EXHIBIT 10.25  
  
  
 STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE--MODIFIED NET  
 AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION  
  
 [LOGO]  
  
1. Basic Provisions ("Basic Provisions").  
  
 1.1 Parties: This Lease ("Lease"), dated for reference purposes only,  
November 24, 1997, is made by and between XXX-00000 Xxxxxxx Xxxxxx, LLC, a  
Delaware limited liability company ("Lessor") and Collateral Therapeutics, Inc.,  
a California corporation ("Lessee"), (collectively the "Parties," or  
individually a "Party").  
  
 1.2 (a) Premises: That certain portion of the Building, including all  
improvements therein or to be provided by Lessor under the terms of this Lease,  
commonly known by the street address of 00000 Xxxxxxx Xxxxxx, located in the  
City of San Diego, County of San Diego, State of California, with zip code  
92121, as outlined on Exhibit A attached hereto ("Premises"). The "Building" is  
that certain building containing the Premises and generally described as  
(describe briefly the nature of the Building): Single story building containing  
approximately 18,532 square feet. In addition to Lessee's rights to use and  
occupy the Premises as hereinafter specified, Lessee shall have non-exclusive  
rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter  
specified, but shall not have any rights to the roof, exterior walls or utility  
raceways of the Building or to any other buildings in the Industrial Center. The  
Premises, the Building, the Common Areas, the land upon which they are located,  
along with all other buildings and improvements thereon, are herein collectively  
referred to as the "Industrial Center." (Also see Paragraph 2.)  
  
 1.2 (b) Parking: See Addendum unreserved vehicle parking spaces ("Unreserved  
Parking Spaces"); and See Addendum reserved vehicle parking spaces ("Reserved  
Parking Spaces"). (Also see Paragraph 2.8.)  
  
 1.3 Term: Five years and Zero months ("Original Term") commencing See  
Addendum ("Commencement Date") and ending See Addendum ("Expiration Date").  
(Also see Paragraph 3.)  
  
 1.4 Early Possession: See Addendum ("Early Possession Date"). (Also see  
Paragraphs 3.2 and 3.3.)  
  
 1.5 Base Rent: $1.65 per rsf per month ("Base Rent"), payable on the first  
day of each month commencing on the Commencement Date (Also see Paragraph 4.)  
  
[X] If this box is checked, this Lease provides for the Base Rent to be adjusted  
per Addendum to Lease attached hereto.  
  
 1.6 (a) Base Rent Paid Upon Execution: $18,150 as Base Rent for the period  
first month.  
  
 1.6 (b) Lessee's Share of Common Area Operating Expenses: 59.36 percent  
(59.36%) ("Lessee's Share") as determined by [ ] pro rata square footage of the  
Premises as compared to the total square footage of the Building or [ ] other  
criteria as described in Addendum \_\_\_\_.  
  
 1.7 Security Deposit: $See Addendum ("Security Deposit"). (Also see  
Paragraph 5.)  
  
 1.8 Permitted Use: General office use and research and development subject  
to zoning ordinances, Applicable Laws and existing covenants, conditions &  
restrictions ("Permitted Use") (Also see Paragraph 6.)  
  
 1.9 Insuring Party. Lessor is the "Insuring Party." (Also see Paragraph 8.)  
  
 1.10 (a) Real Estate Brokers. The following real estate broker(s)  
(collectively, the "Brokers") and brokerage relationships exist in this  
transaction and are consented to by the Parties (check applicable boxes):  
  
[X] IPC Commercial Real Estate represents Lessor exclusively   
("Lessor's Broker");  
  
[X] IPC Commercial Real Estate represents Lessee exclusively   
("Lessee's Broker"); or  
  
[ ] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ represents both Lessor and Lessee ("Dual Agency").   
(Also see Paragraph 15.)  
  
 (b) [DELETED]  
  
 1.11 Guarantor. The obligations of the Lessee under this Lease are to be  
guaranteed by None ("Guarantor"). (Also see Paragraph 37.) ----  
  
 1.12 Addenda and Exhibits. Attached hereto is an Addendum or Addenda  
consisting of Paragraphs \_\_\_\_ through \_\_\_\_, and Exhibits \_\_\_\_ through \_\_\_\_, all  
of which constitute a part of this Lease.  
  
2. Premises, Parking and Common Areas.  
  
 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 square footage set forth in this Lease, or that may  
have been used in calculating rental and/or Common Area Operating Expenses, is  
an approximation which Lessor and Lessee agree is reasonable and the rental and  
Lessee's Share (as defined in Paragraph 1.6(b)) based thereon is not subject to  
revision whether or not the actual square footage is more or less.  
  
 2.2 [DELETED]  
  
 2.3 [DELETED]  
  
 2.4 Acceptance of Premises. Lessee hereby acknowledges: (a) that it has been  
advised by the Broker(s) to satisfy itself with respect to the condition of the  
Premises (including but not limited to the electrical and fire sprinkler  
systems, security, environmental aspects, seismic and earthquake requirements,  
and compliance with the Americans with Disabilities Act and applicable zoning,  
municipal, county, state and federal laws, ordinances and regulations and any  
covenants or restrictions of record (collectively, "Applicable Laws") and the  
present and future suitability of the Premises for Lessee's intended use; (b)  
that Lessee has made such investigation as it deems necessary with reference to  
such matters, is satisfied with reference thereto, and assumes all  
responsibility therefore as the same relate to Lessee's occupancy of the  
Premises and/or the terms of this Lease; and (c) that neither Lessor, nor any of  
Lessor's agents, has made any oral or written representations or warranties with  
respect to said matters other than as set forth in this Lease.  
  
 2.5 [DELETED]  
  
 2.6 Vehicle Parking. Lessee shall be entitled to use the number of  
Unreserved Parking Spaces and Reserved Parking Spaces specified in Paragraph  
1.2(b) on those portions of the Common Areas designated from time to time by  
Lessor for parking. Lessee shall not use more parking spaces than said number  
Said parking spaces shall be used for parking by vehicles no larger than  
full-size passenger automobiles or pick-up trucks, herein called "Permitted Size  
Vehicles." Vehicles other than Permitted Size Vehicles shall be parked and  
loaded or unloaded as directed by Lessor in the Rules and Regulations (as  
defined in Paragraph 40) issued by Lessor.  
(Also see Paragraph 2.9.)  
  
 (a) Lessee shall not permit or allow any vehicles that belong to or are  
controlled by Lessee or Lessee's employees, suppliers, shippers, customers,  
contractors or invitees to be loaded, unloaded, or parked in areas other than  
those designated by Lessor for such activities.  
  
 (b) If Lessee permits or allows any of the prohibited activities  
described in this Paragraph 2.6, then Lessor shall have the right, without  
notice, in addition to such other rights and remedies that it may have, to  
remove or tow away the vehicle involved and charge the cost to Lessee, which  
cost shall be immediately payable upon demand by Lessor.  
  
 (c) Lessor shall at the Commencement Date of this Lease, provide the  
parking facilities required by Applicable Law.  
  
 2.7 Common Areas - Definition. The term "Common Areas" is defined as all  
areas and facilities outside the Premises and within the exterior boundary line  
of the Industrial Center and interior utility raceways within the Premises that  
are provided and designated by the Lessor from time to time for the general  
non-exclusive use of Lessor, Lessee and other lessees of the Industrial Center  
and their respective employees, suppliers, shippers, customers, contractors and  
invitees, including parking areas, loading and unloading areas, trash areas,  
roadways, sidewalks, walkways, parkways, driveways and landscaped areas.  
  
  
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 2.8 Common Areas - Lessee's Rights. Lessor hereby grants to Lessee, for the  
benefit of Lessee and its employees, suppliers, shippers, contractors, customers  
and invitees, during the term of this Lease, the non-exclusive right to use, in  
common with others entitled to such use, the Common Areas as they exist from  
time to time, subject to any rights, powers, and privileges reserved by Lessor  
under the terms hereof or under the terms of any rules and regulations or  
restrictions governing the use of the Industrial Center. Under no circumstances  
shall the right herein granted to use the Common Areas be deemed to include the  
right to store any property, temporarily or permanently, in the Common Areas.  
Any such storage shall be permitted only by the prior written consent of Lessor  
or Lessor's designated agent, which consent may be revoked at any time. In the  
event that any unauthorized storage shall occur then Lessor shall have the  
right, without notice, in addition to such other rights and remedies that it may  
have, to remove the property and charge the cost to Lessee, which cost shall be  
immediately payable upon demand by Lessor.  
  
 2.9 Common Areas - Rules and Regulations. Lessor or such other person(s) as  
Lessor may appoint shall have the exclusive control and management of the Common  
Areas and shall have the right, from time to time, to establish, modify, amend  
and enforce reasonable Rules and Regulations with respect thereto in accordance  
with Paragraph 40. Lessee agrees to abide by and conform to all such Rules and  
Regulations, and to cause its employees, suppliers, shippers, customers,  
contractors and invitees to so abide and conform. Lessor shall not be  
responsible to Lessee for the non-compliance with said rules and regulations by  
other lessees of the Industrial Center.  
  
 2.10 Common Areas - Changes. Lessor shall have the right, in Lessor's sole  
discretion, from time to time:  
  
 (a) To make changes to the Common Areas, including, without limitation,  
changes in the location, size, shape and number of driveways, entrances, parking  
spaces, parking areas, loading and unloading areas, ingress, egress, direction  
of traffic, landscaped areas, walkways and utility raceways;  
  
 (b) To close temporarily any of the Common Areas for maintenance  
purposes so long as reasonable access to the Premises remains available;  
  
 (c) To designate other land outside the boundaries of the Industrial  
Center to be a part of the Common Areas;  
  
 (d) To add additional buildings and improvements to the Common Areas;  
  
 (e) To use the Common Areas while engaged in making additional  
improvements, repairs or alterations to the Industrial Center, or any portion  
thereof; and  
  
 (f) To do and perform such other acts and make such other changes in,  
to or with respect to the Common Areas and Industrial Center as Lessor may, in  
the exercise of sound business judgment, deem to be appropriate.  
  
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 Early Possession. If an Early Possession Date is specified in Paragraph  
1.4 and if Lessee totally or partially occupies the Premises after the Early  
Possession Date but prior to the Commencement Date, the obligation to pay Base  
Rent shall be abated for the period of such early occupancy. All other terms of  
this Lease, however, (including but not limited to the obligations to pay  
Lessee's Share of Common Area Operating Expenses and to carry the insurance  
required by Paragraph 8) shall be in effect during such period. Any such early  
possession shall not affect nor advance the Expiration Date of the Original  
Term.  
  
