

CONSENT TO SUBLEASE AGREEMENT

29833

THIS CONSENT TO SUBLEASE AGREEMENT (this "Agreement") is made as of the 14 day of July, 2006 by and among Rivin Properties, L.P., a California limited partnership ("Lessor"), City of Long Beach, a municipal corporation ("Lessee"), and Long Beach Heritage Museum, Inc., a California non-profit corporation ("Sublessee").

RECITALS

A. Reference is hereby made to that certain Single Tenant Lease (the "Lease") dated as of December 26, 2001, between Lessor (as an assignee of Proficiency South Street, LLC, a Delaware limited liability company, the original lessor) and Lessee for the entire 25,640 rentable square feet (the "Premises") of that certain building, located at 2311 South Street, Long Beach, California (the "Building").

B. Pursuant to the terms of the Lease, Lessee has requested Lessor's consent to that certain Sublease, dated May 30, 2006, by and between Lessee and Sublessee (the "Sublease"), with respect to a subletting by Sublessee of the Premises as more particularly described on Exhibit "A" attached hereto ("Sublet Premises"). A copy of the Sublease is attached hereto. Lessor is willing to consent to the Sublease upon the terms and conditions contained herein.

C. All defined terms not otherwise expressly defined herein shall have the respective meanings given in the Lease.

AGREEMENT

1. Sublease.

1.1 Notwithstanding anything to the contrary contained in the Sublease or herein, the Sublease, including, without limitation, all amendments and modifications thereto, shall be subject and subordinate at all times to all of the covenants, agreements, terms, provisions and conditions of the Lease and of this Agreement.

1.2 Neither Lessee nor Sublessee shall do or permit anything to be done in connection with the Sublease for the Sublessee's occupancy of the Sublet Premises which will violate the Lease.

1.3 Lessor is not a party to the Sublease and shall not be bound by any of the terms, covenant, conditions, provisions or agreements of the Sublease. Furthermore, by executing this Agreement, (i) Lessor does not consent or agree to any modifications of the Lease

and (ii) Lessor shall not be bound or estopped in any way by the provisions of the Sublease or estopped by the provisions of this Agreement.

1.4 The words "Lessor" and "Lessee" as used in the Lease shall be deemed to refer to "Sublessor" and "Sublessee" under the Sublease. As such, Sublessee shall be subject in all respects to the terms and the rights of Lessor and Lessee under the Lease. Except as otherwise expressly provided herein, the covenants, agreements, terms, provisions and conditions of the Lease insofar as they relate to the Sublet Premises and insofar as they are not inconsistent with the terms of the Sublease are made a part of and incorporated into the Sublease as if recited herein in full, and the rights and obligations of Lessor and Lessee under the Lease shall be deemed the rights and obligations of Lessee and Sublessee respectively under the Sublease and shall be binding upon and inure to the benefit of Lessee and Sublessee respectively. Further, in the event of a conflict between the terms of the Lease and the terms of the Sublease, the terms of the Sublease shall control only to the extent they are inconsistent with the terms of the Lease and their respective counterpart provisions in the Lease shall be excluded only to such extent.

1.5 Notwithstanding the foregoing and anything to the contrary in the Sublease or herein, Sublessee shall comply with all of the insurance requirements and obligations of Lessee (applicable to the Sublet Premises) as tenant under the Lease, and shall, whether required by the Sublease or not, name Lessor and Lessee as additional insureds, as their interests may appear, on all policies of insurance required to be carried by Lessee thereunder.

1.6 Notwithstanding anything to the contrary contained in the Sublease or herein, Sublessee shall be required to comply with all of the terms and conditions of the Lease with respect to any alterations (as such term is defined or otherwise referred to in the Lease).

2. Lessor's Consent. Subject to the terms and strict compliance with the conditions set forth in this Agreement, Lessor hereby consents to the Sublease.

3. Non-Release of Lessee; Further Transfers. Neither the Sublease nor this Agreement shall release or discharge Lessee from any liability, whether past, present or future, under the Lease or alter the primary liability of the Lessee to pay the rent and perform under the Lease (including the payment of all bills rendered by Lessor for charges incurred by Sublessee for services and materials supplied to the Sublet Premises). The acceptance of rent or any other sums by Lessor from Sublessee and/or anyone else liable under the Lease shall not be deemed a waiver by Lessor of any provisions of the Lease. Neither the Sublease nor this Agreement shall be construed as a waiver of Lessor's right to consent to any further subletting either by Lessee or by Sublessee or to any assignment by Lessee of the Lease or assignment by Sublessee of the Sublease, or as a consent to any portion of the Sublet Premises being used or occupied by any other party. Lessor may consent to subsequent sublettings and assignments of the Lease or the Sublease or any amendments or modifications thereto without notifying Lessee or anyone else liable under the Lease and without obtaining their consent. No such action by Lessor shall relieve such persons from any liability to Lessor or otherwise with regard to the Premises. In the

event of any default of Lessee under the Lease, Lessor may proceed directly against Lessee or anyone else liable under the Lease without first exhausting Lessor's remedies against any other person or entity liable thereon to Lessor. No amendments, changes or modifications shall be made to the Sublease without the prior written consent of Lessor.

4. Relationship With Lessor. Lessee hereby assigns and transfers to Lessor Lessee's interest in the Sublease and all rentals and income arising therefrom, subject to terms of this Section 4. Lessor, by consenting to the Sublease agrees that until a default shall occur in the performance of Lessee's obligations under the Lease, Lessee may receive, collect and enjoy the rents accruing under the Sublease. In the event Lessee shall default in the performance of its obligations to Lessor under the Lease (whether or not Lessor terminates the Lease), however, Lessor may, at its option by notice to Lessee, either (i) terminate the Sublease, (ii) elect to receive and collect, directly from Sublessee, all rent and any other sums owing and to be owed under the Sublease, as further set forth in Section 4.1, below, or (iii) elect to succeed to Lessee's interest in the Sublease and cause Sublessee to attorn to Lessor, as further set forth in Section 4.2, below. In the event of termination of the Lease and if Lessor does not require Sublessee to attorn to Lessor, Sublessee shall have no further right to possession of the Premises.

4.1 Lessor's Election to Receive Rents. Lessor shall not, by reason of the Sublease, nor by reason of the collection of rents or any other sums from the Sublessee pursuant to Section 4(ii), above, be deemed liable to Sublessee for any failure of Lessee to perform and comply with any obligation of Lessee, and Lessee hereby irrevocably authorizes and directs Sublessee, upon receipt of any written notice from Lessor stating that a default exists in the performance of Lessee's obligations under the Lease, to pay to Lessor the rents and any other sums due and to become due under the Sublease. Lessee agrees that Sublessee shall have the right to rely upon any such statement and request from Lessor, and that Sublessee shall pay any such rents and any other sums to Lessor without any obligation or right to inquire as to whether such default exists and notwithstanding any notice from or claim from Lessee to the contrary. Lessee shall not have any right or claim against Sublessee for any such rents or any other sums so paid by Sublessee to Lessor. Lessor shall credit Lessee with any rent received by Lessor under such assignment but the acceptance of any payment on account of rent from the Sublessee as the result of any such default shall in no manner whatsoever be deemed an attornment by the Lessor to Sublessee or by Sublessee to Lessor, be deemed a waiver by Lessor of any provision of the Lease, or serve to release Lessee from any liability under the terms, covenants, conditions, provisions or agreements under the Lease. Notwithstanding the foregoing, any other payment of rent from the Sublessee directly to Lessor, regardless of the circumstances or reasons therefor, shall in no manner whatsoever be deemed an attornment by the Sublessee to Lessor in the absence of a specific written agreement signed by Lessor to such an effect.

4.2 Lessor's Election of Lessee's Attornment. In the event Lessor elects, at its option, to cause Sublessee to attorn to Lessor pursuant to Section 4(iii), above, Lessor shall undertake the obligations of Lessee under the Sublease from the time of the exercise of the option, but Lessor shall not (a) be liable for any prepayment of more than one month's rent or

any security deposit paid by Sublessee, (b) be liable for any previous act or omission of Lessee under the Lease or for any other defaults of Lessee under the Sublease, (c) be subject to any defenses or offsets previously accrued which Sublessee may have against Lessee, or (d) be bound by any changes or modifications made to the Sublease without the written consent of Lessor.

5. Conditions Precedent. This Agreement shall not become effective until the following conditions precedent have been fully satisfied: (a) Lessee and Sublessee shall have executed and delivered an original counterpart of each of this Agreement and the Sublease to Lessor; (b) Lessor shall have executed and delivered an original counterpart of this Agreement to all parties hereof.

6. Limitation of Lessor's Liability. Lessee and Sublessee agree that the liability of Lessor under the Lease and this Agreement and all matters pertaining to or arising out of the tenancy by Lessee and occupancy of the Sublet Premises by the Sublessee and the use and occupancy of the Premises shall be limited to Lessor's interest in the Building and in no event shall Lessee or Sublessee make any claim against or seek to impose any personal liability upon any general partner, limited partner, member, manager, employee or agent of Lessor, or any principal of any firm or corporation that may hereafter be or become the Lessor.

7. General Provisions.

7.1 Brokerage Commission. Lessee and Sublessee covenant and agree that under no circumstances shall Lessor be liable for any brokerage commission or other charge or expense in connection with the Sublease and Lessee and Sublessee agree to protect, defend indemnify and hold Lessor harmless from and against the same and from any cost or expense (including, but not limited to, attorney's fees) incurred by Lessor in resisting any claim for any such brokerage commission.

7.2 Recapture. This Agreement shall in no manner be construed as limiting Lessor's ability to exercise its rights to recapture any portion of the Premises, as set forth in the Lease, in the event of a proposed future sublease or assignment of such portion of the Premises. Notwithstanding anything contained in the Lease or this Agreement to the contrary, Lessor hereby confirms that it has waived its right to recapture the Premises pursuant to the Lease with respect to the Sublease which is subject to Lessor's consent under this Agreement.

7.3 Option to Extend Term. Notwithstanding anything to the contrary in the Sublease, Lessee and Sublessee acknowledge and agree that, as provided in the Lease, (a) Lessee's option to extend rights under the Lease are personal to the original named lessee, and (b) as such, Sublessee shall have no rights to exercise Lessee's option to extend rights under the Lease.

7.4 Controlling Law. The terms and provisions of this Agreement shall be construed in accordance with and governed by the laws of the State of California.

7.5 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors and permitted assigns. As used herein, the singular number includes the plural and the masculine gender includes the feminine and neuter.

