Project in the event Landlord reasonably determines that the security or other services provided by Tenant are inadequate; provided, that Landlord shall first give Tenant written notice of such determination. Tenant shall have thirty (30) days following receipt of such written notice to cure any such inadequacies unless Landlord reasonably determines that

circumstances require the immediate provision of security services by Landlord. Tenant's obligation to pay its pro rata share (as calculated in Subsection 6(a)(i), below) or Tenant's Share for security and other services to the Project shall not cease notwithstanding provision of any such services by Landlord.

(f) Reimbursement of Landlord. In the event Landlord incurs or pays any Common Area Expenses, Tenant shall reimburse Landlord for Tenant's Share, subject to Subsection 6(a)(i), of the actual Common Area Expenses incurred or paid by Landlord within ten (10) days after receipt by Tenant of a reasonably detailed billing from Landlord, provided that Landlord shall not bill Tenant more frequently than once a month.

(g) Tenant's Operating Expenses. Tenant shall be solely responsible for the provision of all services and the payment of all operating expenses incurred solely for the benefit of the Leased Premises, including, without limitation, all utilities (including, without limitation, water, gas, storm drainage and electrical) and janitorial services serving the Leased Premises and capital and non-capital repair and maintenance of the Leased Premises (including the Leased Buildings); Tenant's Share of Common Area Expenses; any taxes imposed upon the Leased Premises (including, without limitation, possessory interest taxes) or Tenant's operations thereon, subject to the provisions of Subsections 6(d) and 7(l); and premiums for any Leased Premises insurance purchased by Tenant. Notwithstanding the foregoing, Landlord shall be responsible for the cost of utilities serving Occupiable Buildings on the Leased Premises as follows:

(i) Until the conveyance of substantially all of the Army Depot (other than the Expansion Parcels and the Ball Field Parcel) by the Army to the City, Tenant shall be responsible for payment of a pro rata share of such utilities, and Landlord shall be responsible for the balance of such utilities attributable to the remaining portions of the Leased Premises. The said pro rata share shall be calculated on a building-by-building basis (provided, however, with respect to Building 150, that the pro rata share shall be based upon the square footage within Building 150 that is actually used and occupied by Tenant), as Tenant commences its use and occupancy of each such Occupiable Building for business activities of the kind specified in Section 3 (not merely for the purpose of engaging in construction activities to prepare for such use). Unlike the defined term "Tenant's Share," the numerator for the calculation of the pro rata share referred to in the preceding sentence shall be the square footage of the Occupiable Buildings (or portion of Building 150) so used and occupied by Tenant (rather than the square footage of all Occupiable Buildings located on the Leased Premises); and like the defined term "Tenant's Share," the denominator shall be the aggregate square footage of all Occupiable Buildings. Until the conveyance of substantially all of the Army Depot (other than the Expansion Parcels and the Ball Field Parcel) by the Army to the City, Landlord shall be responsible for payment of all utilities attributable to the Leased Premises that are not made Tenant's responsibility by reason of its use and occupancy as provided in this Subsection (i).

(ii) From and after the conveyance of substantially all of the Army Depot (other than the Expansion Parcels and the Ball Field Parcel) by the Army to the City, Tenant shall be responsible for payment of all utilities serving Occupiable Buildings on the Leased Premises.

(iii) Notwithstanding any other provision in Subsections (i) and (ii) above to the contrary, Landlord shall not be responsible for any capital expenditures or for the cost of utility hookup or connection charges.

#### Section 7. Landlord's Covenants.

(a) Economic Development Assistance. Landlord shall use reasonable efforts to obtain Economic Development Administration Grants Assistance ("EDA") and/or federal grants and/or loans to make improvements to the exterior of the Leased Premises, including, without limitation, landscaping, Administration Building facade renovations, parking lot expansions and provision of ingress and egress to and from Florin-Perkins Road between Building 251 and 253. As used in this Subsection, "reasonable efforts" includes among other things that Landlord will contact potential sources for EDA, grants or loans and assist Tenant in determining Tenant's eligibility for such EDA, grants or loans. Landlord shall not be required to act as a guarantor or otherwise pledge any revenues or assets to facilitate such EDA, grants or loans.

(b) Foreign Trade Zone. Landlord shall use its best efforts to obtain from the Port of Sacramento (the "Port") a "Foreign Trade Zone" designation for all or a part of the Leased Premises and cause the portion of the Leased Premises so activated to be activated for the purpose of manufacturing within twelve (12) months following the Commencement Date. Tenant shall pay its own legal costs to prepare Tenant's application. Landlord shall pay, or cause the Port to pay, any other costs of designating the Project as a Foreign Trade Zone and fees to activate Tenant and the Leased Premises for purposes of manufacturing.

(c) Building Exteriors; Restricted Access. Landlord shall cause Landlord's other tenants in the Project to paint the exterior of their leased buildings to match the exterior of the Leased Buildings, shall physically restrict access between the Leased Premises and the rest of the Project, and shall physically restrict access between the Common Area and the rest of the Project to the extent reasonably requested by Tenant in light of its responsibility for the Common Area. Landlord shall make a reasonable effort to ensure that other occupants of the Army Depot paint the exterior of their leased buildings to match the exterior of the Leased Buildings.

(d) SMUD. Subsequent to the Army's conveyance of substantially all of the Army Depot (other than the Expansion Parcels and the Ball Field Parcel) to the Landlord and upon request by Tenant, Landlord shall execute such documents as SMUD reasonably requires to transfer ownership of the Army Depot's electrical distribution system together with the reasonably necessary utility easements to SMUD; provided, that such transfer will not unreasonably interfere with the delivery of reasonable amounts of electrical power to

the Leased Premises. Landlord shall assist Tenant in requesting the technical and financing assistance of the Sacramento Municipal Utility District ("SMUD") to substantially increase the electrical power capacity of the Leased Buildings and improve energy efficiency, where possible. Tenant shall receive SMUD rebates, if any, for the installation of energy-efficient improvements in the Leased Premises. Landlord shall also assist Tenant in obtaining SMUD's "most favored" rate structure. Charges for electricity service shall be billed directly to Tenant by SMUD in accordance with SMUD's rates, rules and regulations, as amended from time to time. In the event SMUD cannot bill Tenant directly, Landlord shall bill Tenant for its usage, with no Landlord "mark-up." If SMUD submeters the Leased Premises, Tenant shall bear the cost of such submetering, but Landlord shall assist Tenant in obtaining reimbursement of such cost from SMUD.

(e) Cafeteria Building Improvements/Concessionaire. Landlord shall use reasonable efforts to assist Tenant in negotiations with a cafeteria concessionaire, which concessionaire shall be selected by Tenant, subject to Landlord's reasonable approval, to provide financing for the expansion of the Cafeteria Building as well as food services. As used herein, "reasonable efforts" includes, among other things, that Landlord will contact potential concessionaires, including those concessionaires already used by Landlord, and assist Tenant in meetings and negotiations with such concessionaires. Landlord shall not be required to act as a guarantor or otherwise pledge any revenues or assets to facilitate such loans.

(f) Change of Mailing Address. Landlord shall use reasonable efforts to assist Tenant in changing the mailing address for the Leased Premises from a Fruitridge Road address to a Packard Bell Way address. As used in this Subsection, "reasonable efforts" includes, among other things, that Landlord will write letters and make telephone calls to appropriate postal officials requesting such change of address.

(g) Police Facility. Landlord shall use reasonable efforts to establish a City Police facility at the Project.

(h) Homebuyer's Package. Landlord shall, with the assistance of the Sacramento Area Commerce and Trade Organization (SACTO), assemble a homebuyer's package for Tenant's employees, which package shall include discounts from local builders, lenders, and carpet and appliance retailers.

(i) Zoning and Subdivision. Landlord has zoned the Army Depot to permit the uses set forth in Section 3 and has divided the Army Depot into the parcels described on Exhibit F, attached hereto and incorporated herein, so as to permit the sale by both public and private entities of any of these parcels. If City rezones the Leased Premises in a manner that denies Tenant the right to any such uses, Landlord shall indemnify Tenant for any losses caused thereby.

(j) Restrictions on Traffic. Landlord warrants that there are no current restrictions on the hours during which truck traffic is permitted, or the number of car or truck trips which may be made to or from the Project, along Fruitridge Road between the

Project and State Highway 99, along Power Inn Road between the Project and State Highway 50 and along Florin-Perkins Road between the Project and State Highway 50. In the event the City imposes such restrictions during the Term of this Lease, Landlord shall indemnify Tenant for any losses caused by such restrictions; provided, that this indemnity shall not apply to losses caused by restrictions which are imposed in order to comply with state or federal Laws.

(k) Off-Site Improvements. Except as provided in Section 7(m)(ii), or in connection with an application for a new land use entitlement which materially increases the building square footage on the Leased Premises, Tenant shall not be obligated to pay for any off-site (i.e., not within the Project) improvements required by the City, including street widening, enhancements of ingress/egress to the Project, or traffic signalization. In the event the City imposes any such obligation during the Term of this Lease, Landlord shall indemnify Tenant for such payments.

(l) On-Site Improvements. Current land use entitlements permit additional development on the Army Depot conditioned, among other things, upon a determination by Landlord that the total development of the Army Depot will not result in more than six thousand (6,000) full time equivalent jobs. Upon a determination by Landlord that it is legally entitled to do so, Landlord agrees to permit such development without additional environmental reviews, but subject to compliance with all other applicable Laws.

(m) Tax Protections. The following protections are given by Landlord to Tenant as an inducement to enter this Lease and shall not inure to the benefit of any third party, except for sublessees or Assignees of Tenant.

(i) Reassessment Indemnity. In the event Landlord sells, leases or encumbers any interest in the Leased Premises or any other part of the Project during the Initial Office Term, or the Warehouse Term, as applicable, Landlord shall pay any increase in property taxes (including possessory interest taxes) by reason of any reappraisal caused by any such transaction; provided that Landlord shall not be obligated to pay increased property taxes associated with a sale or lease to Tenant.

(ii) Special Assessments Indemnity. Landlord warrants that the Project is not in a Mello-Roos assessment or similar City-created district. Landlord shall indemnify Tenant against any future special assessments assessed, or special taxes levied, only on the Army Depot or portions thereof, unless Tenant has agreed to such assessments or taxes. This indemnity shall not apply to future special assessments assessed or special taxes levied if such assessments or taxes are also assessed or levied against property other than the Army Depot.

(iii) Indemnity For Certain Taxes. If the City imposes on Tenant any gross receipts, inventory, parking or other taxes normally levied by City, (except for business license taxes, utility users taxes, possessory interest taxes, and in connection with construction work by Tenant or its subtenants, major street construction taxes), Landlord shall indemnify Tenant against such taxes imposed on Tenant by the City

during the Term of this Lease. This indemnity shall not apply to fees which may be imposed by the City.

(n) Landlord Agreement. Upon request by Tenant from time to time, Landlord agrees to execute a "Landlord Agreement" in form and substance reasonably acceptable to Landlord and Tenant's lender(s). Such Landlord Agreement shall be in favor of Congress Financial Corporation (Western) or other lender, but shall exclude from the "personal property" referred to in such Landlord Agreement those certain items of personal property for which more than twenty percent (20%) of the purchase price has been financed by Landlord.

(o) No Survival. The agreements, warranties and covenants made by Landlord in this Section 7 shall terminate upon any expiration or termination of this Lease, whether due to Tenant's exercise of its Purchase Option or otherwise, except for Subsection (g) hereof, which shall survive the expiration or termination of this Lease until December 14, 2004.

#### Section 8. Option to Purchase Project.

Conditioned upon the Army's conveyance of the affected Purchase Parcel to Landlord, Tenant shall have the option to purchase (the "Purchase Option") all or part of the Project on the terms and conditions set forth in this Section; provided that on the date of any exercise of the option, (1) this Lease is in full force and effect; (2) Tenant has not received notice of a material Default under this Lease which remains uncured; and (3) Tenant has timely paid all the option payments set forth below. This Purchase Option shall only apply to the Purchase Parcels described on Exhibit F from and after their conveyance by the Army to the Landlord.

(a) No Purchase Option Without Lease. The Purchase Option granted to Tenant is part of, and not separate from, the terms and conditions of this Lease, and would not have been granted to Tenant apart from Tenant's entering into this Lease. Accordingly, the Purchase Option shall terminate on the earlier of (A) December 14, 2004, (B) the termination of the Lease by either party or (C) termination of the Purchase Option by Tenant.

(b) Option Payments.

(i) Except as provided otherwise in Section 5(b), Tenant shall pay to Landlord, as consideration for the Purchase Option, the sum of Fifty Thousand Dollars (\$50,000) on January 2nd of each year, beginning on January 2, 1996, and ending on January 1, 2004. Tenant shall pay all Purchase Option payments regardless of whether Tenant has purchased a portion (but not all) of the Project. All Purchase Option payments made by Tenant shall be credited, without interest,

toward the purchase price set forth below in the event Tenant exercises its Purchase Option hereunder. Tenant may terminate the Purchase Option at any time by giving Landlord written notice of such termination. Tenant shall not be required to make Option Payments which are due following the date said notice is received by Landlord.