 3.3 Delay in Possession. If for any reason Lessor cannot deliver possession  
of the Premises to Lessee by the Early Possession Date, if one is specified in  
Paragraph 1.4, or if no Early Possession Date is specified, by the Commencement  
Date, Lessor shall not be subject to any liability therefor, nor shall such  
failure affect the validity of this Lease, or the obligations of Lessee  
hereunder, or extend the term hereof, but in such case, Lessee shall not, except  
as otherwise provided herein, be obligated to pay rent or perform any other  
obligation of Lessee under the terms of this Lease until Lessor delivers  
possession of the Premises to Lessee. If possession of the Premises is not  
delivered to Lessee within sixty (60) days after the Commencement Date, Lessee  
may, at its option, by notice in writing to Lessor within ten (10) days after  
the end of said sixty (60) day period, cancel this Lease, in which event the  
parties shall be discharged from all obligations hereunder; provided further,  
however, that if such written notice of Lessee is not received by Lessor within  
said ten (10) day period, Lessee's right to cancel this Lease hereunder shall  
terminate and be of no further force or effect. Except as may be otherwise  
provided, and regardless of when the Original Term actually commences, if  
possession is not tendered to Lessee when required by this Lease and Lessee does  
not terminate this Lease, as aforesaid, the period free of the obligation to pay  
Base Rent, if any, that Lessee would otherwise have enjoyed shall run from the  
date of delivery of possession and continue for a period equal to the period  
during which the Lessee would have otherwise enjoyed under the terms hereof, but  
minus any days of delay caused by the acts, changes or omissions of Lessee.  
  
4. Rent.  
  
 4.1 Base Rent. Lessee shall pay Base Rent and other rent or charges, as the  
same may be adjusted from time to time, to Lessor in lawful money of the United  
States, without offset or deduction, on or before the day on which it is due  
under the terms of this Lease. Base Rent and all other rent and charges for any  
period during the term hereof which is for less than one full month shall be  
prorated based upon the actual number of days of the month involved. Payment of  
Base Rent and other charges shall be made to Lessor at its address stated herein  
or to such other persons or at such other addresses as Lessor may from time to  
time designate in writing to Lessee.  
  
 4.2 Common Area Operating Expenses. Lessee shall pay to Lessor during the  
term hereof, in addition to the Base Rent, Lessee's Share (as specified in  
Paragraph 1.6(b)) of all Common Area Operating Expenses, as hereinafter defined,  
during each calendar year of the term of this Lease, in accordance with the  
following provisions:  
  
 (a) "Common Area Operating Expenses" are defined, for purposes of this  
Lease, as all costs incurred by Lessor relating to the ownership and operation  
of the Industrial Center, including, but not limited to, the following:  
  
 (i) The operation, repair and maintenance, in neat, clean, good  
order and condition, of the following:  
  
 (aa) The Common Areas, including parking areas, loading and  
unloading areas, trash areas, roadways, sidewalks, walkways, parkways,  
driveways, landscaped areas, striping, bumpers, irrigation systems, Common Area  
lighting facilities, fences and gates, elevators and roof.  
  
 (bb) Exterior signs and any tenant directories.  
  
 (cc) Fire detection and sprinkler systems.  
  
 (ii) The cost of water, gas, electricity and telephone to service  
the Common Areas.  
  
 (iii) Trash disposal, property management and security services and  
the costs of any environmental inspections.  
  
 (iv) Reserves set aside for maintenance and repair of Common Areas.  
  
 (v) Real Property Taxes (as defined in Paragraph 10.2) to be paid by  
Lessor for the Building and the Common Areas under Paragraph 10 hereof.  
  
 (vi) The cost of the premiums for the insurance policies maintained  
by Lessor under Paragraph 8 hereof.  
  
 (vii) Any deductible portion of an insured loss concerning the  
Building or the Common Areas.  
  
 (viii) Any other services to be provided by Lessor that are stated  
elsewhere in this Lease to be a Common Area Operating Expense.  
  
 (b) Any Common Area Operating Expenses and Real Property Taxes that are  
specifically attributable to the Building or to any other building in the  
Industrial Center or to the operation, repair and maintenance thereof, shall be  
allocated entirely to the Building or to such other building. However, any  
Common Area Operating Expenses and Real Property Taxes that are not specifically  
attributable to the Building or to any other building or to the operation,  
repair and maintenance thereof, shall be equitably allocated by Lessor to all  
buildings in the Industrial Center.  
  
 (c) The inclusion of the improvements, facilities and services set  
forth in Subparagraph 4.2(a) shall not be deemed to impose any obligation upon  
Lessor to either have said improvements or facilities or to provide those  
services unless the Industrial Center already has the same, Lessor already  
provides the services, or Lessor has agreed elsewhere in this Lease to provide  
the same or some of them.  
  
 (d) Lessee's Share of Common Area Operating Expenses shall be payable  
by Lessee within ten (10) days after a reasonably detailed statement of actual  
expenses is presented to Lessee by Lessor. At Lessor's option, however, an  
amount may be estimated by Lessor from time to time of Lessee's Share of annual  
Common Area Operating Expenses and the same shall be payable monthly or  
quarterly, as Lessor shall designate, during each 12-month period of the Lease  
term, on the same day as the Base Rent is due hereunder. Lessor shall deliver to  
Lessee within sixty (60) days after the expiration of each calendar year a  
reasonably detailed statement showing Lessee's Share of the actual Common Area  
Operating Expenses incurred during the preceding year. If Lessee's payments  
under this Paragraph 4.2(d) during said preceding year exceed Lessee's Share as  
indicated on said statement, Lessee shall be credited the amount of such  
over-payment against  
  
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Lessee's Share of Common Area Operating Expenses next becoming due. If Lessee's  
payments under this Paragraph 4.2(d) during said preceding year were less than  
Lessee's Share as indicated on said statement, Lessee shall pay to Lessor the  
amount of the deficiency within ten (10) days after delivery by Lessor to Lessee  
of said statement.  
  
5. Security Deposit. Lessee shall deposit with Lessor upon Lessee's execution  
hereof the Security Deposit set forth in Paragraph 1.7 as security for Lessee's  
faithful performance of Lessee's obligations under this Lease. If Lessee fails  
to pay Base Rent or other rent or charges due hereunder, or otherwise Defaults  
under this Lease (as defined in Paragraph 13.1), Lessor may use, apply or retain  
all or any portion of said Security Deposit for the payment of any amount due  
Lessor or to reimburse or compensate Lessor for any liability, cost, expense,  
loss or damage (including attorneys' fees) which Lessor may suffer or incur by  
reason thereof. If Lessor uses or applies all or any portion of said Security  
Deposit, Lessee shall within ten (10) days after written request therefore  
deposit monies with Lessor sufficient to restore said Security Deposit to the  
full amount required by this Lease. Any time the Base Rent increases during the  
term of this Lease, Lessee shall, upon written request from Lessor, deposit  
additional monies with Lessor as an addition to the Security Deposit so that the  
total amount of the Security Deposit shall at all times bear the same proportion  
to the then current Base Rent as the initial Security Deposit bears to the  
initial Base Rent set forth in Paragraph 1.5. Lessor shall not be required to  
keep all or any part of the Security Deposit separate from its general accounts.  
Lessor shall, at the expiration or earlier termination of the term hereof and  
after Lessee has vacated the Premises, return to Lessee (or, at Lessor's option,  
to the last assignee, if any, of Lessee's interest herein), that portion of the  
Security Deposit not used or applied by Lessor. Unless otherwise expressly  
agreed in writing by Lessor, no part of the Security Deposit shall be considered  
to be held in trust, to bear interest or other increment for its use, or to be  
prepayment for any monies to be paid by Lessee under this Lease.  
  
6. Use.  
  
 6.1 Permitted Use.  
  
 (a) Lessee shall use and occupy the Premises only for the Permitted Use  
set forth in Paragraph 1.8, 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 waste or a nuisance,  
or that disturbs owners and/or occupants of, or causes damage to the Premises or  
neighboring premises or properties.  
  
 (b) Lessor hereby agrees to not unreasonably withhold or delay its  
consent to any written request by Lessee, Lessee's assignees or subtenants, and  
by prospective assignees and subtenants of Lessee, its assignees and subtenants,  
for a modification of said Permitted Use, so long as the same will not impair  
the structural integrity of the improvements on the Premises or in the Building  
or the mechanical or electrical systems therein, does not conflict with uses by  
other lessees, is not significantly more burdensome to the Premises or the  
Building and the improvements thereon, and is otherwise permissible pursuant to  
this Paragraph 6. If Lessor elects to withhold such consent, Lessor shall within  
five (5) business days after such request give a written notification of same,  
which notice shall include an explanation of Lessor's reasonable objections to  
the change in use.  
  
 6.2 DELETED  
  
 6.3 Lessee's Compliance with Requirements. Lessee shall, at Lessee's sole  
cost and expense, fully, diligently and in a timely manner, comply with all  
"Applicable Requirements," which term is used in this Lease to mean all laws,  
rules, regulations, ordinances, directives, covenants, easements and  
restrictions of record, permits, the requirements of any applicable fire  
insurance underwriter or rating bureau, and the recommendations of Lessor's  
engineers and/or consultants, relating in any manner to the Premises (including  
but not limited to matters pertaining to (i) industrial hygiene, (ii)  
environmental conditions on, in, under or about the Premises, including soil and  
groundwater conditions, and (iii) the use, generation, manufacture, production,  
installation, maintenance, removal, transportation, storage, spill, or release  
of any Hazardous Substance), now in effect or which may hereafter come into  
effect. Lessee shall, within five (5) days after receipt of Lessor's written  
request, provide Lessor with copies of all documents and information, including  
but not limited to permits, registrations, manifests, applications, reports and  
certificates, evidencing Lessee's compliance with any Applicable Requirements  
specified by Lessor, and shall immediately upon receipt, notify Lessor in  
writing (with copies of any documents involved) of any threatened or actual  
claim, notice, citation, warning, complaint or report pertaining to or involving  
failure by Lessee or the Premises to comply with any Applicable Requirements.  
  