7.6 **Captions.** The section captions utilized herein are in no way intended to interpret or limited the terms and conditions hereof; rather, they are intended for purposes of convenience only.

7.7 **Partial Invalidity.** If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

7.8 **Attorneys' Fees.** If any party hereto commences any action or other proceeding to enforce or interpret this Agreement, including any action to reform, rescind or in any manner affect the provisions of this Agreement, the prevailing party (as determined by the court, agency or other authority before which such suit or proceeding is commenced), shall be entitled to all costs and reasonable attorneys' fees incurred in connection therewith.

7.9 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed original, and all of which together shall constitute one and the same instrument.

[remainder of page intentionally left blank; signatures follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

“Lessor”

Rivin Properties, L.P.,
A California limited partnership

By: [Signature]
Name: JAMES RIVIN
Its: CFO

“Lessee”

City of Long Beach,
a municipal corporation ASSISTANT

By: Christine J. Shippy 6/30/06
Name: Gerald R. Miller
Its: City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

APPROVED AS TO FORM

6/22 20 06

ROBERT E. SHANNON, City Attorney
By: [Signature]
DEPUTY CITY ATTORNEY

“Sublessee”

Long Beach Heritage Museum, Inc.,
a California non-profit corporation

By: Kenneth Larkey
Name: KENNETH LARKEY
Its: OWN Curator

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

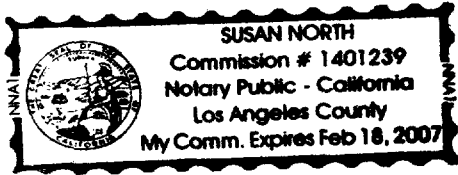
County of Los Angeles

On July 14, 2006 before me, Susan North Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared James Rivin
Name(s) of Signer(s)

personally known to me

(or proved to me on the basis of satisfactory evidence)



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Susan North
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Consent to Sublease Agreement

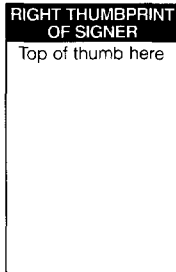
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

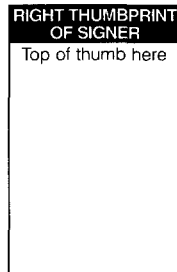
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

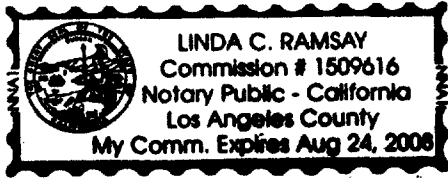
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Los Angeles } ss.

On July 3, 2006 before me, LINDA C. RAMSAY, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Christine F. Shippey
Name(s) of Signer(s)

personally known to me
 ~~proved to me on the basis of satisfactory evidence~~

to be the person~~s~~ whose name~~s~~ is/are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity~~(ies)~~, and that by ~~his/her/their~~ signature~~s~~ on the instrument the person~~s~~, or the entity upon behalf of which the person~~s~~ acted, executed the instrument.



WITNESS my hand and official seal.

Linda C. Ramsay
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

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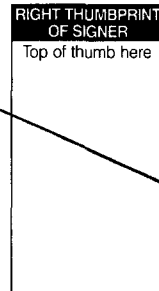
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



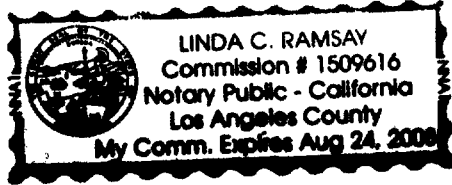
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Los Angeles } ss.

On July 7, 2006 before me, LINDA C. RAMSAY, Notary Public,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Kenneth Larkey,
Name(s) of Signer(s)

personally known to me
 proved to me on the basis of satisfactory evidence

to be the person~~s~~ whose name~~s~~ is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity~~(ies)~~, and that by his/her/their signature~~s~~ on the instrument the person~~s~~, or the entity upon behalf of which the person~~s~~ acted, executed the instrument.



WITNESS my hand and official seal.
Linda C. Ramsay
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Consent to Sublease Agreement

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

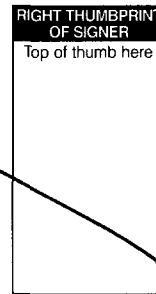


EXHIBIT "A"
SPACE PLAN

See attached.

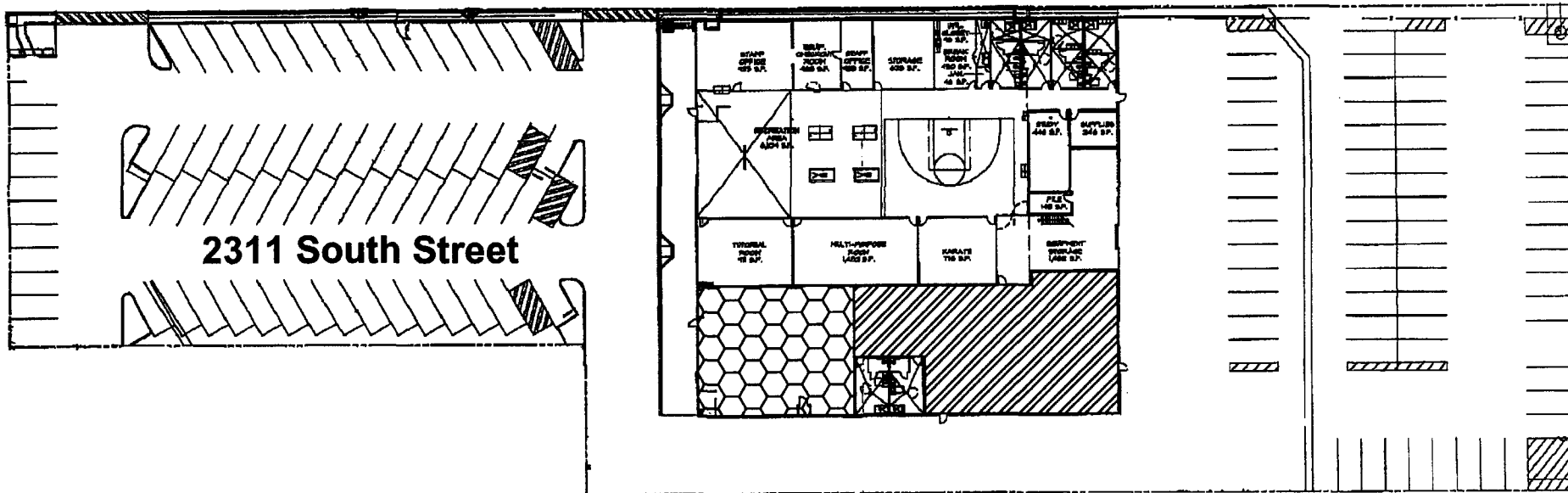
Cherry Avenue

Exhibit "A"

Sublease to Lease No. 27583
 Space Plan for Long Beach Heritage Museum

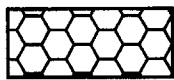


South

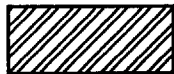


2311 South Street

Street



Long Beach Heritage Museum.....2,900 useable square feet



Vacant.....4,504 useable square feet

total usable square feet.....7,404

EXHIBIT "B"
SUBLEASE

See attached.

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

SUBLEASE

THIS SUBLEASE is entered into as of May 30, 2006, between the CITY OF LONG BEACH, a municipal corporation ("Sublessor"), and LONG BEACH HERITAGE MUSEUM, INC., a California non-profit corporation ("Sublessee"), pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting held on April 18, 2006.

WHEREAS, Sublessor entered into a Lease dated December 26, 2001 (as amended, the "Lease") with Proficiency South Street LLC, a Delaware limited liability company ("Original Lessor"), as predecessor-in-interest to Rivin Properties, L.P. ("Lessor") for the premises more particularly described in the Lease and commonly known as 2311 South Street, Long Beach, California; and

WHEREAS, pursuant to a Consent to Sublease Agreement dated as of even date herewith, Lessor consents to (i) the sublease of a portion of the Lease premises and (ii) the terms of this Sublease; and

WHEREAS, Sublessee desires to sublease a portion of the Lease premises from Sublessor;

NOW, THEREFORE, the parties agree as follows:

1. PREMISES. The Sublessor hereby subleases to the Sublessee and the Sublessee hereby hires from the Sublessor those certain premises with appurtenances situated in the City of Long Beach, County of Los Angeles, California, and more particularly described as follows: Approximately 2,900 useable square feet of space located at 2311 South Street, as shown on Exhibit "A" attached hereto and incorporated herein by this reference (the "Premises").

2. TERM. The initial term of this Sublease shall commence on May 1, 2006 and shall expire on August 20, 2012. In the event that Sublessor exercises its option to extend the term of the Lease, then Sublessee shall have one (1) option to extend the term of this Sublease for a period of sixty (60) months. In no event shall the

1 term of this Sublease extend beyond the then-current term of the Lease.

2 3. TERMINATION. The Sublessee or Sublessor may terminate this
3 Sublease at any time for any or no reason by giving written notice at least thirty (30)
4 days prior to the date when such termination shall become effective.

5 4. RENT. Sublessee shall pay to Sublessor One Dollar (\$1.00) per
6 year, payable on or before the first day of each month following the commencement of
7 the term of this Sublease.

8 5. USE. The Premises shall be used solely for storage of historical
9 artifacts and exhibits.

10 6. ACCEPTANCE OF PREMISES. Sublessee accepts the Premises
11 in their present condition. Sublessee shall not make any improvements, alterations or
12 additions to the Premises without the prior written consent of Sublessor. Any
13 improvements, alterations or additions and the removal of same shall be performed in
14 accordance with the applicable provisions of the Lease. Any and all costs associated
15 with Sublessee's alterations or additions and the removal of same shall be paid
16 exclusively by Sublessee. At the expiration of the term of this Sublease, the Premises
17 shall be returned to Sublessor in the same condition as when Sublessee first accepted
18 the Premises hereunder, normal wear and tear excepted.

19 7. NONDISCRIMINATION. Subject to applicable laws, rules, and
20 regulations, Sublessee shall not discriminate against any person or group on the basis
21 of race, religion, national origin, color, age, gender, sexual orientation, AIDS, HIV
22 status, handicap, or disability in connection with the subleasing and maintenance of the
23 Premises.