(ii) In the event conveyance of a Purchase Parcel(s) fails to occur because of a breach of this Lease by Landlord, Landlord shall refund to Tenant a pro rata share of Option Payments made by Tenant and shall increase the amount of expenditures which may be offset pursuant to Subsection 5(b) by an amount equal to a pro rata share of Option Payments used for such offset; such proration shall be based on the square footage of the subject Purchase Parcel(s) as a percentage of the square footage of all Purchase Parcels.

(c) Purchase of Portion of Project. In the event Tenant desires to exercise its Purchase Option as to only part of the Project, Tenant must purchase one or more of the eighteen (18) parcels shown on Exhibit F, attached hereto and incorporated herein (the "Purchase Parcels"). Tenant may not exercise its Purchase Option as to a portion of a Purchase Parcel; except that, in the event the Army conveys only a portion of a Purchase Parcel to Landlord, Tenant may exercise its Purchase Option as to that portion of such Purchase Parcel which has then been conveyed to Landlord, and as to the remainder of such Purchase Parcel if and when it is subsequently conveyed to Landlord. Tenant's exercise of Purchase Option with respect to less than all of the Project shall not prevent Tenant from exercising its Purchase Option with respect to any remaining portion of the Project.

(d) Time and Manner of Exercise of Purchase Option. Tenant may exercise the Purchase Option only by delivering to Landlord on or before December 14, 2004, written notice of Tenant's election to purchase all or a portion of the Project under the following terms and conditions:

(i) Purchase Price. The purchase price shall be Seventy-five Cents (\$0.75) per gross square foot of land (including, without limitation, improved and unimproved land, Common Area, streets, sidewalks, parking spaces, parking strips and landscaping) of the Purchase Parcel. The approximate acreage of each parcel subject to the Purchase Option is set forth on Exhibit F. Tenant's down-payment shall be the greater of: (1) forty percent (40%) of the purchase price until such time as Tenant has purchased Purchase Parcels having a cumulative purchase price of at least Seven Million Dollars (\$7,000,000) and twenty percent (20%) of the purchase price thereafter; or (2) the amount of the Purchase Option payments paid by Tenant to Landlord to the extent such Purchase Option payments have not already been credited toward the purchase price of other portions of the Project. No deposit shall be required of Tenant.

(ii) Property Purchased "As-Is". Tenant shall purchase the Purchase Parcel "as-is". Landlord shall make no representations and give no warranties concerning the condition of the Purchase Parcel, nor shall Landlord indemnify Tenant against

any contamination by Hazardous Substances; provided, that Landlord shall provide Tenant with a Hazardous Substances indemnity substantially in the form of Subsection 20(b). Tenant has not relied on, and will not rely on, any implied warranties, guaranties, statements, representations, or other information regarding the Purchase Parcel, whether made by Landlord or any individual representing, or purporting to represent, Landlord. To the extent assignable, Landlord shall assign to Tenant any Hazardous Substance indemnity received by Landlord from the Army with respect to the Purchase Parcel.

(iii) Inspections by Tenant. Tenant shall have the right to make physical inspections of, and to disapprove the condition of the Purchase Parcel within thirty (30) days following Landlord's receipt of Tenant's notice of election (the "Election Date"). Tenant shall repair any damage caused by such inspections and shall restore the Purchase Parcel to its condition before Tenant's inspections. Tenant shall not allow any dangerous or hazardous condition to be created on the Purchase Parcel or to arise from Tenant's inspections of the Purchase Parcel. Tenant shall indemnify Landlord against any liabilities arising out of said inspections pursuant to Section 20 of this Lease. In the event Tenant disapproves the condition of the Purchase Parcel, (1) the agreement to purchase the Purchase Parcel shall terminate and neither Landlord nor Tenant shall have any further liability under said agreement except for Tenant's indemnity obligations set forth above, and (2) this Lease, including the Purchase Option, shall remain in full force and effect as to that Purchase Parcel as well as the rest of the then-existing Leased Premises.

(iv) Approval of Condition of Title. The purchase of the Purchase Parcel shall be consummated through an escrow established at Fidelity National Title Company or such other title company acceptable to both Tenant and Landlord. Landlord and Tenant shall cause said title company to issue a preliminary title report on the Purchase Parcel not later than ten (10) days following the Election Date. Tenant shall have the right to disapprove (by written notice to Landlord) any exception to title shown on said preliminary title report within fifteen (15) Business days after receipt thereof. If Tenant timely disapproves any exception to title, Landlord shall, within ten (10) days after Landlord's receipt of such disapproval notice(s), notify Tenant whether Landlord will remove the disapproved exceptions to title except that Landlord shall be obligated to remove delinquent taxes, assessments and monetary liens. If Landlord notifies Tenant that Landlord will remove the disapproved exceptions to title, Landlord shall do so on or before the close of escrow. If Landlord notifies Tenant that Landlord will not remove all of the disapproved exceptions to title, Tenant, by notifying Landlord within ten (10) days of Landlord's notice to Tenant, may elect to terminate the agreement to purchase the Purchase Parcel or to take the Purchase Parcel subject to any disapproved exceptions to title not removed by Landlord. If Landlord does not timely remove all disapproved exceptions to title, and if Tenant does not timely waive all such disapproved exceptions to title, (1) the agreement to purchase the Purchase Parcel shall terminate and neither Landlord nor Tenant shall have any further liability under said agreement except for Tenant's indemnity obligations set forth above, and (2) this

Lease, including the Purchase Option, shall remain in full force and effect as to that Purchase Parcel as well as the rest of the then-existing Leased Premises.

(v) Close of Escrow and Payment of Costs. Escrow shall close no later than sixty (60) days following the Election Date. The following items shall be prorated, as applicable, on the closing date: current rents received by Landlord from Tenant and other tenants; and Landlord's share, if any, of Common Area Expenses. Any security deposits received by Landlord from other tenants shall be credited to Tenant at close of escrow. Tenant shall pay all costs associated with such purchase, including, without limitation, title insurance premiums, transfer, sales, use and other taxes, assessments and charges arising from the transfer of the Purchase Parcel and all escrow fees and costs.

(vi) Financing. Tenant and Landlord shall use reasonable efforts to finance the purchase price with a conventional loan from a third-party lender. In the event Tenant and Landlord are unable to obtain reasonable conventional purchase financing from a conventional source, Landlord shall use its best efforts to finance the purchase price for a twenty (20) year term, at the Landlord's actual borrowing rate plus two percent (2%) and on such other terms and conditions as Landlord may reasonably require. Such loan shall be secured by a first deed of trust in the amount of such loan on the Purchase Parcel.

(vii) Deed Restrictions; Reciprocal Easement Agreement. Tenant and Landlord shall either enter into a reciprocal easement agreement, or place provisions in the deed, with respect to the Purchase Parcel which reciprocal easement agreement or deed provision shall be in form and substance reasonably approved by Landlord and Tenant so as to:

(A) require Tenant to continue to pay Common Area Expenses attributable to the Purchase Parcel;

(B) continue Tenant's indemnity regarding Hazardous Substances substantially in the form set forth in Subsection 20(a) and continue Landlord's indemnity regarding Hazardous Substances as to Tenant and its Affiliates substantially in the form set forth in Subsection 20(b);

(C) include such utility easements and ingress and egress easements as Landlord and Tenant reasonably deem appropriate; and

(D) continue the use restrictions set forth in Subsection 2(d)(ii).

### Section 9. Common Area.

(a) Definition. As used in this Lease, the term "Common Area" shall mean the areas described on the map attached hereto as Exhibit H, and incorporated herein; provided that any areas purchased by Tenant shall not be Common Area following conveyance to Tenant unless otherwise provided in the reciprocal easement agreement or deed provisions pursuant to Section 8(d)(vii).

(b) Control of Common Area. Tenant shall have control and be responsible for the management of the Common Area as provided in Section 6(b). Tenant shall have the right to adopt reasonable rules and regulations to govern the use of Common Area, subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Landlord shall have the right to enter the Common Area as set forth in Section 42.

### Section 10. Delivery of Possession.

(a) Condition of Leased Premises. Tenant acknowledges that it has inspected the Leased Premises, knows the condition thereof and understands that the Leased Premises are leased without any representations or warranties whatsoever and without any obligation on the part of Landlord to make any alterations, repairs or additions thereto, now or in the future, except as otherwise expressly set forth in this Lease. Tenant agrees to accept possession of the Leased Premises in its current condition, as-is, including all patent and latent defects and subject to all applicable laws, ordinances, and regulations governing and regulating the use of the Leased Premises, and any recorded or unrecorded covenants or restrictions, except as otherwise expressly set forth in this Lease.

(b) Access to Leased Premises; Occupancy of Buildings. Upon the Commencement Date, Tenant shall have access to the Leased Premises and the Common Area 24 hours per day, 365 days per year. Notwithstanding the transfer of possession of the Leased Premises to Tenant, Tenant may occupy any of the Leased Buildings only upon receipt of a temporary or final certificate of occupancy.

### Section 11. Hazardous Substances.

(a) Landlord's Warranty and Indemnity. Landlord warrants that (i) it has no knowledge of any Hazardous Substances on the Army Depot except as disclosed in the Base Closure and Realignment Act Cleanup Plan (the "BRAC Plan") dated March 1, 1994, and in the Environmental Baseline Survey for selected study areas (the "EBS") dated October 1994, and (ii) it has no knowledge, and the Army has advised Landlord that the Army has no knowledge, of any pending or threatened action or proceeding by any third person asserting "Losses" (as defined in Section 20(b) of this Lease) arising by reason of any death, bodily injury, personal injury, or property or economic damage resulting from or in any way connected with Hazardous Substances existing on the Army Depot as of the Commencement

Date. Tenant acknowledges that it understands that Landlord has made no investigation concerning the presence of Hazardous Substances on the Project. Landlord agrees to defend, indemnify and hold Tenant harmless from and against liability associated with Hazardous Substances now existing on the Leased Premises to the extent provided in Section 20(b) of this Lease.

(b) Tenant's Warranty and Indemnity. Tenant warrants that it has no knowledge of any Hazardous Substances on the Project except as disclosed in the BRAC Plan and in the EBS. Tenant agrees to defend, indemnify and hold Landlord harmless from and against liability associated with Hazardous Substances to the extent provided in Section 20(a) of this Lease.

(c) Compliance with Environmental Laws. Tenant agrees that its use of the Leased Premises shall comply with all applicable Environmental Laws. Tenant shall not be deemed to have breached this Subsection if (i) the failure to comply with the requirements of this Subsection resulted from good faith error or innocent omission, (ii) Tenant promptly commences and diligently pursues a cure of such breach, and (iii) such cure is ultimately completed within a reasonable time considering the circumstances and amount of work required.

(d) Remediation by Tenant. If the presence of Hazardous Substances on the Leased Premises violates any Environmental Law, Tenant shall promptly take all action necessary to investigate and remedy that violation (unless the Army is obligated to investigate and remedy such violation). Tenant shall be entitled to indemnity from Landlord or offset to the extent provided in Sections 5(b) and 20(b).

(e) Notification Obligations. Landlord and Tenant each agrees to promptly notify the other of any communication received from any governmental entity concerning, or any knowledge (however obtained) of, Hazardous Substances or the violation of Environmental Laws that relate to the Project.

(f) Restrictions on Use of Hazardous Substances. Tenant shall not use, handle, store, transport, generate, release, or dispose of any Hazardous Substances on, under, or about the Project, except that Tenant may use the following Hazardous Substances for which Tenant has all required permits and otherwise complies with all applicable requirements of Environmental Laws: (i) reasonable quantities of common chemicals such as adhesives, lubricants, and cleaning fluids in order to conduct business at the Leased Premises and (ii) other Hazardous Substances that are necessary for the operation of Tenant's business. Tenant shall, within ten (10) days after receipt of a written request from Landlord, disclose in writing all Hazardous Substances that are being used by Tenant on the Project, the nature of the use, and the manner of storage and disposal.

(g) Testing Wells. At any time and upon prior written notice to Tenant, Landlord may require testing wells to be drilled on the Army Depot and may require the ground water to be tested to detect the presence of Hazardous Substances by the use of any tests that are then customarily used for those purposes. Tenant shall have the right to observe

such testing and to receive split samples. Landlord shall supply Tenant with copies of the test results. The cost of these tests and of the installation, maintenance, repair, and replacement of the wells shall be paid by Tenant to the extent the tests disclose the existence of facts that give rise to liability of Tenant pursuant to this Section 11.