 6.4 Inspection; Compliance with Law. Lessor, Lessor's agents, employees,  
contractors and designated representatives, and the holders of any mortgages,  
deeds of trust or ground leases on the Premises ("Lenders") shall have the right  
to enter the Premises at any time in the case of an emergency, and otherwise at  
reasonable times, for the purpose of inspecting the condition of the Premises  
and for verifying compliance by Lessee with this Lease and all Applicable  
Requirements (as defined in Paragraph 6.3), and Lessor shall be entitled to  
employ experts and/or consultants in connection therewith to advise Lessor with  
respect to Lessee's activities, including but not limited to Lessee's  
installation, operation, use, monitoring, maintenance, or removal of any  
Hazardous Substance on or from the Premises. The costs and expenses of any such  
inspections shall be paid by the party requesting same, unless a Default or  
Breach of this Lease by Lessee or a violation of Applicable Requirements or a  
contamination, caused or materially contributed to by Lessee, is found to exist  
or to be imminent, or unless the inspection is requested or ordered by a  
governmental authority as the result of any such existing or imminent violation  
or contamination. In such case, Lessee shall upon request reimburse Lessor or  
Lessor's Lender, as the case may be, for the costs and expenses of such  
inspections.  
  
7. Maintenance, Repairs, Utility Installations, Trade Fixtures and Alterations.  
  
 7.1 Lessee's Obligations.  
  
 (a) Subject to the provisions of Paragraphs 2.2 (Condition), 2.3  
(Compliance with Covenants, Restrictions and Building Code), 7.2 (Lessor's  
Obligations, 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at  
Lessee's sole cost and expense and at all times, keep the Premises and every  
part thereof in good order, condition and repair (whether or not such portion of  
the Premises requiring repair, or the means of repairing the same, are  
reasonably or readily accessible to Lessee, and whether or not the need for such  
repairs occurs as a result of Lessee's use, any prior use, the elements or the  
age of such portion of the Premises), including, without limiting the generality  
of the foregoing, all equipment or facilities specifically serving the Premises,  
such as plumbing, heating, air conditioning, ventilating, electrical, lighting  
facilities, boilers, fired or unfired pressure vessels, fire hose connections if  
within the Premises, fixtures, interior walls, interior surfaces of exterior  
walls, ceilings, floors, windows, doors, plate glass, and skylights, but  
excluding any items which are the responsibility of Lessor pursuant to Paragraph  
7.2 below. Lessee, in keeping the Premises in good order, condition and repair,  
shall exercise and perform good maintenance practices. Lessee's obligations  
shall include restorations, replacements or renewals when necessary to keep the  
Premises and all improvements thereon or a part thereof in good order, condition  
and state of repair.  
  
 (b) Lessee shall, at Lessee's sole cost and expense, procure and  
maintain a contract, with copies to Lessor, in customary form and substance for  
and with a contractor specializing and experienced in the inspection,  
maintenance and service of the heating, air conditioning and ventilation system  
for the Premises.  
[Remainder of paragraph deleted.]  
  
 (c) If Lessee fails to perform Lessee's obligations under this  
Paragraph 7.1, Lessor may enter upon the Premises after ten (10) days' prior  
written notice to Lessee (except in the case of an emergency, in which case no  
notice shall be required), perform such obligations on Lessee's behalf, and put  
the Premises in good order, condition and repair, in accordance with Paragraph  
13.2 below.  
  
 7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2  
(Condition), 2.3 (Compliance with Covenants, Restrictions and Building Code),  
4.2 (Common Area Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9  
(Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement  
pursuant to Paragraph 4.2, shall keep in good order, condition and repair the  
foundations, exterior walls, structural condition of interior bearing walls,  
exterior roof, fire sprinkler and/or standpipe and hose (if located in the  
Common Areas) or other automatic fire extinguishing system including fire alarm  
and/or smoke detection systems and equipment, fire hydrants, parking lots,  
walkways, parkways, driveways, landscaping, fences, signs and utility systems  
serving the Common Areas and all parts thereof, as well as providing the  
services for which there is a Common Area Operating Expense pursuant to  
Paragraph 4.2. Lessor shall not be obligated to paint the exterior or interior  
surfaces of exterior walls nor shall Lessor be obligated to maintain, repair or  
replace windows, doors or plate glass of the Premises. Lessee expressly waives  
the benefit of any statute now or hereafter in effect which would otherwise  
afford Lessee the right to make repairs at Lessor's expense or to terminate this  
Lease because of Lessor's failure to keep the Building, Industrial Center or  
Common Areas in good order, condition and repair.  
  
 7.3 Utility Installations, Trade Fixtures, Alterations.  
  
 (a) Definitions; Consent Required. The term "Utility Installations" is  
used in this Lease to refer to all air lines, power panels, electrical  
distribution, security, fire protection systems, communications systems,  
lighting fixtures, heating, ventilating and air conditioning equipment,  
plumbing, and fencing in, on or about the Premises. The term "Trade Fixtures"  
shall mean Lessee's machinery and equipment which can be removed without doing  
material damage to the Premises. The term "Alterations" shall mean any  
modification of the improvements on the Premises which are provided by Lessor  
under the terms of this Lease, other than  
  
  
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Utility Installations or Trade Fixtures. "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 nor cause to be made any Alterations or Utility  
Installations in, on, under or about 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 Lessor's consent but upon  
notice to Lessor, so long as they are not visible from the outside of the  
Premises, do not involve puncturing, relocating or removing the roof or any  
existing walls, or changing or interfering with the fire sprinkler or fire  
detection systems and the cumulative cost thereof during the term of this Lease  
as extended does not exceed $2,500.00.  
  
 (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. All consents given by Lessor,  
whether by virtue of Paragraph 7.3(a) or by subsequent specific consent, shall  
be deemed conditioned upon: (i) Lessee's acquiring all applicable permits  
required by governmental authorities; (ii) the furnishing of copies of such  
permits together with a copy of the plans and specifications for the Alteration  
or Utility Installation to Lessor prior to commencement of the work thereon; and  
(iii) the compliance by Lessee with all conditions of said permits in a prompt  
and expeditious manner. Any Alterations or Utility Installations by Lessee  
during the term of this Lease shall be done in a good and workmanlike manner,  
with good and sufficient materials, and be in compliance with all Applicable  
Requirements. Lessee shall promptly upon completion thereof furnish Lessor with  
as-built plans and specifications therefor. Lessor may, (but without obligation  
to do so) condition its consent to any requested Alteration or Utility  
Installation that costs $2,500.00 or more upon Lessee's providing Lessor with a  
lien and completion bond in an amount equal to one and one-half times the  
estimated cost of such Alteration or Utility Installation.  
  
 (c) Lien Protection. 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 in or on the Premises as provided by law. If  
Lessee shall, in good faith, 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  
against the Lessor or the Premises. If Lessor shall require, Lessee shall  
furnish to Lessor a surety bond satisfactory to Lessor 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, as required by law for the  
holding of the Premises free from the effect of such lien or claim. In addition,  
Lessor may require Lessee to pay Lessor's attorneys' fees and costs in  
participating in such action if Lessor shall decide it is to its best interest  
to do so.  
  
 7.4 Ownership, Removal, Surrender, and Restoration.  
  
 (a) Ownership. Subject to Lessor's right to require their removal and  
to cause Lessee to become the owner thereof as hereinafter provided in this  
Paragraph 7.4, all Alterations and Utility Installations made to the Premises by  
Lessee shall be the property of and owned by Lessee, but considered a part of  
the Premises. Lessor may, at any time and at its option, elect in writing to  
Lessee to be the owner of all or any specified part of the Lessee-Owned  
Alterations and Utility Installations. Unless otherwise instructed per  
Subparagraph 7.4(b) hereof, all Lessee-Owned and Utility Installations shall, at  
the expiration or earlier termination of this Lease, become the property of  
Lessor and remain upon the Premises and be surrendered with the Premises by  
Lessee.  
  
 (b) Removal. Unless otherwise agreed in writing, Lessor may require  
that any or all Lessee-Owned Alterations or Utility Installations be removed by  
the expiration or earlier termination of this Lease, notwithstanding that their  
installation may have been consented to by Lessor. Lessor may require the  
removal at any time of all or any part of any Alterations or Utility  
Installations made without the required consent of Lessor.  
  
 (c) Surrender/Restoration. Lessee shall surrender the Premises by the  
end of the last day of the Lease term or any earlier termination date, clean and  
free of debris and in good operating order, condition and state of repair,  
ordinary wear and tear excepted. Ordinary wear and tear shall not include any  
damage or deterioration that would have been prevented by good maintenance  
practice or by Lessee performing all of its obligations under this Lease. Except  
as otherwise agreed or specified herein, the Premises, as surrendered, shall  
include the Alterations and Utility Installations. The obligation of Lessee  
shall include the repair of any damage occasioned by the installation,  
maintenance or removal of Lessee's Trade Fixtures, furnishings, equipment, and  
Lessee-Owned Alterations and Utility Installations, 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 ground water contaminated by Lessee, all as  
may then be required by Applicable Requirements and/or good practice. Lessee's  
Trade Fixtures shall remain the property of Lessee and shall be removed by  
Lessee subject to its obligation to repair and restore the Premises per this  
Lease.  
  
8. Insurance; Indemnity.  
  
 8.1 Payment of Premiums. The cost of the premiums for the insurance policies  
maintained by Lessor under this Paragraph 8 shall be a Common Area Operating  
Expense pursuant to Paragraph 4.2 hereof. Premiums for policy periods commencing  
prior to, or extending beyond, the term of this Lease shall be prorated to  
coincide with the corresponding Commencement Date or Expiration Date.  
  
 8.2 Liability Insurance.  
  
 (a) Carried by Lessee. Lessee shall obtain and keep in force during the  
term of this Lease a Commercial General Liability policy of insurance protecting  
Lessee, Lessor and any Lender(s) whose names have been provided to Lessee in  
writing (as additional insureds) against claims for bodily injury, personal  
injury and property damage based upon, involving or arising out of the  
ownership, use, occupancy or maintenance of the Premises and all areas  
appurtenant thereto. Such insurance shall be on an occurrence basis providing  
single limit coverage in an amount not less than $1,000,000 per occurrence with  
an "Additional Insured-Managers or Lessors of Premises" endorsement and contain  
the "Amendment of the Pollution Exclusion" endorsement for damage caused by  
heat, smoke or fumes from a hostile fire. The policy shall not contain any  
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 required by this Lease or as carried by Lessee shall  
not, however, limit the liability of Lessee nor relieve Lessee of any obligation  
hereunder. All insurance to be 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.  
  
 (b) Carried by Lessor. Lessor shall also maintain liability insurance  
described in Paragraph 8.2(a) above, in addition to and not in lieu of, the  
insurance required to be maintained by Lessee. Lessee shall not be named as an  
additional insured therein.  
  