24 8. INSURANCE. (a) During the entire term, Sublessee shall at its
25 sole cost and expense procure and maintain:

26 (i) Commercial general liability insurance in an amount not less
27 than One Million Dollars (\$1,000,000) per occurrence and in aggregate
28 covering covering bodily injury and property damage liability combined

1 arising from Sublessee's obligations under or in connection with this
2 Sublease. Such insurance shall name Lessor and Sublessor, and any
3 other party either so specifies in writing to Sublessee, as an additional
4 insured.

5 (ii) Physical Damage Insurance covering (a) all office furniture,
6 trade fixtures, office equipment, merchandise and all other items of
7 Sublessee's property on the Premises installed by, for, or at the expense
8 of Sublessee, (b) any tenant work approved by the Sublessor and the
9 Lessor, (c) any museum artifacts, arts, craftwork, collectibles and other
10 historically or culturally significant items stored in the Premises, and (d) all
11 other improvements, alterations and additions to the Premises, including
12 any improvements, alterations or additions installed at Sublessee's
13 request above the ceiling of the Premises or below the floor of the
14 Premises. Such insurance shall be written on an "all risks" of physical
15 loss or damage basis, for the full replacement cost value new without
16 deduction for depreciation of the covered items and in amounts that meet
17 any co-insurance clauses of the policies of insurance and shall include a
18 vandalism and malicious mischief endorsement, and sprinkler leakage
19 coverage. Lessor shall be named as an additional insured with respect to
20 the improvements under (c) in this Section 8(a)(ii).

21 (iii) The minimum limits of policies of insurance required of
22 Sublessee under this Sublease shall in no event limit the liability of
23 Sublessee under this Sublease. Such insurance shall (a) be issued by an
24 insurance company having a rating of not less than A-X in Best's
25 Insurance Guide or which is otherwise acceptable to Sublessor and
26 Lessor, (b) be primary insurance as to all claims thereunder and provide
27 that any insurance carried by Sublessor or Lessor is excess and is non-
28 contributing with any insurance requirement of Sublessee, (c) provide that

1 said insurance shall not be canceled or coverage changed unless thirty
2 (30) days' prior written notice shall have been given to Sublessor and any
3 mortgagee or ground or underlying lessor of Sublessor, and (d) contain a
4 cross-liability endorsement or severability of interest clause acceptable to
5 Sublessor. Sublessee shall deliver said policy or policies or certificates
6 thereof to Sublessor on or before the effectiveness of this Sublease.

7 (b) Notwithstanding the provisions of this Section 8, Sublessee and
8 Sublessor each hereby waive any and all rights of recovery against the other, or against
9 the officers, employees, agents and representatives of the other, for loss of or damage
10 to such waiving party or its property or the property of the other, for loss of or damage
11 to such waiving party or its property or the property of others under its control but only
12 to the extent that (a) such loss or damage is insured against or is required to be insured
13 against under the terms of this Sublease, and (b) such insurance policies permit and do
14 provide for such waiver. In this regard, Sublessor and Sublessee each agree to have
15 their respective insurers issuing the insurance described in this Section 8 waive any
16 rights of subrogation that such companies may have against the other party.

17 9. SERVICES. Sublessor shall, at its own cost, provide utilities to
18 Sublessee. Sublessee shall be responsible for procuring, maintaining and paying for all
19 telephone lines, communication equipment and computers.

20 10. INDEMNIFICATION. Sublessee has received a copy of the Lease,
21 which is attached hereto as Exhibit "B". Sublessee will indemnify Sublessor against any
22 loss, liability, and expenses (including reasonable attorneys' fees and costs) arising out
23 of any default under the Lease caused by Sublessee.

24 11. RELOCATION. Sublessee agrees that nothing contained in this
25 Sublease shall create any right in Sublessee for any relocation assistance or payment
26 under applicable California law from Sublessor on the expiration or termination of this
27 Sublease. Sublessee agrees that nothing contained in this Sublease shall create any
28 right for any reimbursement of Sublessee's moving expenses incurred prior to or during

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

1 the term of this Sublease.

2 12. NOTICE. Any notice required hereunder shall be in writing and
3 personally delivered or deposited in the U. S. Postal Service, registered or certified,
4 return receipt, postage prepaid to Sublessor at Community Development, 333 West
5 Ocean Boulevard, Long Beach, California 90802, 3rd Floor, Attention: Director, and to
6 Sublessee at 653 Grand Avenue, P.O. Box 14641, Long Beach, California, Attention:
7 President. Notice shall be deemed effective on the date shown on the return receipt or
8 on the date personal delivery is made, whichever first occurs. Change of address shall
9 be given as provided herein for notices.

10 13. PARKING. Sublessee may use parking spaces located on the
11 building premises on a first-come, first-served basis. Sublessee shall have no right to
12 reserve spaces for itself or its guests. Sublessee shall be obligated to procure its own
13 parking spaces, if any, separate and apart from this Sublease and the Lease, and
14 neither Lessor nor Sublessor shall be obligated to assist with such procurement.

15 14. SIGNS. Sublessee shall not install any signs, flags, banners or
16 similar items on or near the Premises without the prior written consent of the Lessor.

17 15. ACCESS. Sublessee shall have unrestricted access to the
18 Premises during the normal business hours of the Long Beach Police Department
19 offices located in the Building. Sublessee shall coordinate with the Long Beach Police
20 Department for access during all other times.

21 16. ASSIGNMENT. Sublessee shall not assign or transfer this
22 Sublease or any interest herein, nor sublease the Premises or any part thereof or grant
23 permits for the use of the Premises, nor grant any franchise, easement, right of way, or
24 permit in, on, over, under or across the Premises (collectively referred to as "transfer")
25 without the written consent of Sublessor.

26 17. AMERICANS WITH DISABILITIES ACT. In the event that a
27 governmental agency requires compliance with any standards under the Americans
28 with Disabilities Act of 1990 to modify the Premises and any fixtures therein and such

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

1 governmental requirement is due specifically to Sublessee's use, Sublessee shall bear
2 the costs and expenses for such compliance.

3 18. TAX IDENTIFICATION NUMBER. Sublessee's Tax Identification
4 Number is [REDACTED]

5 IN WITNESS WHEREOF, the parties have caused this document to be
6 duly executed as of the date first stated above.

7 "Sublessee"

8 LONG BEACH HERITAGE MUSEUM, INC.,
9 a California nonprofit corporation

10 Dated: May 17, 2006

11 By: Kenneth G. Yarkay

12 "Sublessor"

13 THE CITY OF LONG BEACH

14 Dated: May 30, 2006

15 By: Myra Arnicca
16 City Manager

17 Approved as to form this 24th day of May, 2006.

18 ROBERT E. SHANNON, City Attorney
19 of the City of Long Beach

20 By: [Signature]
21 Deputy City Attorney

22
23
24
25 RFA;ac
04/04/06
26 L:\APPS\CtyLaw32\WPDOCS\D027\P004\00086070.WPD
06-00859
27
28

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Los Angeles } ss.

On May 17, 2006 before me, Nancy Garver, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Kenneth N. Larkey
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.
Nancy Garver
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Sublease

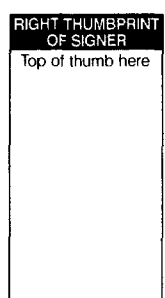
Document Date: _____ Number of Pages: 6

Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney-in-Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____

Signer Is Representing: _____



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Los Angeles } ss.

On May 31, 2006 before me, LINDA C. RAMSAY, Notary Public,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared GERALD R. MILLER
Name(s) of Signer(s)

personally known to me
 ~~proved to me on the basis of satisfactory evidence~~

to be the person~~s~~ whose name~~s~~ ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity~~(ies)~~, and that by ~~his/her/their~~ signature~~s~~ on the instrument the person~~s~~, or the entity upon behalf of which the person~~s~~ acted, executed the instrument.



WITNESS my hand and official seal.

Linda C. Ramsay
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Sublease

Document Date: May 30, 2006 Number of Pages: 6, plus exhibits

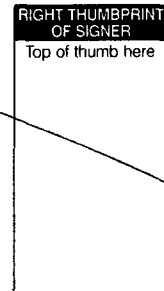
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

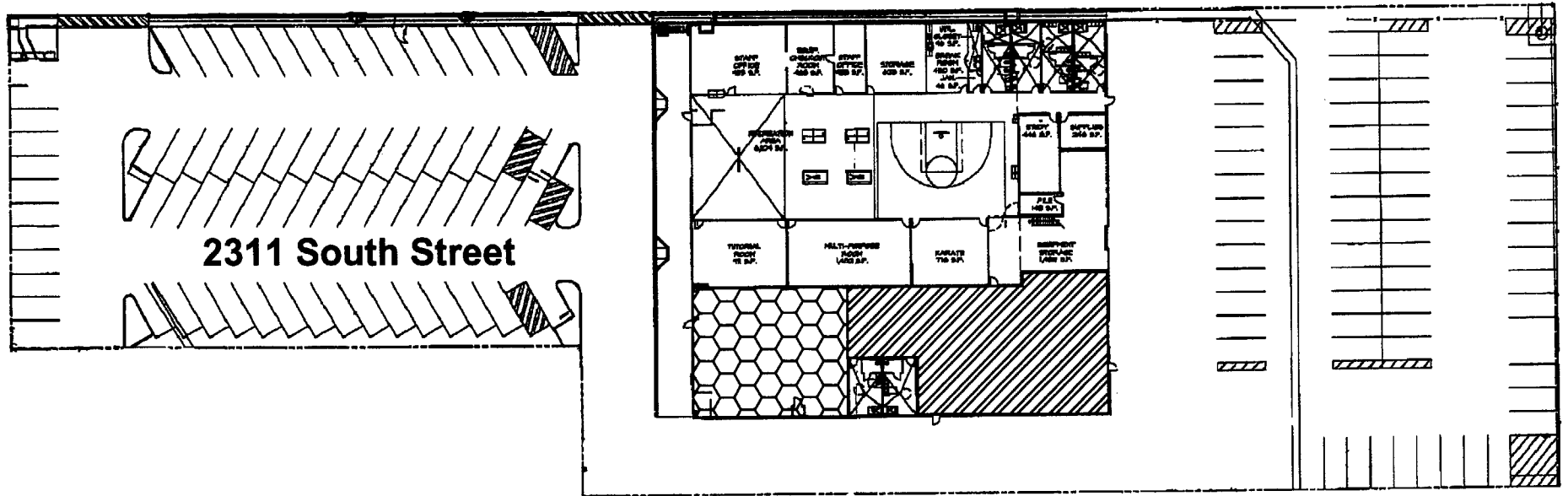


Cherry Avenue

Exhibit "A"

Sublease to Lease No. 27583 Space Plan for Long Beach Heritage Museum

South



Street



Long Beach Heritage Museum.....2,900 useable square feet



Vacant.....4,504 useable square feet

total usable square feet.....7,404

EXHIBIT "B"

SINGLE-TENANT LEASE

27583

1. Basic Provisions ("Basic Provisions")

1.1 **Parties:** This Lease ("Lease"), dated for reference purposes only December 26, 2001, is made by and between PROFICIENCY SOUTH STREET LLC, a Delaware limited liability company ("**Lessor**"), having an address at 11755 Wilshire Boulevard, Suite 2220, Los Angeles, California 90025, and THE CITY OF LONG BEACH, a municipal corporation ("**Lessee**"), (collectively the "**Parties**," or individually a "**Party**").