(h) Landlord's Hazardous Substances Disclosure. Tenant acknowledges receipt of a copy of (i) the Sacramento Army Depot Federal Facility Agreement ("FFA") made by and among The United States Environmental Protection Agency, Region IX, the State of California and the Army effective December 16, 1988, (ii) the BRAC Plan and (iii) the EBS. Tenant agrees that, should any conflict arise between the terms of this Lease and the FFA or BRAC Plan, as they presently exist or may be amended, the terms of the FFA or BRAC Plan shall control. Neither Landlord nor Tenant shall be liable to one another, or to any Assignees or sublessees, should the implementation of the FFA or BRAC Plan interfere with the use of the Leased Premises.

#### Section 12. Repairs and Maintenance.

(a) Maintenance and Repair of Common Area and Facilities. Subject to reimbursement pursuant to Section 6 and subject to the provisions of Section 11, Section 12(b) and Section 16, Tenant shall repair, maintain, and operate the Common Area so that they are kept in good working order and repair. If any equipment, or facilities (including, without limitation, water, sewage and drainage facilities) serve both the Leased Premises and other portions of the Army Depot, Tenant shall maintain, operate, repair and replace when necessary said equipment and facilities.

(b) Maintenance and Repair of Leased Premises. Subject to the provisions of Section 16, Tenant shall also clean and maintain in good order, condition, and repair all improvements located on the Leased Premises, including, without limitation, the following:

(i) all plumbing, water, sewage and drainage facilities in the Leased Premises, including but not limited to all plumbing fixtures, pipes, fittings, or other parts of the plumbing system in the Leased Premises;

(ii) all fixtures, interior and exterior walls, structural members, roofs, floors, carpets, draperies, window coverings, and ceilings in the Leased Premises;

(iii) all windows, doors, entrances, and plate glass in the Leased Premises;

(iv) all electrical facilities and all equipment in the Leased Premises, including all light fixtures, lamps, bulbs, tubes, fans, vents, exhaust equipment, and systems;

(v) all heating, air conditioning, and ventilation equipment that serves only the Leased Premises; and

(vi) any fire detection or extinguisher equipment in the Leased Premises.

(c) Maintenance and Repair. No repairs shall be made during the term of the Army Lease, unless such repairs and replacements have been approved as required in the Army Lease. All repairs and replacements required of Tenant shall be promptly made in accordance with the provisions of Section 13 of this Lease concerning Alterations to the Leased Premises. All repairs and replacements shall be made with new or reconditioned materials of like kind and quality as, or better than, the materials replaced. Tenant may engage contractors of Tenant's choice to perform the obligations required by this Section, and the necessity of any expenditure to perform those obligations shall be at the reasonable discretion of Tenant. Tenant expressly waives the benefits of any statute now or later in effect that would otherwise give Tenant the right to make repairs at Landlord's expense and deduct that cost from rent or any other amount owing to Landlord. Tenant specifically waives the provisions of California Civil Code Sections 1941 and 1942 with respect to Landlord's obligations for habitability of the premises and Tenant's right to make repairs and deduct the expenses of such repairs from rent.

### Section 13. Alterations.

(a) In General. Tenant shall not make any alterations, improvements, or additions or otherwise alter the Leased Premises or Common Area ("Alterations") during the term of the Army Lease, unless such Alterations have been approved as required in the Army Lease. Tenant shall not make any Alterations without Landlord's prior written approval (which shall not be unreasonably conditioned, delayed or withheld); provided, however, that Tenant shall be entitled, without Landlord's prior approval, to make Alterations (i) that do not have a material adverse affect on the structural integrity, the exterior sections, or watertight nature of any Leased Building, and (ii) the reasonably estimated cost of which does not exceed Seventy-Five Thousand Dollars (\$75,000). Landlord shall use its best efforts to approve or disapprove such Alterations and such plans and specifications at the earliest possible date, and in no event later than ten (10) days following receipt of a request for such approval. If Landlord does not either approve or disapprove such requests within ten (10) days following Landlord's receipt of such request, Landlord shall be deemed to have approved such request; provided, however, that Landlord's approval, in its capacity as a landlord under this Lease, shall not affect Tenant's obligation to obtain any permits required by law, including, without limitation, building permits. All Alterations shall be constructed by a licensed contractor in accordance with all Laws using new or reconditioned materials of good quality. If Landlord's approval for any Alterations is required, such Alterations shall be made substantially in compliance with plans and specifications approved by a licensed contractor and by Landlord. Such approval shall not be unreasonably withheld, conditioned or delayed.

(b) Initial Alterations. Subject to Tenant's obtaining appropriate permits, Landlord hereby approves in concept the plans for the Alterations which Tenant has disclosed to Landlord.

(c) Conditions Precedent to Commencement of Construction. Tenant shall not commence construction of any Alterations until:

(i) all required governmental approvals and permits have been obtained;

(ii) all requirements regarding insurance imposed by this Lease (including, without limitation, the course of construction insurance required by Section 15(b)) have been satisfied; and

(iii) Unless waived by Landlord, Tenant has given Landlord at least three (3) days' prior written notice of Tenant's intention to commence construction, during which period Landlord may post on the Leased Premises a notice of nonresponsibility.

(d) No Mechanic's Liens. Tenant shall pay, when due, all claims for labor or materials furnished in connection with such Alterations that are or may become mechanics' or materialmen's liens against the Leased Premises or the Project or any interest in them. Tenant shall have the right to, in good faith, contest the validity of any lien, claim, or demand; provided that Tenant shall, at Tenant's sole expense and in accordance with Section 20 hereof, indemnify, defend and hold Landlord harmless from and against such lien, claim, or demand, and; upon the request of Landlord, Tenant shall furnish to Landlord a surety bond in an amount equal to the contested lien, claim, or demand indemnifying Landlord against liability and holding the Leased Premises, the Leased Buildings, and the Project free from the effect of the lien, claim, or demand.

(e) Title to Fixtures. All fixtures other than Trade Fixtures shall be and remain the property of Tenant during the Term of this Lease but shall not be removed from the Leased Premises. At the expiration or sooner termination of the Term of this Lease, all fixtures shall become the property of Landlord, and Landlord shall have no obligation to reimburse Tenant for any portion of the value or cost; provided that all Trade Fixtures shall remain the property of Tenant.

(f) Alterations Required By Law. Except for those Alterations which Landlord or the Army is required to make, Tenant shall make any alteration, addition, or change to the Leased Premises and/or the Common Area that is required by any Law, subject to Landlord's prior written approval, if required by this Section 13. Such approval shall not be unreasonably withheld, conditioned or delayed.

(g) Initial Structure Demolition. Subject to obtaining necessary permits and all approvals required by the Army Lease, Tenant shall have the right to demolish (i) Buildings 180 and 181, at Tenant's sole cost, after said buildings have been vacated and (ii) other buildings, at its sole cost, upon receipt of Landlord's written approval which shall not be unreasonably withheld, conditioned, or delayed.

#### Section 14. Personal Property and Trade Fixtures.

(a) Lease of Existing Personal Property. Any personal property remaining on the Leased Premises fifteen (15) days following the Commencement Date shall be leased to Tenant at no charge. Such personal property shall include, without limitation, furniture currently in the Administration Building and forklifts. Tenant shall not remove any such personal property during the term of the Army Lease. Tenant shall (i) keep all such personal property in good repair and working order or in its condition as of the Commencement Date, reasonable wear and tear excepted; (ii) use such personal property in a careful and proper manner; and (iii) not permit any such personal property to be operated or used in violation of any Law relating to the possession, use or maintenance of such personal property. Landlord makes no warranty, express or implied, as to any matter whatsoever, including the condition of said personal property, its merchantability or its fitness for any particular purpose, and Landlord leases such equipment to tenant "as-is." Tenant assumes all risk and liability for the loss of, or damage to, said personal property, for the death of, or injury to, any person or property, and for all other risks and liabilities arising from, or in any way connected with, the use, operation, condition, possession or storage of said personal property. Tenant agrees to indemnify, defend and hold Landlord harmless for any such risk or liability as provided in Section 20 hereof. Tenant's lease of such personal property shall not apply to personal property stored by Landlord in Buildings which are not located on the Leased Premises or in Building 248, including, without limitation, bay windows, CAD/CAM computer systems, and other small items stored there prior to the Commencement Date. Tenant may elect not to lease all or any portion of such property at any time within one (1) year after conveyance of substantially all of the Army Depot (other than the Expansion Parcels and the Ball Field Parcel) to Landlord by giving Landlord written notice listing any such personal property which Tenant desires to not lease. Within fifteen (15) days following receipt of said written notice, Landlord shall remove the listed personal property at Landlord's sole cost. Nothing shall be required of Army with respect to this Subsection 14(a).

(b) Retrieval System. Notwithstanding the foregoing, Tenant may elect, at any time during the one (1) year period following the Commencement Date, to either lease or not lease the retrieval system located in Building 248 (the "retrieval system"). Said election shall be made by giving Landlord written notice within said one (1) year period. In the event Tenant fails to give such notice, Tenant shall be deemed to have elected to not lease the retrieval system. In the event Tenant timely elects to not lease the retrieval system, (x) Landlord shall remove the retrieval system within the six (6) month period following the date of election; and (y) Tenant shall pay to Landlord the "Realized Salvage Value" of that portion of the property located on the Leased Premises on the Commencement Date which Tenant, does not intend to use on the Project and which Landlord does not designate as unsalvageable property (the "Salvage Property"). As used in this Subsection, the term "Realized Salvage Value" means all consideration realized by Tenant, net of sale or salvage costs, on account of Salvage Property, including, without limitation, reductions in the amounts paid under demolition and/or property removal contracts due to any rights given to the contractor to salvage the removed property. Unless and until Tenant elects to lease the retrieval system, (1) Landlord shall own the Salvage Property; and (2) Tenant shall, if directed to do so by Landlord, (i) segregate and store all Salvage Property at locations on

the Leased Premises mutually approved by Landlord and Tenant; and/or (ii) sell the Salvage Property, in the manner reasonably directed by Landlord. Any Realized Salvage Value received by Tenant shall be paid to Landlord on such date as Tenant elects to not lease the retrieval system or, if received later, upon receipt. In the event Landlord receives Realized Salvage Value in excess of Landlord's cost of removing the retrieval system, Landlord shall pay such excess to Tenant.

(c) Tenant's Trade Fixtures. Tenant shall have the right, at any time and from time to time during the Term of this Lease, at Tenant's sole cost and expense, to install and affix in, to, or on the Leased Premises items for use in Tenant's trade or business that Tenant, in Tenant's sole discretion, deems advisable (collectively, "Trade Fixtures"). Trade Fixtures or any other equipment installed in the Leased Premises by Tenant shall remain the property of Tenant and may be removed at the expiration of the Term of this Lease, provided that any material damage to the Leased Premises caused by the removal of Trade Fixtures or equipment shall be repaired by Tenant, and further provided that Landlord shall have the right to keep any Trade Fixtures or equipment that Tenant otherwise elects to abandon.

(d) Failure to Remove Trade Fixtures Upon Expiration or Termination of Lease. Any Trade Fixtures or other personal property that are not removed from the Leased Premises by Tenant within thirty (30) days after the Termination Date shall be deemed abandoned by Tenant and shall automatically become the property of Landlord as the owner of the real property to which they are affixed. Tenant shall reimburse Landlord for Landlord's actual cost, if any, in removing such Trade Fixtures and other personal property.