 8.3 Property Insurance-Building, Improvements and Rental Value.  
  
 (a) Building and Improvements. Lessor shall obtain and keep in force  
during the term of this Lease a policy or policies in the name of Lessor, with  
loss payable to Lessor and to any Lender(s), insuring against loss or damage to  
the Premises. Such insurance shall be for full replacement cost, as the same  
shall exist from time to time, or the amount required by any Lender(s), but in  
no event more than the commercially reasonable and available insurable value  
thereof of if, by reason of the unique nature or age of the improvements  
involved, such latter amount is less than full replacement cost. Lessee-Owned  
Alterations and Utilities Installations, Trade Fixtures and Lessee's personal  
property shall be insured by Lessee pursuant to Paragraph 8.4. If the coverage  
is available and commercially appropriate, Lessor's policy or policies shall  
insure against all risks of direct physical loss or damage (except the perils of  
flood and/or earthquake unless required by a Lender), including coverage for any  
additional costs resulting from debris removal and reasonable amounts of  
coverage for the enforcement of any ordinance or law regulating the  
reconstruction or replacement of any undamaged sections of the Building required  
to be demolished or removed by reason of the enforcement of any building,  
zoning, safety or land use laws as the result of a covered loss, but not  
including plate glass insurance. Said policy or policies shall also contain an  
agreed valuation provision in lieu of any co-insurance clause, waiver of  
subrogation, and inflation guard protection causing an increase in the annual  
property insurance coverage amount by a factor of not less than the adjusted  
U.S. Department of Labor Consumer Price Index for All Urban Consumers for the  
city nearest to where the Premises are located.  
  
 (b) Rental Value. Lessor shall also obtain and keep in force during the  
term of this Lease a policy or policies in the name of Lessor, with loss payable  
to Lessor and any Lender(s), insuring the loss of the full rental and other  
charges payable by all lessees of the Building to Lessor for one year (including  
all Real Property Taxes, Insurance Costs, all Common Area Operating Expenses and  
any scheduled rental increases). Said insurance may provide that in the event  
the Lease is terminated by reason of an insured loss, the period of indemnity  
for such coverage shall be extended beyond the date of the completion of repairs  
or replacement of the Premises, to provide for one full year's loss of rental  
revenues from the date of any such loss. Said insurance shall contain an agreed  
valuation provision in lieu of any co-insurance clause, and the amount of  
coverage shall be adjusted annually to reflect the projected rental income, Real  
Property Taxes, insurance premium costs and other expenses, if any, otherwise  
payable, for the next 12-month period. Common Area Operating Expenses shall  
include any deductible amount in the event of such loss.  
  
  
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 (c) Adjacent Premises. Lessee shall pay for any increase in the  
premiums for the property insurance of the Building and for the Common Areas or  
other buildings in the Industrial Center if said increase is caused by Lessee's  
acts, omissions, use or occupancy of the Premises.  
  
 (d) Lessee's Improvements. Since Lessor is the Insuring Party, Lessor  
shall not be required to insure Lessee-Owned Alterations and Utility  
Installations unless the item in question has become the property of Lessor  
under the terms of this Lease.  
  
 8.4 Lessee's Property Insurance. Subject to the requirements of Paragraph  
8.5, Lessee at its cost shall either by separate policy or, at Lessor's option,  
by endorsement to a policy already carried, maintain insurance coverage on all  
of Lessee's personal property, Trade Fixtures and Lessee-Owned Alterations and  
Utility Installations in, on, or about the Premises similar in coverage to that  
carried by Lessor as the Insuring Party under Paragraph 8.3(a). Such insurance  
shall be full replacement cost coverage with a deductible not to exceed $1,000  
per occurrence. The proceeds from any such insurance shall be used by Lessee for  
the replacement of personal property and the restoration of Trade Fixtures and  
Lessee-Owned Alterations and Utility Installations. Upon request from Lessor,  
Lessee shall provide Lessor with written evidence that such insurance is in  
force.  
  
 8.5 Insurance Policies. Insurance required hereunder shall be in companies  
duly licensed to transact business in the state where the Premises are located,  
and maintaining during the policy term a "General Policyholders Rating" of at  
least B+, V, or such other rating as may be required by a Lender, as set forth  
in the most current issue of "Best's Insurance Guide." Lessee shall not do or  
permit to be done anything which shall invalidate the insurance policies  
referred to in this Paragraph 8. Lessee shall cause to be delivered to Lessor,  
within seven (7) days after the earlier of the Early Possession Date or the  
Commencement Date, certified copies of, or certificates evidencing the existence  
and amounts of, the insurance required under Paragraph 8.2(a) and 8.4. No such  
policy shall be cancellable or subject to modification except after thirty (30)  
days' prior written notice to Lessor. Lessee shall at least thirty (30) days  
prior to the 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.  
  
 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 (whether in contract or in tort) against the  
other, for loss or damage to their property arising out of or incident to the  
perils required to be insured against under Paragraph 8. The effect of such  
releases and waivers of the right to recover damages shall not be limited by the  
amount of insurance carried or required, or by any deductibles applicable  
thereto. Lessor and Lessee agree to have their respective insurance companies  
issuing property damage insurance waive any right to subrogation that such  
companies may have against Lessor to Lessee, as the case may be, so long as the  
insurance is not invalidated thereby.  
  
 8.7 Indemnity. Except for Lessor's negligence and/or breach of express  
warranties, 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,  
costs, liens, judgments, penalties, loss of permits, attorneys' and consultants'  
fees, expenses and/or liabilities arising out of, involving, or in connection  
with, the occupancy of the Premises by Lessee, the conduct of Lessee's business,  
any act, omission or neglect of Lessee, its agents, contractors, employees or  
invitees, and out of any Default or Breach by Lessee in the performance in a  
timely manner of any obligation on Lessee's part to be performed under this  
Lease. The foregoing shall include, but not be limited to, the defense or  
pursuit of any claim or any action or proceeding involved therein, and whether  
or not (in the case of claims made against Lessor) litigated and/or reduced to  
judgment. In case any action or proceeding be brought against Lessor by reason  
of any of the foregoing matters, Lessee upon notice from Lessor shall defend the  
same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor  
shall cooperate with Lessee in such defense. Lessor need not have first paid any  
such claim in order to be so indemnified.  
  
 8.8 Exemption of Lessor from Liability. 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 form fire, steam, electricity, gas, water or rain, or from the breakage,  
leakage, obstruction or other defects of pipes, fire sprinklers, wires,  
appliances, plumbing, air conditioning or lighting fixtures, or from any other  
cause, whether said injury or damage results from conditions arising upon the  
Premises or upon other portions of the Building of which the Premises are a  
part, from other sources or places, and regardless of whether the cause of such  
damage or injury or the means of repairing the same is accessible or not. Lessor  
shall not be liable for any damages arising from any act or neglect of any other  
lessee of Lessor nor from the failure by Lessor to enforce the provisions of any  
other lease in the Industrial Center. 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  
Premises, other than Lessee-Owned Alterations and Utility Installations, the  
repair cost of which damage or destruction is less than fifty percent (50%) of  
the then Replacement Cost (as defined in Paragraph 9.1(d)) of the Premises  
(excluding Lessee- Owned Alterations and Utility Installations and Trade  
Fixtures) immediately prior to such damage or destruction.  
  
 (b) "Premises Total Destruction" shall mean damage or destruction to  
the Premises, other than Lessee-Owned Alterations and Utility Installations, the  
repair cost of which damage or destruction is less than fifty percent (50%) or  
more of the then Replacement Cost of the Premises (excluding Lessee-Owned  
Alterations and Utility Installations and Trade Fixtures) immediately prior to  
such damage or destruction. In addition, damage or destruction to the Building,  
other than Lessee- Owned Alterations and Utility Installations and Trade  
Fixtures of any lessees of the Building, the cost of which damage or destruction  
is fifty percent (50%) or more of the then Replacement Cost (excluding  
Lessee-Owned Alterations and Utility Installations and Trade Fixtures of any  
lessees of the Building) of the Building shall, at the option of Lessor, be  
deemed to be Premises Total Destruction.  
  
 (c) "Insured Less" shall mean damage or destruction to 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 building codes, ordinances or  
laws, 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 Premises Partial Damage - Insured Loss. If Premises Partial Damage that  
is an Insured Loss occurs, then Lessor shall, at Lessor's expense, 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. In the event, however, that there is a shortage of  
insurance proceeds and such shortage is due to the fact that, by reason of the  
unique nature of the improvements in the Premises, full replacement cost  
insurance coverage was not commercially reasonable and available, Lessor shall  
have no obligation to pay for the shortage in insurance proceeds or to fully  
restore the unique aspects of the Premises unless Lessee provides Lessor with  
the funds to cover same, or adequate assurance thereof, within ten (10) days  
following receipt of written notice of such shortage and request therefor. If  
Lessor receives said funds or adequate assurance thereof within said ten (10)  
day period, Lessor shall complete them as soon as reasonably possible and this  
Lease shall remain in full force and effect. If Lessor does not receive such  
funds or assurance within said period, Lessor may nevertheless elect by written  
notice to Lessee within ten (10) days thereafter to make such restoration and  
repair as is commercially reasonable with Lessor paying any shortage in  
proceeds, in which case this Lease shall remain in full force and effect. If  
Lessor does not receive such funds or assurance within such ten (10) day period,  
and if Lessor does not so elect to restore and repair, then this Lease shall  
terminate sixty (60) days following the occurrence of the damage or destruction.  
Unless otherwise agreed, Lessee shall in no event have any right to  
reimbursement from Lessor for any funds contributed by Lessee to repair any such  
damage or destruction. Premises Partial Damage due to flood or earthquake shall  
be subject to Paragraph 9.3 rather than Paragraph 9.2, notwithstanding that  
there may be some insurance coverage, but the net proceeds of any such insurance  
shall be made available for the repairs if made by either Party.  
  