1.2 **Premises:** That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, and commonly known as 2311 South Street, located in the City of Long Beach, County of Los Angeles, State of California, and generally described as the entirety of a 25,640 rentable square foot building (the "**Building**") located on approximately 97,944 square feet of land, together with appurtenant parking areas, driveways and landscaped areas ("**Premises**"). (See also Paragraph 2) The Premises are depicted in the Site Plan attached hereto as Exhibit A.

1.3 **Term:** Ten (10) years and zero (0) months ("**Original Term**") commencing on the date which is five (5) calendar days following the date that the Tenant Improvements are Completed and the Premises are Ready for Occupancy (as such capitalized terms are defined in Paragraph 9 of Exhibit B) ("**Commencement Date**"), and ending on the day prior to the tenth (10th) anniversary of the Commencement Date ("**Expiration Date**"). (See also Paragraphs 3 and 50)

1.4 **Target Commencement Date.** Lessor and Lessee intend that the Target Commencement Date shall be April 1, 2002 (the "**Target Commencement Date**").

1.5 **Base Rent:** \$22,563.20 ("**Base Rent**"), payable in advance on the first day of each calendar month commencing on the Commencement Date. (See also Paragraph 4) The Base Rent shall be adjusted periodically during the term of the Lease as set forth in Paragraph 49 of the Addendum. If the Commencement Date is a day other than the first day of a calendar month, then Lessee shall pay to Lessor, within five (5) business days after the Commencement Date, a prorated amount of rent for the partial month commencing on the Commencement Date and ending on the last day of the calendar month in which the Commencement Date occurs. Lessor and Lessee shall execute and deliver a Notice of Lease Term Dates in the form of Exhibit C attached hereto promptly following the Commencement Date.

1.6 **Prepaid Base Rent:** Not later than twenty (20) business days following the full execution of this Lease, Lessee shall pay to Lessor the sum of \$22,563.20 as Base Rent for the first full calendar month of the Original Term.

1.7 **Agreed Use:** General office use, recreation and other legally permitted uses. In addition, Lessee shall be entitled to use the parking areas north of the Building for recreational uses. (See also Paragraph 6) Under no circumstances shall the Premises ever be used for the manufacture, storage, treatment, handling or disposal of Hazardous Substances.

1.8 **Insuring Party.** Lessee is the "**Insuring Party**" unless otherwise stated herein. (See also Paragraph 8)

1.9 **Real Estate Brokers:** (See also Paragraph 15) The following real estate brokers (collectively, the "**Brokers**") and brokerage relationships exist in this transaction:

CB Richard Ellis, Inc. (Laird Perkins) represents Lessor exclusively ("**Lessor's Broker**"); and

Cushman & Wakefield of California, Inc. (Robert S. Garey) represents Lessee exclusively ("**Lessee's Broker**").

1.10 **Addenda and Exhibits.** Attached hereto is an Addendum or Addenda consisting of Paragraphs 49 through 55 and Exhibits A and B, Schedule 1 to Exhibit B, Exhibits C and D, all of which constitute a part of this Lease.

2. Premises.

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of size set forth in this Lease, or that may have been used in calculating rental, is an approximation which the Parties agree is reasonable and the rental based thereon is not subject to revision whether or not the actual size is more or less.

2.2 **Compliance.** Lessor warrants that the improvements on the Premises comply with all applicable laws, covenants or restrictions of record, building codes, regulations and ordinances ("**Applicable Requirements**") in effect on the Commencement Date. Said warranty does not apply to the use to which Lessee will put the Premises or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. NOTE: Lessee is responsible for determining whether or not the zoning is appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed. If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within one hundred eighty (180) days following the Commencement Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed (as opposed to being in existence at the Commencement Date) so as to require during the term of this Lease the construction of an addition to or an alteration of the Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Building ("**Capital Expenditure**"), Lessee shall be fully responsible for the cost thereof.

3. Term.

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Delay In Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Target Commencement Date. If, despite said efforts, Lessor is unable to deliver possession as agreed, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until it receives possession of the Premises, unless and to the extent that Lessor's failure to deliver possession of the Premises resulted from delays caused by Lessee.

3.3 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Commencement Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance.

4. **Rent.**

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease are deemed to be rent ("Rent").

4.2 **Payment.** Lessee shall cause payment of Base Rent and other rent or charges, as the same may be adjusted from time to time, to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. Base Rent and other rent or charges for any period during the term hereof which is for less than one (1) full calendar month shall be prorated based upon the actual number of days of said month. Payment of Base Rent and other rent or charges shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Base Rent and other rent or charges, regardless of Lessor's endorsement of any check so stating.

5. **Intentionally Omitted.**

6. **Use.**

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs owners and/or occupants of, or causes damage to neighboring properties.

6.2 **Hazardous Substances.**

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) regulated or monitored by any governmental authority as a dangerous or hazardous substance or waste, or (ii) a basis for potential liability of Lessor to any governmental agency under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements).

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's sole cost and expense, take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from adjacent properties). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. **No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless Lessor and Lessee specifically agree thereto in writing at the time of such agreement and such agreement specifically identifies this Paragraph 6.2 of the Lease.**

(e) **Lessor Indemnification.** Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which existed as a result of Hazardous Substances on the Premises prior to the Target Commencement Date or which are caused by the negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to the Commencement Date, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in Paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under

Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds twelve (12) times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within thirty (30) days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date sixty (60) days following the date of such notice, and this Lease shall so terminate following the expiration of such sixty-day period.

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, and the requirements of any applicable fire insurance underwriter or rating bureau, without regard to whether said requirements are now in effect or become effective after the Commencement Date. Lessee shall, within ten (10) days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt by Lessee, notify Lessor in writing (and immediately provide to Lessor copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements.

6.4 Inspection; Compliance. Lessor and Lessor's "Lender" (as defined in Paragraph 30.1 below) and consultants shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times upon prior telephonic notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. In connection with any inspection of the Premises by Lessor, if a violation of Applicable Requirements, or a contamination is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority, then Lessee shall upon request reimburse Lessor for the entire cost of such inspections, so long as such inspection is reasonably related to the violation or contamination.

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

7.1 Lessee's Obligations. Lessee shall be responsible for performing, at its sole cost and expense, (a) routine plumbing and electrical repairs and maintenance associated with the Building, and (b) except for the Tenant Improvements to be constructed by Lessor pursuant to Exhibit B and except as provided in Paragraph 7.2 below, interior non-structural repairs and maintenance including, without limitation, interior walls, ceilings, floors, lighting, and window treatments.

7.2 Lessor's Obligations.

(a) **Capital Improvements.** Lessor shall be solely responsible for and shall pay (without reimbursement from Lessee) all costs associated with any capital improvements to the Building including, but not limited to, all surface and structural elements of the roof, bearing walls and foundations of the Building, and electrical, plumbing and HVAC systems; provided, however, that if any of the foregoing capital improvements are necessitated by the misuse or abuse of the Building by Lessee, then Lessee shall be responsible for the cost of such capital improvements. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises, and they expressly waive the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

(b) **Lessor's Maintenance Obligations.** Lessor shall provide exterior maintenance of the Premises (including painting of exterior walls of the Building), landscape maintenance, common area maintenance and lighting, exterior sweeping, janitorial service, window washing, and maintenance of the driveways, parking lots, fences, retaining walls, sidewalks and parkways located on or adjacent to the Premises (all of the foregoing are collectively referred to as "**Lessor's Maintenance Obligations**"). In addition, Lessor shall procure and maintain a service contract for the Building's HVAC system (the "**HVAC Contract**") in form and substance satisfactory to Lessor. The cost of performing Lessor's Maintenance Obligations and the cost of the HVAC Contract, together with a ten percent (10%) administrative fee with respect to the actual invoiced charges for such items, shall be referred to collectively as the "**Operating Expenses**"; provided, however, that Operating Expenses shall not include, and Lessee shall have no obligation to pay, any property management fees. Lessee shall be responsible for paying all Operating Expenses at the times and in the manner described in Paragraph 7.2(c) below.

(c) **Monthly Payments and Annual Reconciliation.** On the first day of each calendar month of the Term of this Lease, Lessee shall pay Lessor a sum equal to 1/12 of the estimated amount of Operating Expenses for that particular calendar year based on Lessor's reasonable estimate thereof, to be delivered to Lessee on or about December 1 of each year during the Term. Lessee's monthly estimated payments of Operating Expenses are subject to increase or decrease from time to time as determined by Lessor to reflect revised estimates of such costs. Not later than one hundred twenty (120) days after the end of each calendar year, Lessor shall deliver to Lessee a reconciliation (the "**Reconciliation**") of the estimated Operating Expenses paid by Lessee for the previous calendar year, compared with the actual Operating Expenses for such calendar year. If Lessee's total estimated payments of Operating Expenses for any calendar year are less than the actual Operating Expenses for such year, Lessee shall pay to Lessor, within ten (10) days of Lessee's receipt of an invoice therefor, the difference; if the total estimated monthly payments of Operating Expenses made by Lessee exceed the actual Operating Expenses for such year, Lessor shall retain such excess and credit it to Lessee's next accruing estimated monthly Operating Expense payments, except at the end of the Term, when any excess will be refunded to Lessee. Failure or delay by Lessor in delivering any estimate, demand or reconciliation shall not affect the rights and obligations of the parties hereunder.