#### Section 15. Insurance.

(a) Tenant's General Insurance Requirements. Tenant shall, at Tenant's expense, obtain and keep in force during the Term of this Lease, either under a separate policy or under a combined policy insuring other property owned by Tenant (with appropriate limits as reasonably approved by Landlord):

(i) Commercial general liability insurance, including property damage, against liability for bodily injury, personal injury, death, and damage to property occurring on the Leased Premises with combined single limit coverage of at least One Million Dollars (\$1,000,000) per occurrence and a general aggregate combined single limit of bodily injury and property damage liability of at least One Million Dollars (\$1,000,000); that policy shall include contractual liability, insuring Tenant's performance of indemnification obligations contained in this Lease; and

(ii) Fire and all risk property damage insurance, including earthquake coverage, insuring the Leased Premises and any Alterations thereto, and all of Tenant's personal property located on the Leased Premises for full replacement cost. The fire and all risk property damage insurance shall provide that: (x) as long as Tenant owes to Landlord any obligation for the payment of money under any written

agreement between Tenant and Landlord other than this Lease, any insurance proceeds in excess of Five Thousand Dollars (\$5,000) resulting from any loss shall be payable jointly to Landlord and Tenant (as a trust fund), or (y) in all other cases, any insurance proceeds shall be payable to Tenant for the following purposes:

(A) For the reconstruction, repair or replacement of the damaged or destroyed portions of the Leased Premises and damaged or destroyed portions of Tenant's personal property, in kind. Any excess remaining after completion of said work shall be retained by Tenant to the extent necessary to reimburse Tenant for additional expenses actually incurred in the conduct of its business and for loss of income actually suffered by Tenant by reason of such damage or destruction; and any excess insurance proceeds remaining thereafter shall be paid to Landlord as reimbursement for any loss in rent or other income pursuant to this Lease and to reduce Tenant's indebtedness, if any, to Landlord. Any excess insurance proceeds remaining after full payment of said indebtedness shall be paid to Tenant; or

(B) In the event that more than twenty-five percent (25%) of the Office Premises are destroyed during the last five (5) years of the Initial Office Term, this Lease shall terminate as to the Office Premises and the Office Premises shall not be reconstructed, repaired or replaced, unless Landlord and Tenant agree otherwise in writing. If this Lease is terminated with respect to the Office Premises pursuant to this Subsection 15(a)(ii)(B), the insurance proceeds shall be distributed as provided in Subsection 15(a)(ii)(D), below; or

(C) In the event that more than twenty-five percent (25%) of the Warehouse Premises are destroyed during the last five (5) years of the Initial Warehouse Term, this Lease shall terminate as to the Warehouse Premises and the Warehouse Premises shall not be reconstructed, repaired or replaced, unless Landlord and Tenant agree otherwise in writing. If this Lease is terminated with respect to the Warehouse Premises pursuant to this Subsection 15(a)(ii)(C), the insurance proceeds shall be distributed as provided in Subsection 15(a)(ii)(D), below; or

(D) In the event that this Lease is terminated pursuant to Subsections 15(a)(ii)(B) or (C), above, and said Office Premises and/or Warehouse Premises are not reconstructed, repaired, or replaced, the insurance proceeds shall be retained by Tenant to the extent necessary to (1) repair or replace any damaged or destroyed portions of Tenant's personal property, and (2) reimburse Tenant for additional expenses actually incurred in the conduct of its business and for loss of income actually suffered by Tenant by reason of such damage or destruction; and any excess insurance proceeds remaining thereafter shall be paid to Landlord to the extent necessary to (x) demolish the damaged or destroyed Building(s) and to clear the site, and (y) reimburse Landlord for any loss in rent or other income

pursuant to this Lease and (z) to reduce Tenant's indebtedness, if any, to Landlord; any excess insurance proceeds remaining after full payment of said indebtedness shall be paid to Tenant; and

(iii) Worker's Compensation coverage of not less than the statutory limits.

(b) Tenant's Insurance Requirements During Construction. During any period in which Tenant is making repairs, replacements or Alterations to the Leased Premises or the Common Area, Tenant shall, in addition to maintaining the insurance coverage set forth in Subsection 15(a), above, purchase and maintain, and shall require its contractors and subcontractors to purchase and maintain, course of construction insurance coverage of not less than the amount of the construction contract.

(c) Adjustments in Coverage Amount. The minimum amounts of required insurance coverage, as set forth in Subsections (a) and (e) of this Section 15, shall be adjusted by Landlord on January 1, 2000, and every fifth year thereafter, to such amounts as are usual and customary coverage amounts prevalent in the industry.

(d) Requirements of Tenant's Insurance. Each policy of insurance required to be carried by Tenant pursuant to Subsections 15(a) and (b):

(i) shall name Landlord and any other parties in interest that Landlord reasonably designates as additional insureds (with respect to the commercial general liability insurance referred to in Subsection 15(a)(i)), or as loss payees (with respect to other insurance on the Leased Premises), as the case may be;

(ii) shall be primary insurance that provides that the insurer shall be liable for the full amount of the loss without the right of contribution from any other insurance coverage of Landlord;

(iii) shall be in a form reasonably satisfactory to Landlord;

(iv) shall be carried with companies rated A-vii or better by the A.M. Best Company or otherwise reasonably acceptable to Landlord;

(v) shall provide that the policy shall not be subject to cancellation, lapse, or change, except after at least thirty (30) days' prior written notice to Landlord; and

(vi) shall not have a deductible in excess of any amount reasonably approved by Landlord; Landlord shall approve of deductibles for each policy of insurance required to be carried by Tenant in amounts not less than the deductibles to which Landlord is entitled for corresponding policies of insurance required to be carried by Landlord under this Lease.

A copy of each policy evidencing the insurance required to be carried by Tenant pursuant to Subsections 15(a) and (b) shall be delivered to Landlord prior to the Commencement

Date. Upon renewal of each such policy, Tenant shall deliver to Landlord a certificate of insurance evidencing each such policy not less than thirty (30) days prior to the expiration of the term of the coverage and a copy of each such policy within ninety (90) days after renewal.

(e) Landlord's Common Area Insurance.

(i) Landlord shall maintain, subject to reimbursement pursuant to Section 6, a policy of fire and all risk property damage insurance, including earthquake coverage, insuring Landlord against physical damage to the Common Areas, with coverage of not less than the full replacement cost. Landlord may insure the Common Areas separately, or may insure the Common Areas with other property owned by Landlord that Landlord elects to insure together under the same policy. Any fire and property damage insurance:

(A) may be endorsed to cover loss caused by any additional perils against which Landlord may elect to insure, including floods, and to provide any additional coverage Landlord reasonably requires, and

(B) shall contain reasonable deductibles, which in the case of earthquake and flood insurance, may be up to ten percent (10%) of the replacement value of the property insured or any higher amount that is then commercially reasonable. Landlord shall not be required to insure any Alterations constructed by Tenant.

(ii) Landlord shall maintain, subject to reimbursement pursuant to Section 6, commercial general liability insurance, including property damage, against liability for bodily injury, personal injury, death, and damage to property occurring on the Common Areas with combined single limit coverage of at least One Million Dollars (\$1,000,000) per occurrence and a general aggregate combined single limit of bodily injury and property damage liability of at least One Million Dollars (\$1,000,000); that policy shall include contractual liability, insuring Landlord's performance of indemnification obligations contained in this Lease.

(iii) Each policy of insurance required to be carried by Landlord pursuant to this Subsection 15(e):

(A) shall name Tenant and any other parties in interest that Tenant reasonably designates as additional insureds (with respect to the commercial general liability insurance referred to in Subsection 15(e)(i)), or as loss payees (with respect to other insurance on the Common Area), as the case may be;

(B) shall be primary insurance that provides that the insurer shall be liable for the full amount of the loss without the right of contribution from any other insurance coverage of Tenant;

(C) shall be in a form reasonably satisfactory to Tenant; and

(D) shall provide that the policy shall not be subject to cancellation, lapse, or change, except after at least thirty (30) days' prior written notice to Tenant.

(f) Waiver of Subrogation Rights. Tenant and Landlord each waive all rights of recovery against the other and the other's agents on account of loss or damage occasioned to the property of such waiving party to the extent only that such loss or damage is required to be insured against under any "all risk" property insurance policy required by this Lease. Prior to obtaining the required policies of insurance, Tenant and Landlord shall notify their respective insurance carriers that the foregoing waiver of subrogation is in this Lease.

(g) Combining Insurance Obligations. In the event the parties mutually determine that cost savings can be achieved by causing the Common Area to be covered under the policies which Tenant is required by this Lease to maintain, Tenant shall cause the Common Area to be added to its policies. Any increased cost to Tenant by reason of such addition to its policies shall be a Common Area Expense under Section 6(b) hereof. Landlord shall not be required to maintain the insurance set forth in Section 15(e) hereof during any period in which the Common Area is covered under Tenant's policies.

#### Section 16. Damage and Destruction.

(a) No Termination of Lease; Reconstruction. Except as specifically provided in Subsections 15(a)(ii)(B) and (C) of this Lease, no loss or damage by casualty resulting in either partial or total destruction of the Project, the Leased Premises or any Leased Building, shall operate to terminate this Lease or to relieve or discharge Tenant from its obligations under this Lease or any other obligations owed by Tenant to Landlord. The term "casualty" as used herein shall include, without limitation, loss or damage, whether or not insured, resulting from fire, earthquake, vandalism, causes unknown, uprisings and acts of God and the common enemy. In the event of a casualty, Tenant shall, with due diligence, restore the Leased Premises to a good and tenantable condition and fit for use by Tenant or to a safe and clean condition, in accordance with this Lease, subject to provisions of Subsections 15(a)(ii)(B) and (C) hereof.

(b) Nonresponsibility of Landlord. Except to the extent caused by the negligence or willful misconduct or violation of this Lease by Landlord, its agents, employees or contractors, Landlord shall not be responsible for any loss, damage, or destruction to the Leased Premises or any Leased Building, or to fixtures, inventory, or other Tenant-owned improvements or property.

#### Section 17. Condemnation.

If any part of the Leased Premises is condemned or otherwise taken under the power of eminent domain or conveyed in lieu of condemnation, and the condemnation or taking materially and adversely affects Tenant's occupancy of the Leased Premises, both parties shall, at each party's option, have the right to terminate this Lease by giving written notice of termination to the other party within six (6) months following the date of such taking. Any award that may be paid in connection with any condemnation or taking shall be divided between Landlord and Tenant according to their respective interests under this Lease (including Tenant's interest as holder of the Purchase Option) provided, that the award received by Tenant shall be applied to reduce any indebtedness of Tenant to Landlord. If a part of the Leased Premises is condemned or taken, and neither party elects to terminate this Lease, but the Leased Premises have been damaged as a consequence, Landlord shall not be required to repair or restore any damage to the Leased Premises and no indebtedness of Tenant to Landlord shall be reduced, except to the extent Landlord has received any award from the condemnor. If the Leased Premises are temporarily condemned or taken, this Lease shall be unaffected, and Tenant shall continue to pay all sums payable under this Lease and under any other obligation of Tenant to Landlord; provided, however, that any indebtedness of Tenant to Landlord shall be reduced by the amount of any award paid to Landlord by the condemnor.

#### Section 18. Utilities.

Tenant shall promptly pay, as they become due, all charges for water, storm drainage, gas, electricity, telephone, sewer service, waste pick-up, and any other utilities or services furnished directly to or used by Tenant on or about the Leased Premises, including, but not limited to, any connection or hook-up fees and any penalties for discontinued or interrupted service. If any utility service is not separately metered to the Leased Premises, Tenant shall pay Tenant's Share of the cost of that utility service with all others served; provided, however, that if Landlord reasonably determines that Tenant is using a disproportionate amount of any utility service not separately metered, Landlord may periodically charge Tenant, as additional rent, a sum equal to Landlord's reasonable estimate of the cost of Tenant's excess use of the utility service, or Landlord may install a separate meter, at Tenant's expense, to measure the utility service supplied to the Leased Premises.

#### Section 19. Assignment and Subletting.

(a) No Assignments or Subleases Generally. Except as provided in Subsection 19(b) or in Section 56, Tenant shall not do any of the following voluntarily, involuntarily, or by operation of law, without the prior written consent of Landlord which shall not be unreasonably withheld, conditioned or delayed:

- (i) sublet all or any part of the Leased Premises or allow it to be sublet, occupied, or used by any person or entity other than Tenant;
- (ii) assign Tenant's interest in this Lease or any portion thereof; or
- (iii) amend or modify an assignment, sublease, or other transfer that has been previously approved by Landlord.

Tenant shall deliver to Landlord any and all documentation reasonably requested by Landlord in connection with Landlord's approval of any of the above actions. Landlord shall use its best efforts to either approve or disapprove any such action at the earliest possible date, and in no event later than ten (10) Business Days following receipt of all such information. In the event Landlord fails to approve or disapprove any such action within said ten (10) Business Day period, such action shall be deemed approved.

As used in this Lease, the term "Assignment" means any assignment of Tenant's interest in, or encumbrance of, all or a portion of the Lease or of the Leased Premises. Any third party, including an Affiliate or a Mortgagee, succeeding to all or a portion of Tenant's interest under this Lease or the Leased Premises or proposed to succeed to all or a portion of Tenant's interest under this Lease or the Leased Premises shall be referred to as an "Assignee."

(b) Permissible Assignments and Subleases. Notwithstanding Subsection 19(a), Tenant may assign or sublease all or part of Tenant's interest under this Lease, without Landlord's prior consent, to any Affiliate (as defined below). An "Affiliate" means any person or entity that controls, is controlled by, or is under common control or ownership with Tenant, or any person or entity who purchases or succeeds to all or substantially all of the assets of Tenant as a going concern of the business that is being conducted on the Leased Premises, or any entity which results from the merger or consolidation of any entity with Tenant. No Assignment or sublease pursuant to the terms of this Subsection 19(b) shall in any way affect the liability of Tenant under the terms of this Lease or under any other obligation owed by Tenant to Landlord and Tenant shall continue to be obligated thereunder as though such Assignment or sublease had not occurred.

(c) Notice Requirements. At least thirty (30) days before a proposed sublease or Assignment is to become effective other than an Assignment or sublease to an Affiliate or a Mortgagee, Tenant shall give Landlord written notice of the proposed terms of the sublease or Assignment and request Landlord's approval (if such approval is required), which notice shall include the following:

- (i) the name and legal composition of the sublessee or Assignee;
- (ii) a current financial statement of the sublessee or Assignee prepared in accordance with generally accepted accounting principles;

(iii) the nature of the sublessee's or Assignee's business to be carried on in the Leased Premises;

(iv) a statement of all consideration to be given on account of the sublease or Assignment; and

(v) any other information that Landlord reasonably requests.