 9.3 Partial Damage - Uninsured Loss. If Premises Partial Damage that is not  
an Insured Loss occurs, unless caused by a negligent or willful act of Lessee  
(in which event Lessee shall make the repairs at Lessee's expense and this Lease  
shall continue in full force and effect), Lessor may at Lessor's option, 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) give  
written notice to Lessee within thirty (30) days after receipt by Lessor of  
knowledge of the occurrence of such damage of Lessor's desire to terminate this  
Lease as of the date sixty (60) days following the date of such notice. In the  
event Lessor elects to give such notice of Lessor's intention to terminate this  
Lease, Lessee shall have the right within ten (10) days after the receipt of  
such notice to give written notice to Lessor of Lessee's commitment to pay for  
the repair of such damage totally at Lessee's expense  
  
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and without reimbursement from Lessor, Lessee shall provide Lessor with the  
required funds or satisfactory assurance thereof within thirty (30) days  
following such commitment from Lessee. In such event this Lease shall continue  
in full force and effect, and Lessor shall proceed to make such repairs as soon  
as reasonably possible after the required funds are available. If Lessee does  
not give such notice and provide the funds or assurance thereof within the times  
specified above, this Lease shall terminate as of the date specified in Lessor's  
notice of termination.  
  
 9.4 Total Destruction. Notwithstanding any other provision hereof, if  
Premises Total Destruction occurs (including any destruction required by any  
authorized public authority), this Lease shall terminate sixty (60) days  
following the date of such Premises Total Destruction, whether or not the damage  
or destruction is an Insured Loss or was caused by a negligent or willful act of  
Lessee. In the event, however, that the damage or destruction was caused by  
Lessee, Lessor shall have the right to recover Lessor's damages from Lessee  
except as released and waived in Paragraph 9.7.  
  
 9.5 Damage Near End of Term. If at any time during the last six (6) months  
of the term of this Lease there is damage for which the cost to repair exceeds  
one month's Base Rent, whether or not an Insured Loss, Lessor may, at Lessor's  
option, terminate this Lease effective sixty (60) days following the date of  
occurrence of such damage by giving written notice to Lessee of Lessor's  
election to do so within thirty (30) days after the date of occurrence of such  
damage. Provided, however, if Lessee at that time has an exercisable option to  
extend this Lease or to purchase the Premises, then Lessee may preserve this  
Lease by (a) exercising such option, and (b) providing Lessor with any shortage  
in insurance proceeds (or adequate assurance thereof) needed to make the repairs  
on or before the earlier of (i) the date which is ten (10) days after Lessee's  
receipt of Lessor's written notice purporting to terminate this Lease, or (ii)  
the day prior to the date upon which such option expires. If Lessee duly  
exercises such option during such period and provides Lessor with funds (or  
adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor  
shall, at Lessor's expense repair such damage as soon as reasonably possible and  
this Lease shall continue in full force and effect. If Lessee fails to exercise  
such option and provide such funds or assurance during such period, then this  
Lease shall terminate as of the date set forth in the first sentence of this  
Paragraph 9.5.  
  
 9.6 Abatement of Rent; Lessee's Remedies.  
  
 (a) In the event of (i) Premises Partial Damage or (ii) Hazardous  
Substance Condition for which Lessee is not legally responsible, the Base Rent,  
Common Area Operating Expenses and other charges, if any, payable by Lessee  
hereunder for the period during which such damage or condition, its repair,  
remediation or restoration continues, shall be abated in proportion to the  
degree to which Lessee's use of the Premises is impaired, but not in excess of  
proceeds from insurance required to be carried under Paragraph 8.3(b). Except  
for abatement of Base Rent, Common Area Operating Expenses and other charges, if  
any, as aforesaid, all other obligations of Lessee hereunder shall be performed  
by Lessee, and Lessee shall have no claim against Lessor for any damage suffered  
by reason of any such damage, destruction, repair, remediation or restoration.  
  
 (b) If Lessor shall be obligated to repair or restore the Premises  
under the provisions of this Paragraph 9 and shall not commence, in a  
substantial and meaningful way, the repair or restoration of the Premises 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 give such notice to Lessor and such Lenders and  
such repair or restoration is not commenced within thirty (30) days after  
receipt of such notice, this Lease shall terminate as of the date specified in  
said notice. If Lessor or a Lender commences the repair or restoration of the  
Premises within thirty (30) days after the receipt of such notice, this Lease  
shall continue in full force and effect. "Commence" as used in this Paragraph  
9.6 shall mean either the unconditional authorization of the preparation of the  
required plans, or the beginning of the actual work on the Premises, whichever  
occurs first.  
  
 9.7 [Deleted]  
  
 9.8 Termination - Advance Payments. Upon termination of this Lease pursuant  
to this Paragraph 9, Lessor shall return to Lessee any advance payment made by  
Lessee to Lessor and so much of Lessee's Security Deposit as has not been, or is  
not then required to be, used by Lessor under the terms of this Lease.  
  
 9.9 Waiver of Statutes. Lessor and Lessee agree that the terms of this Lease  
shall govern the effect of any damage to or destruction of the Premises and the  
Building with respect to the termination of this Lease and hereby waive the  
provisions of any present or future statute to the extent it is inconsistent  
herewith.  
  
10. Real Property Taxes.  
  
 10.1 Payment of Taxes. Lessor shall pay the Real Property Taxes, as defined  
in Paragraph 10.2, applicable to the Industrial Center, and except as otherwise  
provided in Paragraph 10.3, any such amounts shall be included in the  
calculation of Common Area Operating Expenses in accordance with the provisions  
of Paragraph 4.2.  
  
 10.2 Real Property Tax Definition. As used herein, the term "Real Property  
Taxes" shall include any form of real estate tax or assessment, general,  
special, ordinary or extraordinary, and any license fee, commercial rental tax,  
improvement bond or bonds, levy or tax (other than inheritance, personal income  
or estate taxes) imposed upon the Industrial Center 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, levied against any legal or equitable  
interest of Lessor in the Industrial Center or any portion thereof, Lessor's  
right to rent or other income therefrom, and/or Lessor's business of leasing the  
Premises. 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, or changes in Applicable Law taking effect, during the term of this  
Lease, including but not limited to a change in the ownership of the Industrial  
Center or in the Improvements thereon, the execution of this Lease, or any  
modification, amendment or transfer thereof, and whether or not contemplated by  
the Parties. In calculating Real Property Taxes for any calendar year, the Real  
Property Taxes for any real estate tax year shall be included in the calculation  
of Real Property Taxes for such calendar year based upon the number of days  
which such calendar year and tax year have in common.  
  
 10.3 Additional Improvements. Common Area Operating Expenses shall not  
include Real Property Taxes specified in the tax assessor's records and work  
sheets as being caused by additional improvements placed upon the Industrial  
Center by other lessees or by Lessor for the exclusive enjoyment of such other  
lessees. Notwithstanding Paragraph 10.1 hereof, Lessee shall, however, pay to  
Lessor at the time Common Area Operating Expenses are payable under Paragraph  
4.2, the entirety of any increase in Real Property Taxes if assessed solely by  
reason of Alterations, Trade Fixtures or Utility Installations placed upon the  
Premises by Lessee or at Lessee's request.  
  
 10.4 Joint Assessment. If the Building is not separately assessed, Real  
Property Taxes allocated to the Building shall be an equitable proportion of the  
Real Property Taxes for all of the land and improvements included within the tax  
parcel assessed, such proportion to be determined by Lessor from the respective  
valuations assigned in the assessor's work sheets or such other information as  
may be reasonably available. Lessor's reasonable determination thereof, in good  
faith, shall be conclusive.  
  
 10.5 Lessee's Property Taxes. Lessee shall pay prior to delinquency all  
taxes assessed against and levied upon Lessee-Owned Alterations and Utility  
Installations, Trade Fixtures, furnishings, equipment and all personal property  
of Lessee contained in the Premises or stored within the Industrial Center. When  
possible, Lessee shall cause its Lessee-Owned Alterations and Utility  
Installations, Trade Fixtures, furnishings, equipment and all other personal  
property to be assessed and billed separately from the real property of Lessor.  
If any of Lessee's said 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 setting forth the taxes  
applicable to Lessee's property.  
  
11. Utilities. Lessee shall pay directly for all utilities and services supplied  
to the Premises, including but not limited to electricity, telephone, security,  
gas and cleaning of the Premises, together with any taxes thereon. If any such  
utilities or services are not separately metered to the Premises or separately  
billed to the Premises, Lessee shall pay to Lessor a reasonable proportion to be  
determined by Lessor of all such charges jointly metered or billed with other  
premises in the Building, in the manner and within the time periods set forth in  
Paragraph 4.2(d).  
  
12. Assignment and Subletting.  
  
 12.1 Lessor's Consent Required.  
  
 (a) Lessee shall not voluntarily or by operation of law assign,  
transfer, mortgage or otherwise transfer or encumber (collectively, "assign") or  
sublet all or any part of Lessee's interest in this Lease or in the Premises  
without Lessor's prior written consent given under and subject to the terms of  
Paragraph 36.  
  
 (b) A change in the control of Lessee shall constitute an assignment  
requiring Lessor's consent. The transfer, on a cumulative basis, of twenty-five  
percent (25%) or more of the voting control of Lessee shall constitute a change  
in control for this purpose.  
  
  
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 (c) The involvement of Lessee or its assets in any transaction, or  
series of transactions (by way of merger, sale, acquisition, financing,  
refinancing, transfer, leveraged buy-out or otherwise), whether or not a formal  
assignment or hypothecation of this Lease or Lessee's assets occurs, which  
results or will result in a reduction of the Net Worth of Lessee, as hereinafter  
defined, by an amount equal to or greater than twenty-five percent (25%) of such  
Net Worth of Lessee as it was represented to Lessor at the time of full  
execution and delivery of this Lease or at the time of the most recent  
assignment to which Lessor has consented, or as it exists immediately prior to  
said transaction or transactions constituting such reduction, at whichever time  
said Net Worth of Lessee was or is greater, shall be considered an assignment of  
this Lease by Lessee to which Lessor may reasonably withhold its consent. "Net  
Worth of Lessee" for purposes of this Lease shall be the net worth of Lessee  
(excluding any Guarantors) established under generally accepted accounting  
principles consistently applied.  
  