(d) **Lessee's Audit Rights.** Lessee (or Lessee's agent) shall have a period of one hundred eighty (180) days following receipt of any Reconciliation within which to inspect, at Lessor's principal office during normal business hours, Lessor's books and records concerning Operating Expenses for the preceding calendar year period in question. If Lessee shall not have availed itself of such inspection, Lessee shall be deemed to have accepted as final and determinative the amounts shown on the Reconciliation. If Lessee shall dispute the accuracy of the information set forth in Lessor's books and records with respect to the Reconciliation, Lessee shall nevertheless pay the amounts as required by the provisions of this Paragraph; provided however, that no later than seven (7) months after receipt of the Reconciliation, Lessee must contest in writing (or its right to contest such charges shall be deemed waived) and the parties shall select by mutual agreement an independent firm of certified public accountants to conduct an audit of the books, records and statements of Lessor and certify the proper amount of Operating Expenses due and owing, if any. Lessee shall pay the cost of such certification, unless such certification determines that Lessor's original statement was in error and to Lessee's disadvantage by more than ten percent (10%) of Operating Expenses.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions; Consent Required.** The term "**Utility Installations**" refers to all floor and window coverings, air lines, power panels, electrical distribution, security and fire protection systems, communication systems, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "**Trade Fixtures**" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "**Alterations**" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "**Lessee**

Owned Alterations and/or Utility Installations are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a). Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, and the cumulative cost thereof during this Lease as extended does not exceed \$50,000 in the aggregate or \$10,000 in any one year.

(b) **Consent.** Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs more than \$50,000, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to one and one-half times the estimated cost of such Alteration or Utility Installation. For any consent given by Lessor under this Paragraph 7.3(b), Lessee's obligation to compensate Lessor, its third party architects, engineers, etc. in connection with such consent shall be in accordance with the schedule attached hereto as Exhibit D, and shall not exceed \$1,000 per event.

(c) **Indemnification.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than ten (10) days' notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to one and one-half times the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same.

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises.

(b) **Removal.** By delivery to Lessee of notice from Lessor not earlier than ninety (90) and not later than thirty (30) days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations made without the required consent.

(c) **Surrender/Restoration.** Lessee shall surrender the Premises on or before the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee Owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee, and the removal, replacement, or remediation of any soil, material or groundwater contaminated by Lessee. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. Insurance; Indemnity.

8.1 **Payment For Insurance.** Lessee shall pay for all insurance required under this Paragraph 8, in the manner provided for herein.

8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability Policy of Insurance protecting Lessee against claims for bodily injury, personal injury and property damage based upon or arising out of Lessee's use, occupancy or maintenance of the Premises and all areas appurtenant thereto, with respect to Lessee's acts and/or occupancy of the Premises. Such insurance shall be on an occurrence basis in an amount not less than \$1,000,000 per occurrence and in aggregate with an **"Additional Insured-Managers or Lessors of Premises"** endorsement (equivalent in coverage scope to ISO form CG 20 11 01 96) naming Lessor an additional insured, and contain the **"Amendment of the Pollution Exclusion Endorsement"** for damage caused by heat, smoke or fumes from a hostile fire. The Policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. All insurance carried by Lessee shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only. Lessee's obligation herein to maintain liability insurance may be satisfied in full by delivering to Lessor evidence of a formal program of liability self-insurance providing the coverage and limits required under this Paragraph 8.2(a).

8.3 Property Insurance - Building, Lessor Improvements and Rental Value.

(a) **Building and Improvements.** Lessee shall obtain and keep in force a policy or policies in the name of Lessee, with loss payable to Lessor, and to any of Lessor's Lender(s) insuring loss or damage for "All Risk" perils of loss to the Premises, excluding the perils of flood and earthquake and including reconstruction or replacement of any portion of the Premises damaged by a covered peril. Such policy or policies shall name Lessor and its Lender(s) as loss payees. The amount of such insurance shall be equal to the full replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lenders, but in no event more than the full replacement value of the Premises. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee under Paragraph 8.4. If such insurance coverage has a deductible clause, Lessee shall be liable for such deductible amount in the event of an Insured Loss.

(b) **Rental Value.** Lessee shall obtain and keep in force a policy or policies in the name of Lessee, with loss payable to Lessor and any of Lessor's Lenders, insuring the loss of the full Rent for one (1) year in the event of a covered loss resulting from an "All Risk" peril. Such policy or policies shall name Lessor and its Lender(s) as the loss payee. Said insurance shall provide that in the event the Lease is terminated by reason of an Insured Loss and not at the sole option of the Lessor, the period of indemnity for such coverage shall commence from the date of the covered loss to the Premises, to provide for one full year's loss of Rent from the date of any such loss. Lessee shall be liable for any deductible amount in the event of such loss.

8.4 Lessee's Personal Property Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations.

8.5 **Insurance Policies.** Insurance required herein shall be provided by companies duly licensed or authorized to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, V, or such other rating as may be required by a Lender, as set forth in the most current issue of "Best's Insurance Guide". Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Commencement Date, deliver to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification by Lessee or the insurance company issuing the policy except after thirty (30) days' prior written notice to Lessor. Lessee shall, within at least thirty (30) days of expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. Except with respect to the insurance required to be maintained under Paragraphs 8.3(a) and (b), evidence of formal self insurance affording equivalent coverage applicable to the respective sections of this Lease is acceptable as an alternative to insurance.

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein.

8.7 **Indemnity.** Except for Lessor's negligence or willful misconduct, or the negligence or willful misconduct of Lessor's agents, Lessor's master or ground lessor, partners and Lenders, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, and attorneys' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense, and Lessor and its agents, Lessor's master or ground lessor, partners, and Lenders, shall cooperate with Lessee in such defense. Failure of Lessor or any of its agents, Lessor's master or ground lessor, partners, and/or Lenders to cooperate with Lessee in such defense shall terminate Lessee's defense obligation hereunder with respect to the uncooperative party upon the provision of ten (10) days' prior written notice. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor from Liability.** Except for Lessor's negligence or willful misconduct, or the negligence or willful misconduct of Lessor's agents, master or ground lessor, partners or Lenders, Lessor shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building of which the Premises are a part, or from other sources or places. Notwithstanding Lessor's negligence or breach of this Lease, Lessor shall under no circumstances be liable for injury to Lessee's business or for any loss of income or profit therefrom.

9. Damage or Destruction.

9.1 Definitions.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in nine (9) months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within thirty (30) days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in nine (9) months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within thirty (30) days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2(a), in, on, or under the Premises.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall make any applicable insurance proceeds and the amount of the deductible available to Lessor for that purpose.

9.3 **Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate the Lease.

9.4 **Total Destruction.** If a Premises Total Destruction occurs, at the election of Lessor, this Lease shall terminate sixty (60) days following such Destruction. If Lessor does not elect to terminate this Lease, then the Premises Total Destruction shall be treated as a Premises Partial Damage in the event of an uninsured loss and the provisions of Paragraph 9.3 above shall apply, or as a Premises Partial Damage in the event of an Insured Loss and the provisions of Paragraph 9.2 above shall apply.

9.5 **Damage Near End of Term.** If at any time during the last six (6) months of this Lease a Premises Partial Damage occurs, Lessor at its option may either (i) terminate this Lease effective sixty (60) days following the date of occurrence of such damage by giving written termination notice to Lessee within thirty (30) days after the date of occurrence of such damage, or (ii) if such damage can be completely repaired within sixty (60) days, elect to repair such damage, in which case the provisions of

Paragraph 9.2 shall apply if such damage is an Insured Loss, and the provisions of Paragraph 9.3 shall apply if such damage is an uninsured loss.

9.6 Abatement of Rent; Lessee's Remedies.

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor shall be obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within ninety (90) days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than sixty (60) days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within thirty (30) days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within said thirty (30) days, this Lease shall continue in full force and effect. "**Commence**" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination-Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(f) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor.

9.8 **Waive Statutes.** Lessor and Lessee agree that the terms of this Lease shall govern the effect of any damage to or destruction of the Premises with respect to the termination of this Lease and hereby waive the provisions of any present or future statute to the extent inconsistent herewith, including without limitation California Civil Code Sections 1932 and 1933(4).

10. Real Property Taxes.

10.1 **Definition of "Real Property Taxes."** As used herein, the term "**Real Property Taxes**" shall include any form of real estate tax or assessment; general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Premises, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax, including any city, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof. The term "**Real Property Taxes**" shall also include any tax, fee, levy, assessment or charge, or any increase therein, imposed by reason of events occurring prior to and/or during the term of this Lease, including but not limited to, a change in the ownership of the Premises or completion of construction thereon.

10.2 **Payment of Taxes.** Lessee shall reimburse Lessor for the Real Property Taxes applicable to the Premises during the term of this Lease. Payment shall be made by Lessee to Lessor within ten (10) days following receipt of an invoice based upon a fully assessed property for any amount of Real Property Taxes due. If any such Real Property Taxes shall cover any period of time prior to or after the expiration or termination of this Lease, Lessee's share of such taxes shall be prorated to cover only that portion of the tax bill applicable to the period that this Lease is in effect.

10.3 **Joint Assessment.** If the Premises are not separately assessed, Lessee's liability shall be that portion of the Real Property Taxes equal to the value of the Premises based upon a fully assessed property.

10.4 **Personal Property Taxes.** Lessee shall pay, prior to delinquency, all taxes assessed against and levied upon Lessee Owned Alterations, Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee. When possible, Lessee shall cause such property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said personal property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within ten (10) days after receipt of a written statement.

11. **Utilities.** Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "**assign or assignment**") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to an action for declaratory relief and/or injunctive relief.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, any assignment or subletting shall not: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefore to Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$1,000, as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested.

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment or entering into such sublease, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same payment toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to atorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

(f) If for any proposed assignment or sublease Lessee receives Rent or other consideration, either initially in a lump sum or periodically over the term of the assignment or sublease, in excess of the Rent required by this Lease (after deducting Lessee's reasonable, documented costs for tenant improvements and leasing commissions paid to unaffiliated third parties in connection with any such assignment or sublease), or, in the case of the sublease of a portion of the Premises, in excess of such Rent fairly allocable to such portion, after appropriate adjustments to assure that all other payments called for hereunder are taken into account, Lessee shall pay to Lessor as additional Rent fifty percent (50%) of the excess of each such payment of Rent or other consideration received by Lessee within ten (10) days of its receipt or, in the event the sublessee or assignee makes payment directly to Lessor, Lessor shall refund fifty percent (50%) of the excess to Lessee within ten (10) days of its receipt.

13. Default; Breach; Remedies.

13.1 Default; Breach. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or rules under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of three (3) business days following written notice to Lessee.

(c) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) a Tenancy Statement, (v) a requested subordination, (vi) any document requested under Paragraph 42 (easements), or (vii) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of ten (10) days following written notice to Lessee.

(d) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 40 hereof, other than those described in subparagraph 13.1(a), (b) or (c), above, where such Default continues for a period of thirty (30) days after written notice; provided, however, that if the nature of Lessee's Default is such that more than thirty (30) days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

(e) The discovery that any financial statement of Lessee given to Lessor was materially false.