(d) Landlord's Consent. Landlord's consent to a requested sublease or Assignment shall not be unreasonably withheld, conditioned or delayed; provided, that Landlord shall not be deemed to be unreasonable if, among other reasons, it withholds consent to (i) any sublease or Assignment which Landlord reasonably believes would result in a decrease in the number of persons employed at the Leased Premises to less than one thousand (1000) full-time equivalent jobs during 1995, and less than fifteen hundred (1500) full-time equivalent jobs during the remaining Term of the Lease, or (ii) any sublease or Assignment to a sublessee or Assignee whose business operations may result in an increased environmental risk to the Project, or (iii) any sublease or Assignment to a sublessee or Assignee whose business operations may result in a materially adverse economic impact on the Sacramento region. In this regard, Tenant acknowledges that (a) The terms and conditions in this Lease were offered solely to Tenant as an inducement to lease the Leased Premises, to conduct an environmentally safe manufacturing operation creating not less than fifteen hundred (1500) full-time equivalent jobs and to relocate Tenant's Corporate Headquarters in the City of Sacramento, (b) Landlord would not necessarily lease the Leased Premises to another tenant on such favorable terms and conditions, (c) Tenant acknowledges that the Lease terms and conditions are for Tenant's benefit only so long as Tenant operates the business allowed by this Lease, and that Tenant is not entering into this Lease for any other purpose, such as the recognition of a leasehold value that it could later sell. Except with respect to an Assignment or sublease to an Affiliate or to a Mortgagee, it is understood and agreed that any Net Profit (as defined in Subsection (i), below), upon the early termination of Tenant's occupancy of the Leased Premises, shall revert to Landlord, in the manner and to the extent specified in Subsections (h) and (i) below, as a condition of Assignment or subletting. But for the previously stated reasons, Landlord would not enter into this Lease. Landlord shall not be in default under this Lease for any failure to consent to a sublease or Assignment where Landlord, in good faith, believes it is not required to give such consent.

(e) Effect of Consent. Landlord's consent to any one sublease or Assignment shall not constitute a waiver of the provisions of this Section 19 as to any subsequent sublease or Assignment or a consent to any subsequent sublease or Assignment. No sublease or Assignment, even with the consent of Landlord, shall relieve Tenant of the obligation to pay the rent and to perform all of the other obligations to be performed by Tenant under this Lease or any other obligation of Tenant to Landlord. The acceptance of rent by Landlord from any person shall not be deemed to be a waiver by Landlord of any provision of this Lease, nor to be a consent to any sublease or Assignment.

(f) Conditions Precedent to Effectiveness of Assignments and Subleases. No Assignment or sublease shall be effective unless and until Tenant has delivered to Landlord an executed counterpart of the document evidencing the Assignment or sublease that:

(i) acknowledges that said Assignment or sublease is subject to all of the terms and conditions of this Lease;

(ii) is otherwise in form and substance reasonably satisfactory to Landlord; and

(iii) contains the same terms and conditions as stated in Tenant's notice given to Landlord pursuant to Subsection 19(c); provided, however, that the requirements of this Subsection (iii) shall not be applicable to an Assignment or sublease to an Affiliate or a Mortgagee.

(g) No Charge for Landlord's Consent. Landlord shall not impose any charge as a condition to obtaining Landlord's consent to any sublease or Assignment.

(h) Payment of Sublease Profits; Limitations on Sublease Square Footage. In the event Tenant subleases any portion of the Leased Premises, Tenant shall pay to Landlord on the first day of each month one hundred percent (100%) of Tenant's Net Profits (defined below) from such sublease(s) while any obligations owed by Tenant to Landlord under any written agreement between Landlord and Tenant entered into within sixty (60) days after the Commencement Date (other than Tenant's obligations under this Lease) are outstanding. Such Net Profits shall be applied to reduce the amount of any such obligations. When all such obligations have been paid in full, Tenant shall pay to Landlord fifty percent (50%) of Tenant's Net Profits from such sublease(s). The fifty percent (50%) of Net Profits retained by Tenant shall be applied to the maintenance or improvement of the Leased Premises and/or the Project.

(i) Net Profits Defined. With respect to any sublease or Assignment, the term "Net Profits" means the amount of sublease rents (net of leasing costs including but not limited to free rent, commissions, tenant improvement allowances, and cost to prepare space for subleasing) and other consideration as and when actually received by Tenant or an Affiliate on account of the use of the Leased Premises, less the rent paid to Landlord for such subleased space, and also less any "offset amounts" to which Tenant is entitled under Subsection 5(b).

(j) Assignment or Sublease Without Consent is Void; No Assignment or Sublease During Event of Default. Except as permitted by Subsection 19(b) or Section 56, any Assignment, subletting, occupancy, or use without the prior written consent of Landlord, shall be void. Unless Tenant believes in good faith that any such Assignment or subletting is permitted by Subsection 19(b) or Section 56, any such Assignment or subletting, occupancy or use shall constitute an Event of Default under this Lease.

(k) Landlord's Remedies. Subject to the provisions of Section 56, if an Event of Default occurs and is continuing, Landlord may proceed directly against Tenant, any

Assignee, or any other party responsible for the performance of this Lease, without first exhausting Landlord's remedies against any other party responsible to Landlord.

(l) Attornment. (i) At Tenant's request, Landlord shall enter into an attornment agreement with any subtenant, the terms and conditions of which shall be mutually satisfactory to the parties thereto in their respective reasonable judgment. (ii) Upon termination of this Lease, Landlord may require any subtenant to attorn to Landlord, in which event Landlord shall undertake the unaccrued obligations of Tenant under any sublease, provided, however, that Landlord shall not be liable to reimburse the subtenant for any amounts paid by the subtenant to Tenant (except amounts transferred to Landlord by Tenant) or for any defaults under the sublease other than defaults by Landlord.

(m) Assignment and Sublease Restrictions Binding on Assignees and Sublessees. Every provision of this Section 19 shall be binding on any Assignee or sublessee as if that Assignee or sublessee were the Tenant under this Lease.

(n) Consent Not Estoppel or Waiver. Landlord's consent to any sublease or Assignment shall not constitute an acknowledgment that no Default exists under this Lease, nor shall consent be deemed a waiver of any existing Default.

#### Section 20. Indemnity.

(a) Tenant's Indemnity. Except to the extent caused by the negligence or willful misconduct, or violations of this Lease, by Landlord, its officers, employees, agents, contractors, assignees, tenants or invitees, Tenant agrees to indemnify, defend (with counsel reasonably acceptable to Landlord), and hold Landlord, and Landlord's officers, employees, assignees and tenants harmless from and against any and all liabilities, penalties, losses, damages, costs, expenses (including actual attorney's fees), causes of action, claims, or judgments (collectively, "Losses") arising by reason of any death, bodily injury, personal injury, or property or economic damage resulting from or in any way connected with:

(i) any occurrence, other than those addressed in clauses (ii) through (vii) below, in or about the Leased Premises during the Term of this Lease;

(ii) the negligence or willful misconduct of Tenant or Tenant's officers, employees, agents or contractors, wherever it occurs;

(iii) an Event of Tenant's Default;

(iv) the use, storage, treatment, transportation, release, or disposal of Hazardous Substances (including the exacerbation of Hazardous Substance conditions existing on the Leased Premises or the Common Area as of the Commencement Date) on or about the Leased Premises or the Common Area on or after the Commencement Date by Tenant, or Tenant's officers, employees, agents, contractors,

Assignees, subtenants or invitees, or any other third party (except for persons and entities acting on Landlord's behalf or under Landlord's control);

(v) the use, operation, condition, possession or storage (whether by Tenant or any other person) of personal property leased to Tenant pursuant to Section 14 or owned by Tenant;

(vi) Tenant's failure to pay, when due, all claims for labor or materials furnished, or alleged to have been furnished, in connection with any repair, replacement or Alteration to the Leased Premises or the Common Area by Tenant or Tenant's officers, employees, agents, contractors, Assignees, subtenants or invitees; or

(vii) Tenant's physical inspections of the Project pursuant to Subsection 8(d)(iii) hereof.

Notwithstanding any provisions in this Lease to the contrary, Tenant shall not be obligated to indemnify, defend or hold Landlord, its officers, employees, agents, contractors, assignees, tenants and invitees harmless with respect to Losses resulting from or in any way connected with Hazardous Substance conditions which existed on or about the Army Depot as of the Commencement Date, except for (i) Losses resulting from exacerbation by Tenant, or Tenant's officers, employees, agents, contractors, Assignees, subtenants or invitees, or any other third party (except for persons and entities acting on Landlord's behalf or under Landlord's control) of such existing Hazardous Substance conditions on the Leased Premises or the Common Area, and (ii) Losses resulting from work undertaken pursuant to Subsection 20(b)(iv)(A) by Tenant or its officers, employees, agents, contractors, Assignees, subtenants or invitees that affects asbestos, asbestos-containing materials or lead-based paint; and (iii) Losses resulting from the disposal of Hazardous Substances undertaken in connection with such work.

The provisions of this Subsection 20(a) shall survive the expiration or sooner termination of this Lease and, upon Tenant's acquisition of any Purchase Parcel, shall be included in any deed restriction or reciprocal easement agreement executed in connection therewith as set forth in Subsection 8(d)(vii).

(b) Landlord's Indemnity. Except to the extent caused by the negligence or willful misconduct, or violations of this Lease by Tenant, its officers, employees, agents, contractors, Assignees, subtenants or invitees, Landlord agrees to indemnify, defend (with counsel reasonably acceptable to Tenant) and hold Tenant, and Tenant's officers, employees, Assignees and subtenants harmless from and against any and all liabilities, penalties, losses, damages, costs, expenses (including actual attorney's fees), causes of action, claims, or judgments (collectively, "Losses") arising by reason of any death, bodily injury, personal injury, or property or economic damage resulting from or in any way connected with:

(i) the negligence or willful misconduct of Landlord or Landlord's officers, employees, agents or contractors, wherever it occurs;

(ii) a default by Landlord under this Lease;

(iii) Landlord's physical inspection of the Project; or

(iv) Hazardous Substance conditions existing on the Army Depot as of the Commencement Date, except for (i) Losses resulting from the exacerbation of such existing Hazardous Substance conditions by Tenant, or Tenant's officers, employees, agents, contractors, Assignees, subtenants or invitees, or any other third party (except for persons and entities acting on Landlord's behalf or under Landlord's control) and (ii) Losses resulting from asbestos, asbestos-containing materials ("ACMs") or lead-based paint.

(A) Notwithstanding the foregoing, Landlord shall indemnify, defend and hold Tenant, its officers, employees, Assignees and subtenants harmless with respect to Losses arising by reason of any death, bodily injury, personal injury or other third-party tort claim resulting from asbestos, ACMs and lead-based paint existing in any building on the Army Depot as of the Commencement Date, only if Tenant has done the following with respect to such building:

(I) Tenant has caused, at its expense and prior to Tenant's commencing operations in such building, the removal or enclosure of all asbestos and ACMs in such building in a manner complying with applicable Environmental Laws and written guidance documents promulgated by an appropriate federal or state regulatory agency, which documents are relied on by experts in the field as authoritative guidance ("Guidance Documents"), and not posing an imminent and substantial threat to human health or safety. Such removal or enclosure shall be performed pursuant to a work plan submitted to and reasonably approved by Landlord, and implemented by appropriately trained and certified contractors, architects and consultants who have been reasonably approved by Landlord. The removal and/or enclosure process shall include such inspections and a clearance level of both air and surface contamination that (a) are acceptable to a certified industrial hygienist reasonably approved by Landlord; and (b) meet all standards provided by applicable Laws and Guidance Documents. Upon completion of such work, Tenant shall deliver to Landlord a consultant's report and certificate as described in Subsection 20(b)(iv)(A)(II).

(II) Tenant has provided, at its expense, on or before the 31st day of January of each year, a report from a consultant reasonably approved by Landlord that certifies that, based on facts known to the consultant after reasonable investigation, (a) any ACMs remaining in such building are in good condition, are not damaged and are not then generating dust that exceeds levels provided by applicable Laws and

Guidance Documents, and that there is no condition relating to Tenant's treatment of ACMs that otherwise poses an imminent and substantial threat to human health or safety; (b) any lead-based paint existing in such building is in good condition, is not flaking and is not then generating dust that exceeds levels provided by applicable Laws, and that there is no condition relating to Tenant's treatment of lead-based paint that otherwise poses an imminent and substantial threat to human health or safety; (c) Tenant is then maintaining ACMs and lead-based paint in a proper manner; (d) Tenant has a proper and appropriate operations, maintenance, management and training program in place for asbestos, ACMs and lead-based paint; and (e) Tenant is not then engaged in any work on asbestos, ACMs or lead-based paint surfaces that will potentially cause the deterioration of, damage to, or generation of dust and flaking from such surfaces in violation of any applicable Laws or Guidance Documents or to an extent that poses an imminent and substantial threat to human health and safety. Landlord shall not withhold its reasonable approval of the consultant's report solely on account of damage, destruction or other acts beyond Tenant's reasonable control noted by the consultant, provided that the consultant also certifies that Tenant has acted and continues to act with reasonable diligence to remedy any such situation. In addition, Tenant covenants that it will not undertake any work affecting asbestos, ACMs or lead-based paint surfaces, including, without limitation, sanding and scraping, except with Landlord's prior written approval of a work plan, which approval shall not be unreasonably withheld.