 (d) An assignment or subletting of Lessee's interest in this Lease  
without Lessor's specific prior written consent shall, at Lessor's option, be a  
Default curable after notice per Paragraph 13.1, or a non-curable Breach without  
the necessity of any notice and grace period. If Lessor elects to treat such  
unconsented to assignment or subletting as a non-curable Breach, Lessor shall  
have the right to either: (i) terminate this Lease, or (ii) upon thirty (30)  
days' written notice ("Lessor's Notice"), increase the monthly Base Rent for the  
Premises to the greater of the then fair market rental value of the Premises, as  
reasonably determined by Lessor, or one hundred ten percent (110%) of the Base  
Rent then in effect. Pending determination of the new fair market rental value,  
if disputed by Lessee, Lessee shall pay the amount set forth in Lessor's Notice,  
with any overpayment credited against the next installment(s) of Base Rent  
coming due, and any underpayment for the period retroactively to the effective  
date of the adjustment being due and payable immediately upon the determination  
thereof. Further, in the event of such Breach and rental adjustment, (i) the  
purchase price of any option to purchase the Premises held by Lessee shall be  
subject to similar adjustment to the then fair market value as reasonably  
determined by Lessor (without the Lease being considered an encumbrance or any  
deduction for depreciation or obsolescence, and considering the Premises at its  
highest and best use and in good condition) or one hundred ten percent (110%) of  
the price previously in effect, (ii) any index-oriented rental or price  
adjustment formulas contained in this Lease shall be adjusted to require that  
the base index be determined with reference to the index applicable to the time  
of such adjustment, and (iii) any fixed rental adjustments scheduled during the  
remainder of the Lease term shall be increased in the same ratio as the new  
rental bears to the Base Rent in effect immediately prior to the adjustment  
specified in Lessor's Notice.  
  
 (e) Lessee's remedy for any breach of this Paragraph 12.1 by Lessor  
shall be limited to compensatory damages 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, nor (iii) alter the primary liability of Lessee for  
the payment of Base Rent and other sums due Lessor hereunder or for the  
performance of any other obligations to be performed by Lessee under this Lease.  
  
 (b) Lessor may accept any 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 any rent for performance shall constitute a waiver or  
estoppel of Lessor's right to exercise its remedies for the Default or Breach by  
Lessee of any of the terms, covenants or conditions of this Lease.  
  
 (c) The consent of Lessor to any assignment or subletting shall not  
constitute a consent to any subsequent assignment or subletting by Lessee or to  
any subsequent or successive assignment or subletting by the assignee or  
sublessee. However, Lessor may consent to subsequent sublettings and assignments  
of the sublease or any amendments or modifications thereto without notifying  
Lessee or anyone else liable under this Lease or the sublease and without  
obtaining their consent, and such action shall not relieve such persons from  
liability under this Lease or the sublease.  
  
 (d) In the event of any Default or Breach of Lessee's obligation under  
this Lease, Lessor may proceed directly against Lessee, any Guarantors or anyone  
else responsible for the performance of the Lessee's obligations under this  
Lease, including any sublessee, without first exhausting Lessor's remedies  
against any other person or entity responsible therefor to Lessor, or any  
security held by 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 non-refundable  
deposit of $1,000 or ten percent (10%) of the monthly Base Rent applicable to  
the portion of the Premises which is the subject of the proposed assignment or  
sublease, whichever is greater, as reasonable consideration for Lessor's  
considering and processing the request for consent. Lessee agrees to provide  
Lessor with such other or additional information and/or documentation as may be  
reasonably requested by Lessor.  
  
 (f) Any assignee of, or sublessee under, this Lease shall, by reason of  
accepting such assignment or entering into such sublease, be deemed, for the  
benefit of Lessor, 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 in writing.  
  
 (g) [DELETED]  
  
 (h) Lessor, as a condition to giving its consent to any assignment or  
subletting, may require that the amount and adjustment schedule of the rent  
payable under this Lease be adjusted to what is then the market value and/or  
adjustment schedule for property similar to the Premises as then constituted, as  
determined by Lessor.  
  
 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 rentals and income arising from any sublease of all or a portion  
of the Premises heretofore or hereafter made by Lessee, and Lessor may collect  
such rent and income and apply same toward Lessee's obligations under this  
Lease; provided, however, that until a Breach (as defined in Paragraph 13.1)  
shall occur in the performance of Lessee's obligations under this Lease, Lessee  
may, except as otherwise provided in this Lease, receive, collect and enjoy the  
rents accruing under such sublease. Lessor shall not, by reason of the foregoing  
provision or any other assignment of such sublease to Lessor, not by reason of  
the collection of the rents from a sublessee, be deemed liable to the sublessee  
for any failure of Lessee to perform and comply with any of Lessee's obligations  
to such sublessee under such Sublease. 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 the rents and other charges due and to become due under  
the sublease. Sublessee shall rely upon any such statement and request from  
Lessor and shall pay such rents and other charges to Lessor without any  
obligation or right to inquire as to whether such Breach exists and  
notwithstanding any notice from or claim from Lessee to the contrary. Lessee  
shall have no right or claim against such sublessee, or, until the Breach has  
been cured, against Lessor, for any such rents and other charges so paid by said  
sublessee to Lessor.  
  
 (b) In the event of a Breach by Lessee in the performance of its  
obligations under this Lease, Lessor, at its option and without any obligation  
to do so, may require any sublessee to attorn 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 other prior defaults  
or breaches of such sublessor under such sublease.  
  
 (c) Any matter or thing requiring the consent of the sublessor under a  
sublease shall also require the consent of Lessor herein.  
  
 (d) No sublessee under a sublease approved by Lessor 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.  
  
13. Default; Breach; Remedies.  
  
 13.1 Default; Breach. Lessor and Lessee agree that if an attorney is  
consulted by Lessor in connection with a Lessee Default or Breach (as  
hereinafter defined), $350.00 is a reasonable minimum sum per such occurrence  
for legal services and costs in the preparation and service of a notice of  
Default, and that Lessor may include the cost of such services and costs in said  
notice as rent due and payable to cure said default. A "Default" by Lessee is  
defined as a failure by Lessee to observe, comply with or perform any of the  
terms, covenants, conditions or rules applicable to Lessee under this Lease. A  
"Breach" by Lessee is defined as the  
  
  
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occurrence of any one or more of the following Defaults, and, where a grace  
period for cure after notice is specified herein, the failure by Lessee to cure  
such Default prior to the expiration of the applicable grace period, and shall  
entitle Lessor to pursue the remedies set forth in Paragraphs 13.2 and/or 13.3:  
  
 (a) The vacating of the Premises without the intention to reoccupy the  
same, or the abandonment of the Premises.  
  
 (b) Except as expressly otherwise provided in this Lease, the failure  
by Lessee to make any payment of Base Rent, Lessee's Share of Common Area  
Operating Expenses, or any other monetary payment required to be made by Lessee  
hereunder as and when due, the failure by Lessee to provide Lessor with  
reasonable evidence of insurance or surety bond required under this Lease, or  
the failure of Lessee to fulfill any obligation under this Lease which endangers  
or threatens life or property, where such failure continues for a period of  
three (3) days following written notice thereof by or on behalf of Lessor to  
Lessee.  
  
 (c) Except as expressly otherwise provided in this Lease, the failure  
by Lessee to provide Lessor with reasonably written evidence (in duly executed  
original form, if applicable) of (i) compliance with Applicable Requirements per  
Paragraph 6.3, (ii) the inspection, maintenance and service contracts required  
under Paragraph 7.1(b), (iii) the rescission of an unauthorized assignment or  
subletting per Paragraph 12.1, (iv) a Tenancy Statement per Paragraphs 16 or 37,  
(v) the subordination or non-subordination of this Lease per Paragraph 30; (vi)  
the guaranty of the performance of Lessee's obligations under this Lease if  
required under Paragraphs 1.11 and 37, (vii) the execution of any document  
requested under Paragraph 42 (easements), or (viii) 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 by or on behalf of Lessor 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 that  
are to be observed, complied with or performed by Lessee, other than those  
described in Subparagraphs 13.1(a), (b) or (c), above, where such Default  
continues for a period of thirty (30) days after written notice thereof by or on  
behalf of Lessor to Lessee; 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 of this Lease by Lessee if  
Lessee commences such cure within said thirty (30) day period and thereafter  
diligently prosecutes such cure to completion.  
  
 (e) The occurrence of any of the following events: (i) the making by  
Lessee of any general arrangement or assignment for the benefit of creditors;  
(ii) Lessee's becoming a "debtor" as defined in 11 U.S. Code Section 101 or any  
successor statute thereto (unless, in the case of a petition filed against  
Lessee, the same is dismissed within sixty (60) days; (iii) the appointment of a  
trustee or receiver to take possession of substantially all of Lessee's assets  
located at the Premises or of Lessee's interest in this Lease, where possession  
is not restored to Lessee within thirty (30) days; or (iv) the attachment,  
execution or other judicial seizure of substantially all of Lessee's assets  
located at the Premises or of Lessee's interest in this Lease, where such  
seizure is not discharged within thirty (30) days; provided, however, in the  
event that any provisions of this Subparagraph 13.1(e) is contrary to any  
applicable law, such provision shall be of no force or effect, and shall not  
affect the validity of the remaining provisions.  
  
 (f) The discovery by Lessor that any financial statement of Lessee or  
of any Guarantor, given to Lessor by Lessee or any Guarantor, was materially  
false.  
  
 (g) If the performance of Lessee's obligations under this Lease is  
guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's  
liability with respect to this Lease other than in accordance with the terms of  
such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a  
bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a  
Guarantor's breach of its guaranty obligation on an anticipatory breach basis,  
and Lessee's failure, within sixty (60) days following written notice by or on  
behalf of Lessor to Lessee of any such event, to provide Lessor with written  
alternative assurances of security, which, when coupled with the then existing  
resources of Lessee, equals or exceeds the combined financial resources of  
Lessee and the Guarantors that existed at the time of execution of this Lease.  
  