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within ten (10) days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Lessor shall be due and payable by Lessee upon receipt of invoice therefor. If any check given to Lessor by Lessee shall not be honored by the bank upon which it is drawn, Lessor, at its option, may require all future payments to be made by Lessee to be by cashier's check. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent (1%). Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover damages under Paragraph 12. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Intentionally Omitted.

13.4 **Late Charges.** Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within ten (10) days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall pay to Lessor a one-time late charge equal to five percent (5%) of each such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for three (3) consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 **Interest.** Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor within thirty (30) days following the date on which it was due, shall bear interest from the thirty-first (31st) day after such payment was due. The interest ("Interest") charged shall be equal to the prime rate reported in the *Wall Street Journal* as published closest prior to the date when due plus four percent (4%), but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than thirty (30) days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than thirty (30) days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such thirty (30) day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within thirty (30) days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent an amount equal to one month's Base Rent and to pay an excess of such expense under protest, reserving Lessee's right to reimbursement from Lessor. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. **Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than ten percent (10%) of any building portion of the premises, or more than twenty-five percent (25%) of the land area portion of the premises not occupied by any building, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within ten (10) days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this

Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokers; Representations and Indemnities of Broker Relationships. Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto. The Brokers identified in Paragraph 1.9 above shall be compensated by Lessor with respect to this Lease pursuant to a separate written agreement between Lessor and the Brokers.

16. Estoppel Certificates.

(a) Each Party (as "Responding Party") shall within ten (10) business days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Estoppel Certificate" form published by the American Industrial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such ten day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate.

(c) Lessee agrees to furnish copies of audited annual financial statements and other financial data as may be required by Lessor and which Lessor is authorized to use or furnish to any Lender(s) or prospective purchasers of the Building. Lessee represents and warrants that any financial statements submitted to Lessor by Lessee prior to or after execution of this Lease are true and correct.

17. Definition of Lessor. The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined. Notwithstanding the above, and subject to the provisions of Paragraph 20 below, the original Lessor under this Lease, and all subsequent holders of the Lessor's interest in this Lease shall remain liable and responsible with regard to the potential duties and liabilities of Lessor pertaining to Hazardous Substances as outlined in Paragraph 6 above.

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

19. Days. Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

20. Intentionally Omitted.

21. Time of Essence. Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. No Prior or Other Agreements. This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective.

23. Notices.

23.1 Notice Requirements. All notices required or permitted by this Lease shall be in writing, and all such notices and Rent may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail, return receipt requested, or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. Notices to Lessor shall be sent to: Proficiency South Street, LLC, 11755 Wilshire Boulevard, Suite 2220, Los Angeles, California 90025, Attention: President, and notices to Lessee shall be sent to: City of Long Beach, 333 West Ocean Boulevard, 13th Floor, Long Beach, California 90802, Attention: City Manager. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 Date of Notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given forty-eight (48) hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given twenty-four (24) hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt, provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. Waivers. No waiver by Lessor of any provision hereof shall be deemed a waiver of any other provision hereof, or of any subsequent Default or Breach by Lessee of the same or any other provision. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee. The acceptance of Rent hereunder by Lessor shall not be a waiver of any preceding breach by Lessee of any provision hereof, other than the failure of Lessee to pay the particular rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent.

25. Intentionally Omitted.

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to one hundred twenty-five percent (125%) of the Base Rent applicable during the month immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

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

28. **Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the parties, but rather according to its fair meaning as a whole, as if both parties had prepared it.

29. **Binding Effect; Choice of Law.** This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. **Subordination; Attornment; Non-Disturbance.**

30.1 **Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lessor's Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment.** Subject to the non-disturbance provisions of Paragraph 30.3, Lessee agrees to attorn to a Lender or any other party who acquires ownership of the Premises by reason of a foreclosure of a Security Device, and that in the event of such foreclosure, such new owner shall not: (i) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (ii) be subject to any offsets or defenses which Lessee might have against any prior lessor, or (iii) be bound by prepayment of more than one (1) month's rent.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within sixty (60) days after the execution of this Lease, Lessor shall use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said sixty (60) days, then Lessee may, at Lessee's option, directly contact Lessor's lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises to enforce the terms hereof or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense in a lawsuit. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses up to a maximum of \$1,000 incurred in the preparation and service of each notice of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach, excluding attorneys' fees and other costs for preparation and service of a Notice to Quit when Lessor has erred in preparing or serving it.

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after 24 hours' prior verbal notice for the purpose of showing the same to prospective purchasers, lenders, or lessees, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary. All such activities shall be without abatement of rent or liability to Lessee. Lessor may at any time place on the Premises any ordinary "**For Sale**" signs and Lessor may during the last nine (9) months of the term hereof place on the Premises any ordinary "**For Lease**" signs.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Except for ordinary "For Sublease" signs, Lessee shall not place any sign upon the Premises without Lessor's prior written consent. All signs must comply with all Applicable Requirements. Notwithstanding the foregoing, Lessee, at its sole cost and expense (subject to Paragraph 6 of Exhibit B), and subject to the approval by applicable governmental authorities and the prior written approval of Lessor as to size, location and quality of signage (which approval by Lessor shall not be unreasonably withheld, conditioned or delayed), shall have the exclusive right to install signage on the exterior of the Building. All signs must comply with all Applicable Requirements. Upon the expiration or earlier termination of this Lease, Lessee shall, at its sole cost and expense, remove any such signs and repair any damage to the Building or Premises resulting from such removal (including repainting the Building if and to the extent necessary to eliminate any evidence that a sign had been removed from the Building).

35. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within ten (10) days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. **Consents.** Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or

response to, a request by Lessee for any Lessor consent in connection with any alterations to the Premises proposed by Lessee that are not covered by Paragraph 7.3(b), any assignment or subletting requested by Lessee that is not covered by Paragraph 12.2(e), or any financing by Lessee which requires a Lessor waiver and/or consent, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor; provided, that Lessee's obligations to pay such expenses shall not exceed \$1,000 for each consent requested and further subject to the limitations of Exhibit D. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within ten (10) business days following such request.

37. Intentionally Omitted.

38. Quiet Possession; Access. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof. Lessee shall have access to the Building and Premises, 24 hours a day, seven days a week.

39. Options.

39.1 Definition. "Option" shall mean: (a) the right to extend the term of or renew this Lease or to extend or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 Multiple Options. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.3 Effect of Default on Options.

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given three (3) or more notices of separate Default, whether or not the Defaults are cured, during the twelve (12) month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.3(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term, (i) Lessee fails to pay Rent for a period of thirty (30) days after such Rent becomes due (without any necessity of Lessor to give notice thereof), (ii) Lessor gives to Lessee three (3) or more notices of separate Default during any twelve (12) month period, whether or not the Defaults are cured, or (iii) if Lessee commits a Breach of this Lease.

40. Multiple Buildings. If the Premises are part of a group of buildings controlled by Lessor, Lessee agrees that it will observe all reasonable rules and regulations which Lessor may make from time to time for the management, safety, and care of said properties, including the care and cleanliness of the grounds and including the parking, loading and unloading of vehicles, and that Lessee will pay its fair share of common expenses incurred in connection therewith.

41. Security Measures. Lessee hereby acknowledges that the rental payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

42. Reservations. Lessor reserves to itself the right, from time to time, to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to cooperate with Lessor and execute any documents reasonably requested by Lessor to effectuate any such easement rights, dedication, map or restrictions, provided, that in the case of any parcel map(s), such map(s) are in compliance with state and local subdivision regulations and do not create any zoning violations.

43. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay.

44. Authority. If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each party shall, within thirty (30) days after request, deliver to the other party satisfactory evidence of such authority.

45. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

46. Offer. Preparation of this Lease by either Party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

47. Amendments. This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises, subject to approval by Lessee's City Council.

48. Multiple Parties. If more than one person or entity is named herein as either Lessor or Lessee, such multiple Parties shall have joint and several responsibility to comply with the terms of this Lease.

[THIS SPACE INTENTIONALLY LEFT BLANK]

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

LESSOR:

PROFICIENCY SOUTH STREET LLC, a Delaware limited liability company

By: *Jeffrey N. Trenton*
Jeffrey N. Trenton, President

Address for notices:
c/o Proficiency Capital LLC
11755 Wilshire Boulevard, Suite 2220
Los Angeles, California 90025

LESSEE:

THE CITY OF LONG BEACH, a municipal corporation

By: *Gerald R. Miller*

Name: Gerald R. Miller

Title: ASSISTANT CITY MANAGER EXCLUDED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

Address for notices:
333 West Ocean Boulevard, 13th Floor
Long Beach, California 90802
Attention: City Manager

APPROVED AS TO FORM

1-2, 2002
ROBERT E. SHANNON, City Attorney
By *Charles Parkin*
DEPUTY CITY ATTORNEY

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Los Angeles } ss.

On Dec 26, 2001, before me, Karen Hayes Gamble
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Jeffrey W. Treaston
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Karen Hayes Gamble
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

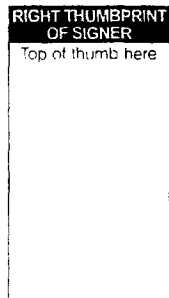
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____

Signer Is Representing: _____



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles } ss.

On January 8, 2002, before me, LINDA C. RAMSAY, N.P.

personally appeared GERALD R. MILLER

personally known to me
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

Linda C. Ramsay
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Single Tenant Lease

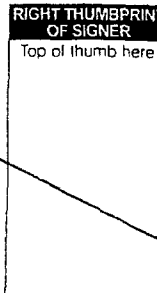
Document Date: December 26, 2001 Number of Pages: 21

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

- Signer's Name: _____
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



ADDENDUM TO SINGLE-TENANT LEASE

Lessor: Proficiency South Street LLC, a Delaware limited liability company

Lessee: The City of Long Beach, a municipal corporation

Lease Dated: December 26, 2001

The following provisions are added to that certain Single-Tenant Lease dated for reference purposes as of December 26, 2001 (the "**Printed Lease**") by and between Proficiency South Street LLC, a Delaware limited liability company, as Lessor, and The City of Long Beach, a municipal corporation, as Lessee. In the event of any conflict between the terms of the Printed Lease and this Addendum, the terms of this Addendum shall control.