(III) the provision of indemnity under Subsections 20(b)(iv)(A)(I) and (II) shall not apply to the extent that Losses result from (a) exposure to asbestos, ACMs or lead-based paint in any given building (i) subsequent to the Commencement Date of this Lease but prior to the delivery of the consultant's report and certificate described in Subsection 20(b)(iv)(A)(I), or (ii) during any period during which Tenant's delivery of the certificate described in Subsection 20(b)(iv)(A)(II) is delinquent; (b) work undertaken by Tenant or its officers, employees, agents, contractors, Assignees, subtenants or invitees that affects asbestos, ACMs or lead-based paint; or (c) the disposal of Hazardous Substances undertaken by Tenant or its officers, employees, Assignees, subtenants or invitees in connection with such work. The work described in clauses (b) and (c) of this Subsection, and the costs thereof, shall be the sole responsibility of Tenant, and Tenant shall indemnify and hold harmless Landlord therefrom.

The provisions of this Subsection 20(b) shall survive the expiration or sooner termination of this Lease and, upon Tenant's acquisition of any Purchase Parcel, shall be included in any deed restriction or reciprocal easement agreement executed in connection therewith as set

forth in Subsection 8(d)(vii); provided, that the provision of this Subsection shall not inure to the benefit of any successor, purchaser, assignee or transferee of Tenant's fee interest in any of the Purchase Parcel(s) following Tenant's acquisition of such Purchase Parcel(s) under the Purchase Option.

#### Section 21. Default.

Each of the following shall constitute an event of Tenant's Default ("Event of Default" or "Default") under this Lease:

(a) Tenant's failure to make any payment required under this Lease within ten (10) Business Days after written notice of non-payment from Landlord to Tenant, including, without limitation, payment of Base Rent, Common Area Expenses, additional rent, if any, and option payment installments;

(b) Tenant's failure to perform any of the covenants, conditions or provisions of this Lease to be performed by Tenant, other than those requiring any payment to Landlord, when such failure continues for a period of thirty (30) days after written notice from Landlord to Tenant. However, if the nature of Tenant's failure reasonably requires more than thirty (30) days for cure, provided, that Tenant shall not be deemed to be in Default if Tenant commences to cure within said thirty (30) day period and thereafter diligently continues this cure to completion;

(c) Any of the following:

(i) The making by Tenant of any general arrangements or assignments for the benefit of creditors;

(ii) Tenant's becoming a debtor as defined in the United States Bankruptcy Code (11 USC § 101, *et seq.*) or any successor statute, unless, in the case of a petition filed against Tenant, such petition is dismissed within ninety (90) days after filing;

(iii) The appointment of a trustee or receiver to take possession of substantially all of Tenant's assets at the Leased Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within sixty (60) days following such appointment; or

(iv) The attachment, execution, or other judicial seizure of substantially all of Tenant's assets located at the Leased Premises or of Tenant's interest in this Lease, where such seizure is not discharged within sixty (60) days after the seizure;

(d) The vacation or abandonment of all or substantially all of the Leased Premises by Tenant; or

(e) Tenant's sublease or Assignment in violation of Section 19, except where Tenant in good faith believed that said sublease or Assignment did not violate Section 19.

(d) Tenant's failure to perform any of the covenants, conditions or provisions of Section 54 where such failure results from Tenant's engaging in a pattern of discrimination.

#### Section 22. Remedies.

(a) In General. Upon the occurrence of an Event of Default, Landlord, in addition to any other rights or remedies available to Landlord at law or in equity, shall have the right to:

(i) terminate this Lease and all rights of Tenant (including the Purchase Option and any other options or rights granted in this Lease) by giving Tenant written notice that this Lease is terminated, in which case Landlord may recover from Tenant the sum of:

(A) the worth at the time of award of any unpaid rent that had been earned at the time of termination;

(B) the worth at the time of award of the amount by which (1) the unpaid rent that would have been earned after termination until the time of award exceeds (2) the amount of rental loss, if any, as Tenant affirmatively proves could have been reasonably avoided;

(C) the worth at the time of award of the amount by which (1) the unpaid rent for the balance of the Term of this Lease after the time of award exceeds (2) the amount of rental loss, if any, as Tenant affirmatively proves could be reasonably avoided;

(D) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform Tenant's obligations or that, in the ordinary course of things, would be likely to result; and

(E) all other amounts in addition to or in lieu of those previously stated as may be permitted from time to time by California law.

As used in clauses (i)(A) and (B) of this Subsection 22(a), the worth at the time of award is computed by allowing interest at the rate of ten percent (10%) per annum. As used in clause (i)(C) of this Subsection 22(a), the worth at the time of award is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%). As used in this Section, the term "rent" shall include Base Rent and any other payments required by Tenant including, without limitation, Tenant's Share of Common Area Expenses.

(ii) continue this Lease and, from time to time, without terminating this Lease, either (i) recover all rent and other amounts payable as they become due or (ii) relet the Leased Premises or any part of the Leased Premises on behalf of Tenant for any term, at any rent, and pursuant to any other provisions as Landlord deems advisable.

(b) Removal of Persons and Property. Upon the occurrence of an Event of Default, Landlord shall also have the right, with or without terminating this Lease, to re-enter the Leased Premises and remove all persons and property from the Leased Premises. Landlord may cause property so removed from the Leased Premises to be stored in a public warehouse or elsewhere at the expense and for the account of Tenant.

(c) No Termination of Lease. None of the following remedial actions, singly or in combination, shall be construed as an election by Landlord to terminate this Lease unless Landlord has in fact given Tenant written notice that this Lease is terminated or unless a court of competent jurisdiction decrees termination of this Lease: any act by Landlord to maintain or preserve the Leased Premises; any efforts by Landlord to relet the Leased Premises; or any re-entry, repossession, or reletting of the Leased Premises by Landlord. If Landlord takes any of the previous remedial actions without terminating this Lease, Landlord may nevertheless at any time after taking any remedial action terminate this Lease by written notice to Tenant.

(d) Application of Revenue. If Landlord relets the Leased Premises, Landlord shall apply the revenue as follows: first, to the payment of any cost of reletting, including without limitation finder's fees and leasing commissions; second, to the payment of the cost of any maintenance and repairs to the Leased Premises; third, to the payment of rent and other amounts due and unpaid under this Lease; and fourth, to the payment of any other obligation owed by Tenant to Landlord, other than Tenant's obligations under this Lease. Landlord shall hold and apply the residue, if any, to payment of future amounts payable as they become due. Landlord's receipt of revenue from reletting during any month shall not relieve Tenant of its obligations under this Lease.

(e) Landlord's Cure of Tenant's Default. After the occurrence of an Event of Default, Landlord, in addition to, or in lieu of, exercising other remedies, may, but without any obligation to do so, cure the breach underlying the Event of Default for the account and at the expense of Tenant; provided that Landlord by prior notice shall first allow Tenant a reasonable opportunity to cure; except in cases of emergency, where Landlord may proceed without prior notice to Tenant. Tenant shall, upon demand, immediately reimburse Landlord for all costs, including costs of settlements, defense, court costs, and attorney fees, that Landlord may incur in the course of any cure.

(f) Security not Bar to Eviction. No security or guaranty for the performance of Tenant's obligations under this Lease, which Landlord may now or hereafter hold, shall in any way constitute a bar or defense to any action initiated by Landlord for unlawful detainer or for the recovery of the Leased Premises, for enforcement of any obligation of Tenant,

or for the recovery of damages caused by a breach of this Lease by Tenant or by an Event of Default.

(g) Remedies not Exclusive. No right or remedy conferred upon or reserved to either party in this Lease is intended to be exclusive of any other right or remedy given now or later or existing at law or in equity or by statute. Except to the extent that either party may have otherwise agreed in writing, no waiver by that party of any violation or nonperformance by the other party of any obligations, agreements, or covenants shall be deemed to be a waiver of any subsequent violation or nonperformance of the same or any other covenant, agreement, or obligation, nor shall any forbearance by either party to exercise a remedy for any violation or nonperformance by the other party be deemed a waiver by that party of rights or remedies with respect to that violation or nonperformance.

#### Section 23. Default by Landlord.

Landlord shall not be in Default unless Landlord fails to perform obligations required of Landlord within thirty (30) days after written notice by Tenant to Landlord specifying in what respect Landlord has failed to perform the obligation. However, if Landlord's obligation requires more than thirty (30) days for performance, Landlord shall not be in Default if Landlord commences to perform within said thirty (30) day period and afterwards diligently completes it. No officer, councilmember, agent or employee of Landlord shall be personally liable to Tenant or any Assignee or subtenant of Tenant, in the event of any default or breach by Landlord under the terms of this Lease. In such event, Tenant agrees not to bring suit against any such officer, councilmember, agent or employee.

#### Section 24. Late Charges.

Landlord and Tenant each acknowledges that late payment of sums due under this Lease will cause the party entitled to payment to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Therefore, if any sum due from the party obligated to make the payment is not received by the party entitled to payment within ten (10) Business Days after notice of non-payment from the party entitled to payment, then the party obligated to make the payment shall pay to the party entitled to the payment a late charge equal to the greater of Two Hundred Dollars (\$200) or five percent (5%) of the overdue sum. The parties agree that this late charge represents a fair and reasonable estimate of the costs the party entitled to the payment will incur because of late payment by the party obligated to make the payment. Acceptance of the late charge by the party entitled to the payment shall not constitute a waiver of the other party's default for the overdue sum, nor prevent the party entitled to the payment from exercising any of the other rights and remedies in this Lease.

### Section 25. Interest on Past Due Obligations.

Any amount that is due to Landlord or Tenant and not paid within five (5) Business Days after notice of non-payment from party entitled to payment to the party obligated to make the payment shall bear interest from the date due at the maximum rate then allowable by law; provided, however, that interest shall not be payable on late charges. Payment of the interest shall not cure any default under this Lease.

### Section 26. Attornment.

Subject to the provisions on assignment contained in Section 19 hereof, Landlord and Tenant each agree to attorn to any successor in interest of the other. The provisions of this Section shall inure to the benefit of any such successor in interest, shall be self-operative upon any demand by any such successor in interest and no further instrument shall be required to effect such attornment.

### Section 27. Estoppel Certificates.

(a) In General. At all times during the Term of this Lease each party agrees, following request by the other party to promptly cause its signature to be acknowledged by a notary public and deliver to the requesting party or to any person to whom the requesting party shall direct the other party to deliver the same, an estoppel certificate in writing identifying this Lease and the parties hereto and declaring, as of the date thereof:

(i) certifying that this Lease is unmodified and in full force, or if modified stating the nature of the modification and certifying that this Lease, as so modified, is in full force and effect,

(ii) stating the date to which the rent and other charges are paid in advance, if any,

(iii) acknowledging that there are not, to the certifying party's knowledge, any uncured defaults on the part of any party, or if there are uncured defaults, specifying the nature of the defaults, and

(iv) Whether or not the party giving this statement is aware of any condition or circumstances relating to this Lease or the Leased Premises which shall adversely affect the security interest of any Mortgagee;

(v) As to a statement made by Landlord, that Landlord has not conveyed, assigned, transferred or delegated any right or duty of Landlord hereunder, nor has Landlord encumbered or otherwise hypothecated Landlord's reversionary interest in and to the Leased Premises or any rights hereunder except as may be set forth in such statement; and

(vi) That any such statement may conclusively be relied upon by any Mortgagee or proposed Mortgagee in making a loan to Tenant or by any title insurance company which issues a title insurance policy or other guaranty or endorsement relating to the existence and status of this Lease.

(vii) certifying any other information about the Lease as may be reasonably required by the requesting party.

(b) Failure to Deliver. A failure to deliver an estoppel certificate within ten (10) Business Days after delivery of a request shall be a conclusive admission that, as of the date of the request for such statement:

(i) this Lease is unmodified except as may be represented by the requesting party in the request and is in full force and effect,

(ii) there are no uncured defaults in the requesting party's performance, and

(iii) no rent has been paid more than thirty (30) days in advance.

(c) Financial Statements. Landlord shall have the right to inspect the following financial information at the Leased Premises (a) within thirty (30) days after the end of each calendar quarter copies of compilation financial statements of Tenant for the prior calendar quarter, and (b) within sixty days (60) days after the end of each calendar year copies of audited financial statements of Tenant for the prior calendar year, all in reasonable detail and prepared in conformity with generally accepted accounting principles by an independent certified public accountant of recognized standing acceptable to Landlord.