 13.2 Remedies. If Lessee fails to perform any affirmative duty or obligation  
of Lessee under this Lease, within ten (10) days after written notice to Lessee  
(or in case of an emergency, without notice), Lessor may at its option (but  
without obligation to do so), perform such duty or obligation on Lessee's  
behalf, including but not limited to the obtaining of reasonably required bonds,  
insurance policies, or government licenses, permits or approvals. The costs and  
expenses of any such performance by Lessor shall be due and payable by Lessee to  
Lessor upon 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 own option, may  
require all future payments to be made under this Lease by Lessee to be made  
only by cashier's check. In the event of a Breach of this Lease by Lessee (as  
defined in Paragraph 13.1), with or without further notice of demand, and  
without limiting Lessor in the exercise of any right or remedy which Lessor may  
have by reason of such Breach, Lessor may:  
  
 (a) Terminate Lessee's right to possession of the Premises by any  
lawful means, in which case this Lease and the term hereof shall terminate and  
Lessee shall immediately surrender possession of the Premises to Lessor. In such  
event Lessor shall be entitled to recover from Lessee: (i) the worth at the time  
of the award of 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 San Francisco or the Federal Reserve Bank District  
in which the Premises are located at the time of award plus one percent (1%).  
Efforts by Lessor to mitigate damages caused by Lessee's Default or Breach of  
this Lease shall not waive Lessor's right to recover damages under this  
Paragraph 13.2. If termination of this Lease is obtained through the provisional  
remedy of unlawful detainer, Lessor shall have the right to recover in such  
proceeding the 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 for such  
rent and/or damages. If a notice and grace period required under Subparagraph  
13.1(b), (c) or (d) was not previously given, a notice to pay rent or quit, or  
to perform or quit, as the case may be, given to Lessee under any statute  
authorizing the forfeiture of leases for unlawful detainer shall also constitute  
the applicable notice for grace period purposes required by Subparagraph  
13.1(b), (c) or (d). In such case, the applicable grace period under the  
unlawful detainer statute shall run concurrently after the one such statutory  
notice, and the failure of Lessee to cure the Default within the greater of the  
two (2) 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 in effect (in  
California Civil Code Section 1951.4) after Lessee's Breach and recover the rent  
as it becomes due, provided Lessee has the right to sublet or assign, subject  
only to reasonable limitations. Lessor and Lessee agree that the limitations on  
assignment and subletting in this Lease are reasonable. Acts of maintenance or  
preservation, efforts to relet the Premises, or the appointment of a receiver to  
protect the Lessor's interest under this Lease, shall not constitute a  
termination of the Lessee's right to possession.  
  
 (c) Pursue any other remedy now or hereafter available to Lessor under  
the laws or judicial decisions of the state wherein the Premises are located.  
  
 (d) 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 during the term  
hereof or by reason of Lessee's occupancy of the Premises.  
  
 13.3 Inducement Recapture in Event of Breach. Any agreement by Lessor for  
free or abated rent or other charges applicable to the Premises, or for the  
giving or paying by Lessor to or for Lessee of any cash or other bonus,  
inducement or consideration for Lessee's entering into this Lease, all of which  
concessions are hereinafter referred to as "Inducement Provisions: shall be  
deemed conditioned upon Lessee's full and faithful performance of all of the  
terms, covenants and conditions of this Lease to be performed or observed by  
Lessee during the term hereof as the same may be extended. Upon the occurrence  
of a Breach (as defined in Paragraph 13.1) of this Lease by Lessee, any such  
Inducement Provision shall automatically be deemed deleted from this Lease and  
of no further force or effect, and any rent, other charge, bonus, inducement or  
consideration theretofore abated, given or paid by Lessor under such an  
Inducement Provision shall be immediately due and payable by Lessee to Lessor,  
and recoverable by Lessor, as additional rent due under this Lease,  
notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by  
Lessor of rent or the cure of the Breach which initiated the operation of this  
Paragraph 13.3 shall not be deemed a waiver by Lessor of the provisions of this  
Paragraph 13.3 unless specifically so stated in writing by Lessor at the time of  
such acceptance.  
  
 13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee to  
Lessor of rent and other sums due hereunder 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 the  
terms of any ground lease, mortgage or deed of trust covering the Premises.  
Accordingly, if any installment of rent or other sum due from Lessee shall not  
be received by Lessor or Lessor's designee within ten (10) days after such  
amount shall be due, then, without any requirement for notice to Lessee, Lessee  
shall pay to Lessor a late charge equal to six percent (6%) of such overdue  
amount. The parties hereby agree  
  
  
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that such late charge represents a fair and reasonable estimate of the costs  
Lessor will incur by reason of late payment by Lessee. 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 Lessor from exercising  
any of the 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 Paragraph 4.1 or any other  
provision of this Lease to the contrary, Base Rent shall, at Lessor's option,  
become due and payable quarterly in advance.  
  
 13.5 Breach by Lessor. 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 13.5, a reasonable  
time shall in no event be less than thirty (30) days after receipt by Lessor,  
and by any Lender(s) whose name and address shall have been furnished to 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 after such  
notice are reasonably required for its performance, then Lessor shall not be in  
breach of this Lease if performance is commenced within such thirty (30) day  
period and thereafter diligently pursued to completion.  
  
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  
(all of which are herein called "condemnation"), this Lease shall terminate as  
to the part so taken as of the date the condemning authority takes title or  
possession, whichever first occurs. If more than ten percent (10%) of the floor  
area of the Premises, or more than twenty-five percent (25%) of the portion of  
the Common Areas designated for Lessee's parking, 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 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 the same proportion as the rentable floor area of the Premises taken  
bears to the total rentable floor area of the Premises. No reduction of Base  
Rent shall occur if the condemnation does not apply to any portion of the  
Premises. Any award for the taking of all or any part of the Premises under the  
power of eminent domain or any payment made under threat of the exercise of such  
power shall be the property of Lessor, whether such award shall be made as  
compensation for diminution of value of the leasehold or for the taking of the  
fee, or as severance damages; provided, however, that Lessee shall be entitled  
to any compensation, separately awarded to Lessee for Lessee's relocation  
expenses and/or loss of Lessee's Trade Fixtures. In the event that this Lease is  
not terminated by reason of such condemnation, Lessor shall to the extent of its  
net severance damages received, over and above Lessee's Share of the legal and  
other expenses incurred by Lessor in the condemnation matter, repair any damage  
to the Premises caused by such condemnation authority. Lessee shall be  
responsible for the payment of any amount in excess of such net severance  
damages required to complete such repair.  
  
15. Brokers' Fees.  
  
 15.1 Procuring Cause. The Broker(s) named in Paragraph 1.10 is/are the  
procuring cause of this Lease.  
  
 15.2 Additional Terms. Unless Lessor and Broker(s) have otherwise agreed in  
writing, Lessor agrees that: (a) if Lessee exercises any Option (as defined in  
Paragraph 39.1) granted under this Lease or any Option subsequently granted, or  
(b) if Lessee acquires any rights to the Premises or other premises in which  
Lessor has an interest, or (c) if Lessee remains in possession of the Premises  
with the consent of Lessor after the expiration of the term of this Lease after  
having failed to exercise an Option,or (d) if said Brokers are the procuring  
cause of any other lease or sale entered into between the Parties pertaining to  
the Premises and/or any adjacent property in which Lessor has an interest, or  
(e) if Base Rent is increased, whether by agreement or operation of an  
escalation clause herein, then as to any of said transactions, Lessor shall pay  
said Broker(s) a fee in accordance with the schedules of said Broker(s) in  
effect at the time of the execution of this Lease.  
  
 15.3 Assumption of Obligations. Any buyer or transferee of Lessor's interest  
in this Lease, whether such transfer is by agreement or by operation of law,  
shall be deemed to have assumed Lessor's obligation under this Paragraph 15.  
Each Broker shall be an intended third party beneficiary of the provisions of  
Paragraph 1.10 and of this Paragraph 15 to the extent of its interest in any  
commission arising from this Lease and may enforce that right directly against  
Lessor and its successors.  
  
 15.4 Representations and Warranties. 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 as named in Paragraph 1.10(a) in connection with the  
negotiation of this Lease and/or the consummation of the transaction  
contemplated hereby, and that no broker, or other person, firm or entity other  
than said named Broker(s) is entitled to any commission of finder's fee in  
connection with said transaction. 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, and/or attorneys' fees  
reasonably incurred with respect thereto.  
  
16. Tenancy and Financial Statements.  
  
 16.1 Tenancy Statement. Each Party (as "Responding Party") shall within ten  
(10) days after written notice from the other Party (the "Requesting Party")  
execute, acknowledge and deliver to the Requesting Party a statement in writing  
in a form similar to the then most current "Tenancy Statement" 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.  
  
 16.2 Financial Statement. If Lessor desires to finance, refinance, or sell  
the Premises or the Building, or any part thereof, Lessee and all Guarantors  
shall deliver to any potential lender or purchaser designated by Lessor such  
financial statements of Lessee and such Guarantors as may be reasonably required  
by such lender or purchaser, including but not limited to Lessee's financial  
statements for the past three (3) years. All such financial statements shall be  
received by Lessor and such lender or purchaser in confidence and shall be used  
only for the purposes herein set forth.  
  
17. Lessor's Liability. The term "Lessor" as used herein shall mean the owner or  
owners at the time in question of the fee title to the Premises. In the event of  
a transfer of Lessor's title or interest in the Premises or in this Lease,  
Lessor shall deliver to the transferee or assignee (in cash or by credit) any  
unused Security Deposit held by Lessor at the time of such transfer or  
assignment. Except as provided in Paragraph 15.3, upon such transfer or  
assignment and delivery of the Security Deposit, as aforesaid, 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.  
  
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. Interest on Past-Due Obligations. Any monetary payment due Lessor hereunder,  
other than late charges, not received by Lessor within ten (10) days following  
the date on which it was due, shall bear interest from the date due at the prime  
rate charged by the largest state chartered bank in the state in which the  
Premises are located plus four percent (4%) per annum, but not exceeding the  
maximum rate allowed by law, in addition to the potential late charge provided  
for in Paragraph 13.4.  
  
20. 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.  
  
21. Rent Defined. All monetary obligations of Lessee to Lessor under the terms  
of this Lease are deemed to be rent.  
  
22. No Prior or Other Agreements; Broker Disclaimer. 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.  
Lessor and Lessee each represents and warrants to the Brokers that it has made,  
and is relying solely upon, its own investigation as to the nature, quality,  
character and financial responsibility of the other Party to this Lease and as  
to the nature, quality and character of the Premises. Brokers have no  
responsibility with respect thereto or with respect to any default or breach  
hereof by either Party. Each Broker shall be an intended third party beneficiary  
of the provisions of this Paragraph 22.  
  
23. Notices.  
  
 23.1 Notice Requirements. All notices required or permitted by this Lease  
shall be in writing and may be delivered in person (by hand or by messenger or  
courier service) or may be sent by regular, certified or registered mail or U.S.  
Postal Service Express Mail, with postage prepaid, or by facsimile transmission  
during normal business hours, and shall be deemed sufficiently given if served  
in a manner specified in this Paragraph 23. The addresses noted adjacent to a  
Party's signature on this Lease shall be that Party's address for delivery or  
mailing of notice purposes. Either Party may by written notice to the other  
specify a different address for notice  
  
  
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purposes, except that upon Lessee's taking possession of the Premises, the  
Premises shall constitute Lessee's address for the purpose of mailing or  
delivering notices to Lessee. A copy of all notices required or permitted to be  
given to Lessor hereunder shall be concurrently transmitted to such party or  
parties at such addresses as Lessor may from time to time hereafter designate by  
written notice to Lessee.  
  