49. Adjustments to Base Rent. The monthly Base Rent shall be adjusted during the Original Term of the Lease effective as of the first day of the 13th, 25th, 37th, 49th, 61st, 73rd, 85th, 97th and 109th calendar months of the Original Term as set forth below:

<u>Months</u>	<u>Monthly Base Rent</u>
1-12	\$22,563.20
13-24	\$23,240.10
25-36	\$23,937.30
37-48	\$24,655.42
49-60	\$25,395.08
61-72	\$26,156.93
73-84	\$26,941.64
85-96	\$27,749.89
97-108	\$28,582.39
109-120	\$29,439.86

50. Option to Extend Term. Lessee shall have one option (the "**Option**") to extend the Term of the Lease for a period of five (5) years (the "**Option Period**", provided that each and all of the following conditions are satisfied: (a) Lessee shall provide Lessor with written notice (the "**Option Exercise Notice**") of Lessee's election to exercise its Option not less than two hundred seventy (270) days prior to the expiration of the original Term of this Lease, and (b) no Default by Lessee of its obligations under this Lease shall have occurred and be continuing after expiration of all applicable cure periods, either at the time Lessee delivers the Option Exercise Notice to Lessor or at the commencement of the Option Period.

50.1 The Base Rent for the first twelve calendar months of the Option Period shall be \$31,024.40 per month. The monthly Base Rent shall be adjusted during the Option Period effective as of the first day of the 13th, 25th, 37th and 49th month of the Option Period as set forth below:

<u>Months</u>	<u>Monthly Base Rent</u>
1-12	\$31,024.40
13-24	\$31,955.13
25-36	\$32,913.79
37-48	\$33,901.20
49-60	\$34,918.24

50.2 Lessor shall provide to Lessee the sum of \$76,878.00 (the "**Option Allowance**"), which shall be utilized by Lessee for remodeling the Premises. Prior to commencing any such remodeling of the Premises, Lessee shall submit to Lessor for its review and approval (which approval shall not be unreasonably withheld, conditioned or delayed) reasonably detailed plans, a scope of work and budget for such remodeling. Lessor shall pay the Option Allowance to Lessee from time to time (but not more frequently than monthly) upon receipt of invoices for work which was approved by Lessor pursuant to this Paragraph 50.2. Any portion of the Option Allowance which has not been used by Lessee as of the last day of the 12th month of the Option Period shall be refunded by Lessee to Lessor. After the Plans have been approved by Lessor, Lessor shall obtain construction bids to construct the Tenant Improvements from at least three (3) general contractors selected by the mutual agreement of Lessor and Lessee (and for such purpose, Lessor and Lessee each hereby agrees to act in a reasonable manner). Each general contractor bidding on the Tenant Improvements shall be licensed by the State of California, bonded and insured, and have not less than ten (10) years' experience building projects in Southern California similar to the Tenant Improvements. Each contractor's written bid shall be delivered to Lessor and Lessee. The contractor shall construct the Tenant Improvements pursuant to a guaranteed maximum price contract. The actual work of construction of the Tenant Improvements shall be performed by the Contractor selected by the mutual agreement of Lessor and Lessee. Lessor shall contract for and implement the construction of the Tenant Improvements. Any unused portion of the Option Allowance shall be credited towards Base Rent.

50.3 Except for the change in Base Rent set forth in Paragraph 50.1 above, all other terms and conditions of the Lease shall remain in effect during the Option Period.

50.4 Except for the one five-year Option described in this Paragraph 50, Lessee shall have no other option to extend the term of the Lease, or option to purchase, option to lease or right of first refusal to lease or purchase.

50.5 Exercise of this Option is subject to City Council approval.

51. **Parking.** Lessee shall have the exclusive use of all the parking spaces associated with the Building (approximately 73 parking spaces). Said parking shall be granted to Lessee free of charge during the term of the Lease and option term. Lessor shall provide access or easements and related documentation for access for cars to enter the parking areas north and south of the Building.

52. **Lessor Improvements.** Lessor shall construct certain improvements to the Building and Premises in accordance with Exhibit B attached hereto.

53. **Non-Discrimination Clause.** Lessor agrees, subject to applicable laws, rules and regulations, that no person shall be subject to discrimination in the performance of this Agreement on the basis of race, color, religion, national origin, sex, sexual orientation, AIDS, HIV status, age, disability, handicap, or Vietnam Era veteran status. Lessor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to any of these bases, including but not limited to employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Lessor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the City setting out provisions of this nondiscrimination clause. Lessor shall in all solicitations or advertisements for employees state that all qualified applicants will receive consideration for employment without regard to these bases.

54. **Maintenance, Repairs, Alterations and Common Area Services.** In the event Lessor does not properly maintain or repair the Building as required under Paragraphs 7.2(a) and (b), Lessee shall have recourse to offset rent per the following:

(a) **General Action.** If Lessee provides notice ("**Repair Notice**") to Lessor of an event or circumstance which pursuant to the terms of this Lease requires Lessor to repair, alter, improve and/or maintain the Premises ("**Required Action**") and Lessor fails to provide the Required Action within the time period required by this Lease, or a reasonable period of time if no specific time period is specified in this Lease, after the date of Lessor's receipt of the Repair Notice ("**Notice Date**"), or in any event, does not commence the Required Action within ten (10) days after the Notice Date and complete the Required Action within thirty (30) days after the Notice Date (provided that if the nature of the Required Action is such that the same cannot reasonably be completed within a thirty (30) day period, Lessor's time period for completion shall not be deemed to have expired if Lessor diligently commences such cure within such period and thereafter diligently proceeds to rectify and complete the Required Action, as soon as possible), then Lessee may proceed to take the Required Action pursuant to the terms of this Lease, and shall deliver a second notice to Lessor at least three (3) business days prior to commencement of the Required Action specifying that Lessee is taking the Required Action ("**Second Notice**") for the account of Lessor.

(b) **Emergency Action.** Notwithstanding the foregoing, if there exists an emergency such that the Premises are rendered untenantable and Lessee's personnel are forced to vacate the Premises and if Lessee gives written notice to Lessor ("**Emergency Notice**") of Lessee's intent to take action with respect thereto ("**Necessary Action**") and the Necessary Action is also a Required Action, and the emergency could be cured by such Necessary Action, Lessee may take the Necessary Action made for the account of Lessor if Lessor does not commence the Necessary Action within one (1) business day after the Emergency Notice ("**Emergency Cure Period**") and thereafter use its commercially reasonable best efforts and due diligence to complete the Necessary Action as soon as possible.

(c) **Restrictions on Action.** If any Necessary Action will affect the systems and equipment located within the Building ("**Building Systems**"), the structural integrity of the Building, or the exterior appearance of the Building, Lessee shall use only those contractors used by Lessor in the Building for work on the Building Systems or its structure, and Lessor shall provide Lessee (when available and upon Lessee's request) with notice identifying such contractors and any changes to the list of such contractors, unless such contractors are unwilling or unable to perform such work in which event Lessee may utilize the services of any other qualified contractors who normally and regularly perform similar work in comparable buildings except for any contractors who Lessor specifically notifies Lessee in writing, within five (5) business days of Lessor's receipt of a Repair Notice or one (1) business day of Lessor's receipt of an Emergency Notice, that Lessee may not use for such work.

(d) **Reimbursement For Action.** If any Required Action or Necessary Action is taken by Lessee pursuant to the terms of this Paragraph, then Lessor shall reimburse Lessee for its reasonable and documented costs and expenses in taking the Required Action or Necessary Action within thirty (30) days after receipt by Lessor of an invoice from Lessee which sets forth a reasonably particularized breakdown of its costs and expenses in connection with taking the Required Action or Necessary Action on behalf of Lessor ("**Repair Invoice**"). In the event Lessor does not reimburse Lessee for the Repair Invoice within thirty (30) days of receipt, then Lessee may deduct from the next rent payable by Lessee under this Lease, the amount set forth in the Repair Invoice ("**Offset Right**"). Notwithstanding the foregoing, if Lessor delivers to Lessee within thirty (30) days after receipt of the Repair Invoice, a written objection to the payments of such invoice, setting forth with reasonable particularity Lessor's reason for its claim that the Required Action or Necessary Action did not have to be taken by Lessor pursuant to the terms of the Lease or that Lessee breached the terms of this Paragraph, or that the charges are excessive (in which case Lessor shall pay the amount it contends would not have been excessive), then Lessee shall not be entitled to deduct such amount from rent until and unless a court of competent jurisdiction determines that Lessee's offset against rent is in compliance with this Paragraph.

55. **Force Majeure.** Other than for Lessee's obligation under this Lease that can be performed by the payment of money (e.g., payment of Base Rent and maintenance of insurance), if either party shall be delayed or prevented from the performance of any act required under this Lease by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, restrictive governmental laws or regulations, or other cause without fault and beyond the control of the party obligated, performance of such act shall be excused for the period of the delay and period for the performance of any act shall be extended for a period equivalent to the period of the delay; provided, however, nothing in this Section shall excuse Lessee from the prompt payment of rent or other charges required of Lessee except as may be provided elsewhere in this Lease.

EXHIBIT A

SITE PLAN

[Attach Site Plan]

EXHIBIT B

CONSTRUCTION AGREEMENT

This Construction Agreement ("**Construction Agreement**") is attached to and incorporated by reference in the Single-Tenant Lease, executed concurrently, dated December 26, 2001, between Proficiency South Street LLC, a Delaware limited liability company, as Lessor, and The City of Long Beach, a municipal corporation, as Lessee, who agree as follows:

1. Except as otherwise defined in this Construction Agreement, all terms used in this Construction Agreement shall have the same meaning as the terms defined in the Lease. All of the provisions of the Lease are incorporated in this Construction Agreement by reference.
2. Lessor shall be responsible for constructing at Lessor's sole cost and expense, and hereby agrees to promptly and diligently construct in a good and workmanlike manner, and in accordance with all local codes and ordinances and Applicable Requirements, all the improvements set forth on Schedule 1 attached hereto and incorporated herein by this reference (the "**Building Improvement Work**"). Subject to extensions for force majeure, the Building Improvement Work shall be completed within ninety (90) days following Lessor's receipt of all required permits from the City of Long Beach and necessary information from Lessee.
3. In addition to the Building Improvement Work, Lessor shall be responsible for constructing, and hereby agrees to promptly and diligently construct in a good and workmanlike manner, and in accordance with all local codes and ordinances and Applicable Requirements, the Tenant Improvements (defined hereinbelow). Upon mutual execution of this Lease, Lessee shall designate to Lessor in writing the name of one individual representative ("**Lessee's Representative**") who will work with Lessor's representative ("**Lessor's Representative**") throughout the period of design, engineering and construction of all Tenant Improvements.
4. Lessee has engaged the services of JCM Facilities Planning and Management (the "**Designer**") to provide architectural services and construction management with respect to the Tenant Improvements. Lessor hereby approves of the Designer. The Designer shall prepare a set of plans, including working drawings and engineering and structural drawings (collectively, the "**Plans**") for the remodeling of the Building, which shall be submitted to Lessor, on or before February 15, 2002, for Lessor's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Lessor agrees that it shall give its approval, conditional approval or disapproval of the Plans within ten (10) business days following Lessor's receipt thereof. In the event that any aspect of the Plans is not approved by Lessor, the Designer shall make modifications necessary to address such disapproval and re-submit the Plans to Lessor for Lessor's further review and approval, which approval (or disapproval) shall be given promptly but in any case within ten (10) business days of Lessor's receipt thereof.
5. After the Plans have been approved by Lessor, Lessor shall obtain construction bids to construct the Tenant Improvements from at least three (3) general contractors, one of which shall be Oltmans Construction Co., with the others selected by the mutual agreement of Lessor and Lessee (and for such purpose, Lessor and Lessee each hereby agrees to act in a reasonable manner). Each general contractor bidding on the Tenant Improvements shall be licensed by the State of California, bonded and insured, and have not less than ten (10) years' experience building projects in Southern California similar to the Tenant Improvements. Each contractor's written bid shall be delivered to Lessor and Lessee. The contractor shall construct the Tenant Improvements pursuant to a guaranteed maximum price contract. The actual work of construction of the Tenant Improvements shall be performed by the Contractor selected by the mutual agreement of Lessor and Lessee.
6. Lessor shall provide Lessee with an allowance in the amount of up to \$309,000 (the "**Basic Allowance**"), which Basic Allowance shall be used to pay the cost of constructing the Tenant Improvements, including the fees and expenses of the Designer for architectural services, construction management services, construction drawings, engineering and structural drawings, and the cost of permits and city fees (the "**TI Costs**"). In addition, Lessee may use a portion of the Basic Allowance to pay the cost of installing new voice/data cabling, modular furniture, or signage for the Building, and/or toward Base Rent. The Basic Allowance shall be amortized over the Original Term of the Lease at an interest rate of 11.5% per annum, and paid to Lessor in monthly installments on the first day of each calendar month (which installments shall be in addition to Base Rent, Operating Expenses and any other sums payable under this Lease) beginning on the Commencement Date (or, if the Commencement Date is not the first day of a calendar month, beginning on the first day of the calendar month following the Commencement Date). If the TI Costs exceed the Basic Allowance, Lessee may elect to amortize up to an additional \$50,000 (the "**Additional Allowance**") over the Original Term of the Lease at an interest rate of 11.5% per annum, which shall be paid to Lessor in monthly installments on the first day of each calendar month (which installments shall be in addition to Base Rent, Operating Expenses and any other sums payable under this Lease). If at any time it is determined that the total TI Costs will exceed the sum of the Basic Allowance and the Additional Allowance (the difference between the total TI Costs and the sum of the Basic Allowance and the Additional Allowance being hereinafter referred to as the "**Excess Costs**"), Lessee shall be responsible for paying all such Excess Costs to Lessor, within ten (10) days following receipt of an invoice therefor. For a period of six (6) months commencing on the date that the Tenant Improvements are "Completed" and the Premises are "Ready for Occupancy" (as defined in Paragraph 9 below), Lessee shall have the option to prepay (without penalty) the unamortized portion of the Additional Allowance; provided, however, that Lessee shall have no right to prepay the unamortized portion of the Additional Allowance after such six (6) month period, and Lessee shall have no right at any time to prepay any portion of the Basic Allowance.
7. The term "**Delays Caused By Lessee**" shall mean any delay that the Lessor may encounter in the performance of Lessor's obligations under the Lease because of any act or omission of any nature by Lessee or its agents, including delays resulting from changes in or additions to the Construction Documents or of the Tenant Improvements requested by Lessee, including delays by Lessee in the submission of information requested by Lessor or giving authorizations or approvals requested by Lessor, delays due to the postponement of any Tenant Improvements at the request of Lessee, or delays due to the failure of the Lessor to approve, for reasonable reasons, any information provided by Lessee, or delays caused in any other way by Lessee or delays due to the failure of Lessee to pay when due, the amounts required by Lessee pursuant to this Construction Agreement. Lessee shall pay all costs and expenses incurred by Lessor which result from Delays Caused By Lessee including, without limitation, any costs of and expenses attributable to increases in the cost of labor or materials.
8. If Lessee requests any change, addition or alteration (collectively "**Change Orders**") to the Construction Documents previously approved by Lessee, Lessor shall give Lessee a written estimate of the maximum cost to prepare revised Construction

Documents in accordance with such Change Orders. If Lessee approves such estimate in writing, Lessor shall have revised Construction Documents prepared, and the cost of preparing the revised Construction Documents shall be paid in accordance with the provisions of Paragraph 6 above. Within seven (7) business days of the completion of such revised Construction Documents, Lessor, or when appropriate, the Contractor, shall notify Lessee of the additional cost which will be chargeable to Lessee by reason of the work specified by such Change Orders. Lessee shall, within three (3) business days after receipt of said notice, notify Lessor and the Contractor regarding whether Lessee desires to proceed with the work specified by such Change Orders. If Lessee approves the cost of the work specified by the Change Orders, such work shall be done by Contractor and shall be added to the scope of Tenant Improvements, and the cost of such additional work shall be paid in accordance with the provisions of Paragraph 6 above. If Lessee does not deliver to Lessor such notice within the three (3) business day period, the work described in the Change Orders will not be performed.

9. The Tenant Improvements shall be "Completed" and the Premises "Ready for Occupancy" when (a) the selected contractor has completed the Tenant Improvements and other work that it is obligated to perform under this Construction Agreement, notwithstanding "punch list" items which do not interfere with use of the Premises, (b) Lessor obtains a certificate of occupancy for the Building, (c) all Building fire alarms, smoke detectors, exit lights, life safety equipment and other building code requirements are installed and operational in the Premises, and (d) Building HVAC, utilities, plumbing service and doors and hardware for the Premises are sufficiently completed so as to enable Lessee to move into the Building and install its furniture, fixtures, machinery and equipment in the Premises and conduct normal business operations in the Premises. If the date the Tenant Improvements were "Completed" and the Premises "Ready for Occupancy" was delayed by Delays Caused by Lessee, then the date the Tenant Improvements are "Completed" and the Premises "Ready for Occupancy" shall be the date on which the Tenant Improvements would have been "Completed" and the Premises "Ready for Occupancy" but for such Delays Caused by Lessee.

SCHEDULE 1 TO EXHIBIT B

Building Improvement Work

The following improvements shall be made to the Building by Lessor at Lessor's sole cost and expense (except as otherwise noted). Except as noted below, the work shall be performed by Oltmans Constructions Co. ("Oltmans"). Lessor's Building Improvement Work shall not include any of the Tenant Improvements shown on page 5 of the JCM Facilities Planning and Management Site Assessment Report dated March 2, 2001 nor shall it include project management fees to JCM of \$55,890 as shown on page 4 of said report.

1. Asbestos abatement per Asbestos Survey for Old Hi/Lo Automotive Store, 2311 East South Street, Long Beach, California, prepared by Humphrey Laurent, Certified Asbestos Consultant, dated August 8, 2000. (This work will be performed by a licensed asbestos abatement contractor and not by Oltmans.)
2. Seismic Building Retrofit.
3. Building systems improvements, as follows:
 - (a) Installation of fire sprinkler monitoring alarm.
 - (b) \$8,000 Allowance (in addition to the Basic Allowance) for Fire Life Safety Alarms (strobes, smoke detectors, emergency lighting, etc.), to be installed with the Tenant Improvements.
 - (c) New HVAC (rooftop package units) for the entire Building; provided, however, that ducting shall be part of the Tenant Improvements.
 - (d) New electrical distribution and disconnects for new rooftop HVAC units.
 - (e) New two-inch copper water line from existing meter to tenant improvement area and new condensate lines for rooftop package units.
 - (f) Seismic bracing of piping.
4. Accessible path of travel (handicap ramp and other exterior improvements only). Lessee shall be responsible for all interior improvements such as hardware, restrooms, etc. as part of the Tenant Improvements.
5. Repair, slurry coat, and re-stripe both front and back parking lots.
6. General clean-up of Premises.
7. Replace Roof
8. Paint exterior of Building.

EXHIBIT "C"
NOTICE OF LEASE TERM DATES

Date: _____

Re: Lease dated December 26, 2001 between Proficiency South Street LLC, a Delaware limited liability company, as Lessor, and The City of Long Beach, a municipal corporation, as Lessee, concerning Premises located at 2311 South Street, located in the City of Long Beach, County of Los Angeles, State of California

Ladies and Gentlemen:

In accordance with the subject Lease, we wish to advise and/or confirm as follows:

1. That the Premises are "Completed" and "Ready for Occupancy" in accordance with the subject Lease.
2. That the term of said Lease commenced as of _____ for an initial term of ten (10) years ending on _____.
3. That in accordance with the subject Lease, the obligation to pay Base Rent commenced to accrue on _____.
4. If the commencement date of the subject Lease is other than the first day of the month, the first billing will contain a pro rata adjustment. Each billing thereafter shall be for the full amount of the monthly installment as provided for in said Lease.
5. Rent is due and payable in advance on the first day and every month during the term of said Lease. Lessee's Rent shall be delivered to Lessor at the following address:

Proficiency South Street LLC
c/o Proficiency Capital LLC
11755 Wilshire Boulevard, Suite 2220
Los Angeles, California 90025

Sincerely,

PROFICIENCY SOUTH STREET LLC, a Delaware limited liability company

By: _____
Jeffrey N. Trenton, President

AGREED AND ACCEPTED:

THE CITY OF LONG BEACH,
a municipal corporation

By: _____

Name: _____

Title: _____

EXHIBIT "D"
REIMBURSEMENT SCHEDULE

Subject to the limitations set forth in Paragraphs 7.3(b) and 36 of the Lease, Lessee shall reimburse Lessor for the cost of giving consents as follows:

Cost of time spent by Lessor	\$100 per hour
Cost of services provided by third party architects, engineers, etc.	Actual invoiced cost

Lessor shall submit a written invoice to Lessee for costs and expenses related to any request for consent processed by Lessor, and subject to the limitations of Paragraphs 7.3(b) and 36, Lessee shall pay any such costs and expenses within thirty (30) days following receipt of said invoice, but in no event shall the costs exceed \$1,000 per event.

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