#### **Section 28. Transfer by Landlord.**

If Landlord transfers the Leased Premises, Landlord shall remain liable for its obligations under Sections 7, 8(d)(vi) and 20, and for its other obligations under this Lease which arise by reason of events that occur or conditions that arise prior to the date of transfer, but shall be relieved of all such other obligations under this Lease which arise by reason of events that occur or conditions that arise after the date of the transfer. Any prepaid rent or security deposit held by Landlord at the time of the transfer shall be delivered to the transferee.

#### **Section 29. Severability.**

If any provision of this Lease is held by a court of competent jurisdiction to be either invalid or unenforceable, the remaining provisions of this Lease shall remain in effect, unimpaired by such holding.

**Section 30. Time of Essence.**

Time is of the essence under this Lease.

**Section 31. Additional Rent.**

All monetary obligations of Tenant to Landlord under this Lease shall be deemed rent.

**Section 32. Entire Agreement.**

(a) This Lease constitutes the entire agreement between Landlord and Tenant concerning the subject matter hereof, and there are no agreements or representations between the parties concerning the subject matter hereof except as expressed in this Lease. Tenant acknowledges that neither Landlord nor Landlord's representatives have made any legally binding representation or warranty as to any matter except those expressly set forth in this Lease, including any warranty as to:

(i) the suitability of the Leased Premises or the Project for the conduct of Tenant's business, or

(ii) the condition of any improvements.

(b) There are no oral agreements between Landlord and Tenant affecting this Lease, and this Lease supersedes and cancels all previous negotiations, arrangements, brochures, agreements, and understandings, if any, between Landlord and Tenant with respect to the subject matter of this Lease. This Lease shall not be legally binding until it is executed by both Landlord and Tenant. No subsequent change or addition to this Lease shall be binding unless in writing and signed by Landlord and Tenant.

**Section 33. Notices.**

Except as otherwise expressly provided by law, all notices or other communications required or permitted by this Lease or by law to be served on or given to either party to this Lease by the other party shall be in writing and shall be deemed given when personally delivered to the party to whom they are directed, or in lieu of personal service, three (3) days after deposit in the United States Mail, certified or registered, return receipt requested, postage prepaid, addressed to Tenant at:

Packard Bell Electronics, Inc.  
8350 Fruitridge Road  
Sacramento CA, 95826  
Attention: Jeff Scheinrock

or to Landlord at: City of Sacramento  
City Hall  
915 I Street, Room 301  
Sacramento, CA 95814  
Attention: Bill Farley

Either party may designate a second address or may change its address for the purpose of this Section by giving written notice of the change to the other party in the manner provided in this Section.

#### Section 34. Waivers.

No waiver by Landlord of any provisions in this Lease shall be deemed a waiver of any other provision of this Lease, of any subsequent breach of this Lease by Tenant, or of any other provision. Landlord's consent to or approval of any act by Tenant shall not waive the necessity for Landlord's consent to or approval of any subsequent act by Tenant. Landlord's acceptance of rent shall not be a waiver of any preceding breach of Tenant, other than Tenant's failure to pay the rent that Landlord accepted, regardless of Landlord's knowledge of the preceding breach at the time of acceptance of the rent.

#### Section 35. Memorandum of Lease and Abstract of Option.

Concurrently with the execution of this Lease, the Landlord and Tenant shall execute and record the instrument entitled "Memorandum of Lease" attached hereto as Exhibit I and incorporated herein. The parties shall cooperate in executing and recording subsequent memoranda of lease upon any expansion(s) of the Leased Premises.

#### Section 36. Surrender of the Leased Premises.

(a) Surrender Upon Expiration or Termination. Upon the expiration or sooner termination of this Lease,

(i) Tenant shall vacate and surrender the Leased Premises to Landlord in the same condition as existed at the Commencement Date, except for reasonable wear and tear, and except for Alterations, improvements and demolitions made in accordance with this Lease; provided that Tenant shall remove all Trade Fixtures and personal property from the Leased Premises; and

(ii) Tenant shall have no continuing rights under this Lease, including, without limitation, any claim of property rights or goodwill relating to the Leased Premises or the Project.

(b) Failure to Surrender. If the Leased Premises are not so surrendered at the

Landlord in returning the Leased Premises to the required condition. Tenant shall indemnify, defend and hold Landlord harmless against loss or liability resulting from delay by Tenant in surrendering the Leased Premises, including without limitation any claims made by any succeeding tenant or losses to Landlord due to lost opportunities to lease to succeeding tenants.

#### Section 37. Holding Over.

If Tenant holds over for any reason, it is hereby agreed that, in the absence of a written agreement to the contrary, that tenancy shall be from month-to-month only and not a renewal of this Lease, nor an extension for any further term. In that case, Tenant shall pay Base Rent monthly in an amount equal to ninety percent (90%) of the then-prevailing Fair Market Rent for Comparable Space, and the month-to-month tenancy shall be subject to every other term, covenant, and condition contained in this Lease that is consistent with and not contrary to a month-to-month tenancy.

#### Section 38. Cumulative Remedies.

No remedy or election under this Lease shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

#### Section 39. Covenants and Conditions.

Each term of this Lease performable by Tenant shall be deemed both a covenant and a condition.

#### Section 40. Binding Effect.

Subject to Section 28, this Lease shall be binding on and inure to the benefit of the parties and their successors and assigns; provided, that no assignment or sublease made in violation of the provisions of Section 19 shall confer any benefit hereunder to the purported Assignee or sublessee.

#### Section 41. Attorney Fees.

(a) If any legal action or any arbitration or other proceeding is brought for the enforcement or interpretation of this Lease, or because of an alleged dispute, breach, Event of Default or misrepresentation in connection with any of the provisions of this Lease, the prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs in connection with that action or proceeding, in addition to any other relief to which it or they may be entitled. The term "prevailing party" shall include without limitation:

- (i) a party who dismisses an action in exchange for sums allegedly due;
- (ii) a party who receives performance from the other party for an alleged breach of covenant or who receives a desired remedy that is substantially equal to the relief sought in an action; or
- (iii) a party determined to be the prevailing party by a court of law.

(b) If an Event of Default exists or arises under Section 21(c), Tenant shall pay to Landlord all costs and expenses, including reasonable attorneys' fees incurred by Landlord in connection with such Event of Default; or in connection with any work-out or restructuring of the transactions contemplated by this Lease, regardless of whether Landlord is the "prevailing party."

(c) The obligations of Tenant under this Section 41 shall survive the termination of this Lease.

#### Section 42. Entry.

(a) In General. Landlord and its agents may enter the Leased Premises or the Common Area at any reasonable time after giving at least twenty-four (24) hours' prior written notice to Tenant, and immediately in the case of emergency, for the purpose of:

- (i) inspecting the Leased Premises or Common Area;
- (ii) posting notices of nonresponsibility;
- (iii) supplying any service to be provided by Landlord to Tenant;
- (iv) showing the Leased Premises or Common Area to prospective purchasers, mortgagees, or tenants;
- (v) making necessary alterations, additions, or repairs;
- (vi) performing Tenant's obligations when Tenant has failed to do so after written notice, given in accordance with this Lease, from Landlord;
- (vii) performing Landlord's obligations under this Lease;
- (viii) placing on the Leased Premises or Common Area ordinary "for-lease" signs or "for-sale" signs;
- (ix) ingress and egress to the Ball Field Parcel; and
- (x) responding to an emergency.

(b) Emergencies. Landlord shall have the right to use any means Landlord deems necessary and proper to enter the Leased Premises or Common Area in an emergency. Any entry into the Leased Premises or Common Area obtained by Landlord in accordance with this Section shall not be a forcible or unlawful entry into, or a detainer of, the Leased Premises or Common Area, or an eviction, actual or constructive, of Tenant from the Leased Premises or Common Area.

#### Section 43. Parking.

Tenant shall have the exclusive right to park within the Leased Premises free of charge. Conditioned upon obtaining all approvals required from the Army during such time as the Army Lease remains in effect, Tenant may construct a 200,000 square-foot concrete pad for truck and car parking at a location on the Leased Premises mutually approved by Landlord and Tenant, said approval not to be unreasonably conditioned, withheld or delayed and may use this pad free of charge.

#### Section 44. Signs.

(a) Signs on Leased Buildings. Conditioned upon obtaining all approvals required by the Army Lease, Tenant shall have the exclusive right to place signage on the Leased Buildings during the Term of this Lease, including without limitation lighted signage on the tops of the Leased Buildings and on the side of Buildings 251, 253, 255 and 257 facing Florin-Perkins Road. Such signage shall conform to all City Codes and shall be subject to Landlord's prior written approval which shall not be unreasonably withheld, conditioned or delayed. If Landlord consents to any sign, awning, canopy, marquee, decoration, or advertising matter, Tenant shall maintain it in good appearance and repair at all times during this Lease. If at the end of the Term of this Lease, any of the items mentioned in this Section are not removed from the Leased Premises by Tenant, that item may, without damage or liability, be destroyed by Landlord.

(b) Monument Signs for Project. Monument signage placed on the Project by Landlord, if any, shall be subject to Tenant's prior written approval, which shall not be unreasonably withheld. Tenant's name shall have appropriate prominence on any such monument signage for the Project.

#### Section 45. Merger.

A mutual cancellation of this Lease, or a termination by Landlord shall not cause a merger, and shall, at the option of Landlord, terminate all existing subtenancies (subject to the provisions of any attornment agreement entered into by Landlord and the subject subtenant) or may, at the option of Landlord, cause an assignment to Landlord of all such subtenancies.

#### Section 46. Broker's Fee.

Tenant has retained LaSalle Partners to act as broker in this transaction and represents that said broker's fee shall be paid by Tenant. Except for the foregoing, the parties each warrant to the other that it has not dealt with any real estate agents or brokers, and that no brokerage fees are or will be owed, in connection with this Lease. Each party agrees to indemnify, defend, and hold the other harmless from all loss, claim, cost, and expense incurred as a result of the breach of this warranty.

#### Section 47. No Joint Venture.

Nothing contained in this Lease shall be in any way construed as expressing or implying that the parties hereto have joined together in any joint venture or partnership or in any manner have agreed to or are contemplating the sharing of profits and losses among themselves in relation to any matter relating to this Lease.

#### Section 48. Easements.

(i) Landlord reserves the right to grant easements, rights, and dedications to third parties that Landlord deems necessary or desirable (including, without limitation, easements across the Leased Premises to facilitate utilities or ingress and egress), and to record parcel maps and restrictions, so long as such easements, rights, dedications, maps, and restrictions do not unreasonably interfere with Tenant's use of the Leased Premises. Promptly upon request of Landlord Tenant shall sign any documents reasonably required by Landlord in connection with such actions.

(ii) Upon request of Tenant, Landlord shall also grant such easements, rights, and dedications to third parties that Tenant reasonably requires (including, without limitation, easements across the Leased Premises to facilitate utilities or ingress and egress), and to join in recording parcel maps and restrictions, so long as such easements, rights, dedications, maps, and restrictions do not unreasonably interfere with Landlord's planned use of the Army Depot.

#### Section 49. Authority.

The individuals executing this Lease on behalf of the parties hereto represent and warrant that they are authorized to execute and deliver this Lease on behalf of the respective parties. Tenant represents and warrants that Tenant is a duly authorized and existing corporation, that it is qualified to do business in California, and that Tenant has full right and authority to enter into this Lease.

#### Section 50. Governing Law.

This Lease shall be governed by California law, and any litigation concerning this Lease between the parties shall be initiated in the Superior Court of Sacramento County.

#### Section 51. Offer.

Preparation of this Lease by Landlord or Landlord's agent and submission to Tenant shall not be deemed an offer to lease. This lease shall become binding on Landlord and Tenant only when fully executed by Landlord and Tenant.

#### Section 52. Headings.

The titles and headings of the various sections of this Lease are intended solely for convenience of reference and are not intended to explain, modify or place any interpretation upon any of the provisions of this Lease.

#### Section 53. Counterparts.

This Lease may be executed in any number of counterparts, and by different parties in separate counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.

#### Section 54. Discrimination.

(a) Tenant, its employees and agents, shall not discriminate against any person because of race, age, religion, color, ancestry, sex, physical handicap or disability, marital status, sexual orientation or national origin. Nor shall Tenant, its employees or agents, publicize the availability of work, contracts, accommodations or facilities in any manner that would directly or impliedly reflect upon or question that acceptability of any person because of race, religion, color, ancestry, sex, physical handicap or disability, marital status, sexual orientation or national origin.

(b) Tenant shall not discriminate against any employee or applicant for employment because of race, age, color, religion, ancestry, sex, physical handicap, or disability, marital status, sexual orientation or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Tenant shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this Section.

(c) Tenant shall permit access to its records of employment, employment advertisement, application forms, and other pertinent data and records by Landlord, the State Fair Employment Practices Commission, or any other agency of the State of California designated by the State of California, for the purpose of investigation to ascertain compliance with this Section.

(d) Landlord may determine a violation of this Section upon receipt by Landlord of a final judgment having that effect from a court in an action to which Tenant was a party, or upon receipt of a written notice from the Fair Employment Practices Commission that it has investigated and determined that Tenant has violated the Fair Employment Practices Act.

#### Section 55. Further Actions.

Landlord and Tenant covenant and agree to execute such other and further documents and instruments, and to take such other and further actions, as may be necessary to fully carry out the intent of this Lease.

#### Section 56. Encumbering The Leasehold Estate

The provisions of this Section shall not be effective until the reconveyance of any deed of trust encumbering Tenant's interest in the Leased Premises executed by Tenant, as trustor, in favor of City, as beneficiary, pursuant to a written agreement entered into by Tenant and City within sixty (60) days after the Commencement Date.

(a) Notwithstanding any provision set forth in this Lease to the contrary, the following provisions shall apply only to the holder of first mortgage lien on the Leased Premises:

(i) Landlord agrees that Tenant may at any time and from time to time, without the requirement of consent by Landlord, convey in trust, mortgage, encumber, assign, hypothecate to a first and senior mortgage lender which is not an Affiliate of Tenant ("Mortgagee"), by deed of trust, mortgage, assignment or otherwise (any of which security instrument is herein referred to as "Mortgage") all right, title and interest of Tenant in and to (i) the leasehold estate created by this Lease, (ii) all improvements, buildings, fixtures and structures (hereinafter collectively "Improvements") upon and/or affixed to the Leased Premises, or any portion thereof, (iii) any greater estate in the Leased Premises, or any portion thereof, or appurtenant thereto, which Tenant may hereafter acquire, or (iv) rents, income, issues and profits to be derived by Tenant from the Leased Premises and from the conduct of any use thereof. Notwithstanding the foregoing, Landlord shall have no obligations under this Section 56 unless and until Landlord has received notice from Tenant stating that Tenant has secured a Mortgage with the Leased Premises and giving the name and address of the Mortgagee, and such other information as Landlord may reasonably require.

(ii) Any Mortgagee shall have, without the requirement of consent by Landlord, the right, but not the obligation, to:

(A) Cure any default of Tenant under this Lease and to perform any obligation required of Tenant hereunder, and any such cure or performance by Mortgagee shall be effective as if the same had been undertaken and performed by Tenant;

(B) Exercise any right, remedy or privilege granted to Tenant by this Lease or otherwise by law; subject to the provisions, if any, in any Mortgage limiting the exercise of any such right, remedy or privilege;

(C) Rely upon the security of the leasehold estate created by this Lease and other rights and interests of Tenant hereunder and to acquire and succeed to such interests of Tenant or to cause such security or any part thereof to be transferred to any person by judicial foreclosure sale, trustee's sale under power of sale, public or private sale of any personal property in which Mortgagee has a security interest or by deed, assignment or transfer in lieu of foreclosure, and if Mortgagee so acquires the rights and interests of Tenant hereunder, or any part thereof, Mortgagee may thereafter at any time convey, assign and transfer the rights or interests so acquired to any other person or persons (the term "person" as used herein includes without limitation thereto any individual, firm, partnership, trust or corporation); and

(D) Enforce and preserve Mortgagee's rights under any Mortgage and any other agreement entered into in connection therewith, and in the event of default and pending foreclosure or other disposition by Mortgagee of the interests of Tenant hereunder may enter upon and take possession of the Leased Premises and may, at Mortgagee's option, use, rent or sublet the Leased Premises or any portion thereof for any purpose permitted by this Lease.

(iii) Mortgagee shall not, as a condition to the exercise of its rights hereunder, be required to assume any personal liability for the payment and performance of the obligations of Tenant hereunder, and any such payment or performance or other act by Mortgagee hereunder shall not be construed as an undertaking by Mortgagee to assume such personal liability; provided, however, that any transferee from said Mortgagee, other than any transferee (other than Mortgagee) at any judicial foreclosure sale or trustee's sale of Tenant's interests hereunder, shall be required, forthwith upon acquiring any interest in the leasehold estate created by this Lease, to deliver to Landlord a written agreement assuming such personal liability. Nothing herein shall be, or be deemed to constitute, a waiver of Landlord's right to (i) hold Tenant personally liable for any breach (defined below) that arises or occurs while any Mortgagee is in possession of the Leased Premises or (ii) seek to and obtain possession of the Leased Premises and/or termination of this Lease following a default in the payment or performance of any obligation of Tenant hereunder which has not been cured in a timely manner.

(iv) Until such time as the Mortgagee has notified Landlord in writing that any indebtedness or other obligation secured by said Mortgage has been satisfied and fully

discharged, Landlord shall not without the prior written consent of said Mortgagee being first had and obtained (a) accept any surrender of the Leased Premises or any portion thereof or termination of this Lease, whether voluntary or involuntary or upon a failure of any condition under this Lease; (b) consent to any modification or assignment of this Lease or any portion thereof or interest therein; or (c) exercise or accept the exercise of any option or right of Tenant to terminate this Lease or to purchase Landlord's reversionary interest hereunder. The requirement that Landlord obtain Mortgagee's written consent as provided in this Subsection shall not apply to Landlord's assertion of its rights provided in the Lease or by law upon a Default by Tenant.

(v) Until such time as the Mortgagee has notified Landlord in writing that any indebtedness or other obligation secured by said Mortgage has been satisfied and fully discharged, upon the default by Tenant in the payment or performance of any obligation of Tenant hereunder, Landlord shall not (i) terminate this Lease nor Tenant's right of possession of the Leased Premises, (ii) exercise any right of reentry provided in the Lease or otherwise by law, (iii) take possession of and/or relet the Leased Premises or any portion thereof or (iv) enforce any other right or remedy which may affect the rights of Mortgagee under said Mortgage unless:

(A) Landlord has, after all time periods have expired in which Tenant is entitled to cure such Default, served upon Mortgagee, in the manner required by the California Code of Civil Procedure for service of process, a written notice stating the nature and extent of any Event of Default and describing the performance by Tenant required to cure said Default; and

(B) Mortgagee has failed within thirty (30) days after the service upon Mortgagee of such notice of Default:

(I) to cure any Default by Tenant which can be cured by the payment of rent, taxes, hazard and liability insurance premiums, assessments for public improvements, and/or any other ordinary or recurring payment required to be made by Tenant hereunder (any such Default is herein referred to as "monetary default");

(II) with respect to any other Default by Tenant hereunder (herein "nonmonetary default"), to commence and thereafter diligently pursue the judicial foreclosure sale or trustee's sale of the leasehold estate created hereby and pending such sale to pay or cause to be paid all amounts required to be paid by Tenant hereunder, the failure of which payment would constitute a monetary default as provided above; provided, however, that if Mortgagee shall be subject to any statutory automatic stay, injunction or restraining order prohibiting the enforcement by Mortgagee of any of its remedies under said Mortgage or under any provision of law, or prohibiting Mortgagee from taking possession of the Leased Premises or from otherwise lawfully curing any default of Tenant hereunder, then said thirty (30) day period shall be extended for that period of time during which Mortgagee is diligently endeavoring to obtain a final judgment or order vacating or removing said automatic stay, injunction or restraining order and to thereafter enforce remedies as hereinabove provided; and

(C) the transferee at the foreclosure or trustee's sale of the leasehold estate hereunder or by assignment in lieu of foreclosure has failed within sixty (60) days after gaining lawful possession of the Premises following said sale or assignment to commence to cure and thereafter to pursue diligently to completion the cure of any nonmonetary default by Tenant hereunder.

(vi) For purposes of this Lease the following Events of Default shall not, as between Landlord and the transferee referred to in Subsection (a)(v)(C) above, and such transferee's successors and assigns, constitute a Default by Tenant which must be cured before said transferee may succeed to Tenant's interest in the Lease, but shall be deemed automatically cured upon conveyance of such leasehold estate to such transferee:

(A) The making by Tenant of any general arrangements or assignments for the benefit of creditors;

(B) Tenant's becoming a debtor as defined in the United States Bankruptcy Code (11 USC § 101, et seq.) or any successor statute, unless, in the case of a petition filed against Tenant, such petition is dismissed within ninety (90) days after filing;

(C) The appointment of a trustee or receiver to take possession of substantially all of Tenant's assets at the Leased Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within sixty (60) days following such appointment;

(D) The attachment, execution, or other judicial seizure of substantially all of Tenant's assets located at the Leased Premises or of Tenant's interest in this Lease, where such seizure is not discharged within sixty (60) days after the seizure;

(E) Any Default by Tenant hereunder which occurred more than sixty (60) days prior to the service upon Mortgagee of a copy of a notice of Tenant's default;

(F) Any failure by Tenant to indemnify Landlord from and against any claim or liability for personal injury or property damage as provided in this Lease;

(G) Any other Default which is of such a nature as to not be reasonably curable by said transferee.

(vii) In addition to any of the foregoing provisions, Mortgagee shall also have the right, but not the obligation, to demand and to receive from Landlord, within said thirty (30) day period following the service upon Mortgagee of said notice of default, a duly executed, valid and enforceable lease granting Mortgagee the right to use the Leased Premises for any purpose permitted by this Lease, for the balance of the then unexpired term of this Lease, containing provisions identical to the provisions of this Lease with the exception of provisions designating the parties thereto and providing for the absolute right

of assignment and subletting by Mortgagee, and accompanied by a duly executed memorandum of such lease in a form suitable for recording, to which recording Landlord hereby consents; provided, however, Mortgagee's right to demand and receive said Lease from Landlord shall be conditioned upon Mortgagee having cured, pursuant to any obligation of Tenant hereunder, or, where applicable, having such defaults deemed automatically cured by Subsection 56(a)(vi). Upon the execution and delivery of such lease to Mortgagee, this Lease shall without notice immediately and automatically terminate, together with all rights of Tenant hereunder. Mortgagee shall have the right to assign the leasehold estate or to sublet the Leased Premises or any portion thereof to any person without the requirement of consent by Landlord, and upon any such assignment by Mortgagee and the execution of a written assumption agreement by the assignee thereof (other than as assignee for security purposes), Mortgagee shall automatically be relieved of any personal liability under said lease for performance of any unaccrued obligations arising thereafter. Nothing herein shall be, or be deemed to constitute, a waiver of Landlord's right to (i) hold Tenant personally liable for any breach of the provisions of this Lease, or (ii) seek to and obtain possession of the Leased Premises and/or termination of this Lease following a Default in the payment or performance of any obligation of Tenant hereunder which has not been cured in a timely manner.

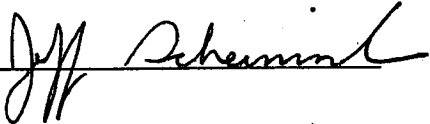
(b) Without limiting the application of any of the foregoing provisions, in the event Tenant shall be required as a condition to the continued effectiveness of this Lease or as a condition precedent hereof to perform or cause the construction, repairs, replacement or restoration of any improvements upon the Leased Premises or any portion thereof, all conditions relating to the time period(s) in which Tenant is to so construct, repair, replace or restore said improvements shall be extended to provide Mortgagee or the transferee under Subsection (a)(v)(C) above with an equivalent period of time for such performance following the lawful acquisition of possession of the Premises by such Mortgagee or transferee; provided Mortgagee or said transferee has acted diligently in enforcing its rights in the manner and subject to the conditions herein provided for the forbearance by Landlord of the exercise of its remedies hereunder.

(c) Landlord and Tenant shall cooperate in including in this Lease, by suitable amendment from time to time, any provision which any proposed Mortgagee reasonably requests for the purpose of implementing the Mortgagee-protection provisions contained in this Section and allowing such Mortgagee reasonable protection of its Mortgage lien in the event of a Default by Tenant. Landlord and Tenant each agree to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effect any such amendment; provided, however, that any such amendment shall not in any way affect the term or rent under this Lease nor otherwise in any material respect adversely affect any rights of Landlord under the Lease.

(d) The provisions set forth in this Section shall be binding upon and inure to the benefit of the successors, assigns and personal representatives of Landlord, Tenant and Mortgagee.

IN WITNESS WHEREOF, the parties hereto have executed this Lease effective as of the date first above written.

**PACKARD BELL ELECTRONICS, INC.,**  
a Delaware corporation


By: 

By: N/A

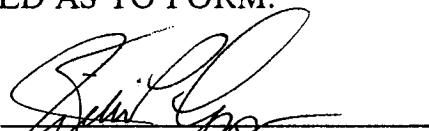
**CITY OF SACRAMENTO,**  
a municipal corporation

By:   
Deputy City Manager

ATTEST:

By:   
City Clerk

APPROVED AS TO FORM:

By:   
City Attorney