 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 guarantees  
next day delivery shall be deemed given twenty-four (24) hours after delivery of  
the same to the United States Postal Service or courier. If any notice is  
transmitted by facsimile transmission or similar means, the same shall be deemed  
served or delivered upon telephone or facsimile confirmation of receipt of the  
transmission thereof, provided a copy is also delivered via delivery or mail. If  
notice is received on a Saturday or a Sunday or a legal holiday, it shall be  
deemed received on the next business day.  
  
24. Waivers. No waiver by Lessor of the Default or Breach of any term, covenant  
or condition hereof by Lessee, shall be deemed a waiver of any other term,  
covenant or condition hereof, or of any subsequent Default or Breach by Lessee  
of the same or any other term, covenant or condition hereof. Lessor's consent  
to, or approval of, any such 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, or be construed as the basis of an estoppel to enforce the provision  
or provisions of this Lease requiring such consent. Regardless of Lessor's  
knowledge of a Default or Breach at the time of accepting rent, the acceptance  
of rent by Lessor shall not be a waiver of any Default or Breach by Lessee of  
any provision hereof. Any payment given Lessor by Lessee may be accepted by  
Lessor on account of moneys or damages due Lessor, notwithstanding any  
qualifying statements or conditions made by Lessee in connection therewith,  
which such statements and/or conditions shall be of no force or effect  
whatsoever unless specifically agreed to in writing by Lessor at or before the  
time of deposit of such payment.  
  
25. Recording. Either Lessor or Lessee shall, upon request of the other,  
execute, acknowledge and deliver to the other a short form memorandum of this  
Lease for recording purposes. The Party requesting recordation shall be  
responsible for payment of any fees or taxes applicable thereto.  
  
26. No Right to Holdover. Lessee has no right to retain possession of the  
Premises or any part thereof beyond the expiration of earlier termination of  
this Lease. In the event that Lessee holds over in violation of this Paragraph  
26 then the Base Rent payable from and after the time of the expiration or  
earlier termination of this Lease shall be increased to two hundred percent  
(200%) of the Base Rent applicable during the month immediately preceding such  
expiration or earlier termination.  
Nothing contained herein shall be construed as a 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. All provisions of this Lease to be observed or  
performed by Lessee are both covenants and conditions.  
  
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 by Lessor upon the real property of which the Premises are a  
part, to any and all advances made on the security thereof, and to all renewals,  
modifications, consolidations, replacements and extensions thereof. Lessee  
agrees that the Lenders holding any such Security Device shall have no duty,  
liability or obligation to perform any of the obligations of Lessor under this  
Lease, but that in the event of Lessor's default with respect to any such  
obligation, Lessee will give any Lender whose name and address have been  
furnished Lessee in writing for such purpose notice of Lessor's default pursuant  
to Paragraph 13.5. If any Lender shall elect to have this Lease and/or any  
Option granted hereby superior to the lien of the Security Device and shall give  
written notice thereof to Lessee, 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 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 assurance (a "non-disturbance agreement") from the  
Lender that Lessee's possession 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.  
  
 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 Premises, Lessee and Lessor shall execute such  
further writings as may be reasonably required to separately document any such  
subordination or non-subordination, attornment and/or non-disturbance agreement  
as is provided for herein.  
  
31. Attorneys' Fees. If any Party or Broker brings an action or proceeding to  
enforce the terms hereof or 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. The  
attorneys' fee awarded shall not be computed in accordance with any court fee  
schedule, but shall be such as to fully reimburse all attorneys' fees reasonably  
incurred. Lessor shall be entitled to attorneys' fees, costs and expenses  
incurred in preparation and service of notices of Default and consultations in  
connection therewith, whether or not a legal action is subsequently commenced in  
connection with such Default or resulting Breach.  
Broker(s) shall be intended third party beneficiaries of this Paragraph 31.  
  
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 for the purpose of showing the same to  
prospective purchasers, lenders, or lessees, and making such alterations,  
repairs, improvements or additions to the Premises or to the Building, as Lessor  
may reasonably deem necessary. Lessor may at any time place on or about the  
Premises or Building any ordinary "For Sale" signs and Lessor may at any time  
during the last one hundred eighty (180) days of the term hereof place on or  
about the Premises any ordinary "For Lease" signs. All such activities of Lessor  
shall be without abatement of rent or liability to Lessee.  
  
33. Auctions. Lessee shall not conduct, nor permit to be conducted, either  
voluntarily or involuntarily, any auction upon the Premises without first having  
obtained Lessor's prior written consent. Notwithstanding anything to the  
contrary in this Lease, Lessor shall not be obligated to exercise any standard  
of reasonableness in determining whether to grant such consent.  
  
34. Signs. Lessee shall not place any sign upon the exterior of the Premises or  
the Building, except that Lessee may, with Lessor's prior written consent, \_\_\_  
(but not on the roof) such signs as are reasonably required to advertise  
Lessee's own business so long as such signs are in a location designated by  
Lessor and comply with Applicable Requirements and the signage criteria  
established for the Industrial Center by Lessor. The installation of any sign on  
the Premises by or for Lessee shall be subject to the provisions of Paragraph 7  
(Maintenance, Repairs, Utility Installations, Trade Fixtures and Alterations).  
[....DELETED BALANCE OF PARAGRAPH]  
  
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, Lessor shall, in the event of any such surrender,  
termination or cancellation, have the option to continue any one or all of any  
existing subtenancies. Lessor's failure within ten (10) days following any such  
event to make a written election 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.  
  
  
  
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36. Consents.  
  
 (a) Except for Paragraph 33 hereof (Auctions) or 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 pertaining to this Lease or the Premises, including but not  
limited to consents to an assignment, a subletting or the presence or use of a  
Hazardous Substance, shall be paid by Lessee to Lessor upon receipt of an  
invoice and supporting documentation therefor. In addition to the deposit  
described in Paragraph 12.2(e), Lessor may, as a condition to considering any  
such request by Lessee, require that Lessee deposit with Lessor an amount of  
money (in addition to the Security Deposit held under Paragraph 5) reasonably  
calculated by Lessor to represent the cost Lessor will incur in considering and  
responding to Lessee's request. Any unused portion of said deposit shall be  
refunded to Lessee without interest. Lessor's consent to any act, assignment of  
this Lease or subletting of the Premises by Lessee shall not constitute an  
acknowledgement 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.  
  
 (b) All conditions to Lessor's consent authorized by this Lease are  
acknowledged by Lessee as being reasonable. The failure to specify herein any  
particular condition to Lessor's consent shall not preclude the impositions 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.  
  
37. Guarantor.  
  
 37.1 Form of Guaranty. If there are to be any Guarantors of this Lease per  
Paragraph 1.11, the form of the guaranty to be executed by each such Guarantor  
shall be in the form most recently published by the American Industrial Real  
Estate Association, and each such Guarantor shall have the same obligations as  
Lessee under this lease, including but not limited to the obligation to provide  
the Tenancy Statement and Information required in Paragraph 16.  
  
 37.2 Additional Obligations of Guarantor. It shall constitute a Default of  
the Lessee under this Lease if any such Guarantor fails or refuses, upon  
reasonable request by Lessor to give: (a) evidence of the due execution of the  
guaranty called for by this Lease, including the authority of the Guarantor (and  
of the party signing on Guarantor's behalf) to obligate such Guarantor on said  
guaranty, and resolution of its board of directors authorizing the making of  
such guaranty, together with a certificate of incumbency showing the signatures  
of the persons authorized to sign on its behalf, (b) current financial  
statements of Guarantor as may from time to time be requested by Lessor, (c) a  
Tenancy Statement, or (d) written confirmation that the guaranty is still in  
effect.  
  
38. Quiet Possession. Upon payment by Lessee of the rent for the Premises and  
the 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 of the Premises for the entire term hereof subject to all of the  
provisions of this Lease.  
  
39. Options  
  
 39.1 Definition. As used in this Lease, the word "Option" has the following  
meaning: (a) the right to extend the term of this Lease or to renew this Lease  
or to extend or renew any lease that Lessee has on other property of Lessor; (b)  
the right of first refusal to lease the Premises or the right of first offer to  
lease the Premises or the right of first refusal to lease other property of  
Lessor or the right of first offer to lease other property of Lessor; (c) the  
right to purchase the Premises, or the right of first refusal to purchase the  
Premises, or the right of first offer to purchase the Premises, or the right to  
purchase other property of Lessor, or the right of first refusal to purchase  
other property of Lessor, or the right of first offer to purchase other property  
of Lessor.  
  
 39.2 Options Personal to Original Lessee. Each Option granted to Lessee in  
this Lease is personal to the original Lessee named in Paragraph 1.1 hereof, and  
cannot be voluntarily or involuntarily assigned or exercised by any person or  
entity other than said original Lessee while the original Lessee is in full and  
actual possession of the Premises and without the intention of thereafter  
assigning or subletting. The Options, if any, herein granted to Lessee are not  
assignable, either as a part of an assignment of this Lease or separately or  
apart therefrom, and no Option may be separated from this Lease in any manner,  
by reservation or otherwise.  
  
 39.3 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 to extend or renew this Lease have been validly exercised.  
  
 39.4 [Deleted]  
  
 (a) [Deleted]  
  
 (b) [Deleted]  
  
 (c) [Deleted]  
  
40. Rules and Regulations. Lessee agrees that it will abide by, and keep and  
observe all reasonable rules and regulations ("Rules and Regulations") which  
Lessor may make from time to time for the management, safety, care, and  
cleanliness of the grounds, the parking and unloading of vehicles and the  
preservation of good order, as well as for the convenience of other occupants or  
tenants of the Building and the Industrial Center and their invitees.  
  
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 the right, from time to time, to grant,  
without the consent or joinder of Lessee, such easements, rights of way, utility  
raceways, and dedications that Lessor deems necessary, and to cause the  
recordation of parcel maps and restrictions, so long as such easements, rights  
of way, utility raceways, dedications, maps and restrictions do not reasonably  
interfere with the use of the Premises by Lessee. Lessee agrees to sign any  
documents reasonably requested by Lessor to effectuate any such easement rights,  
dedication, map or restrictions.  
  
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 suite 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 under the provisions of this  
Lease.  
  
44. Authority. If either Party hereto is a corporation, trust, or general or  
limited partnership, 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. If Lessee is a corporation, trust or  
partnership, Lessee shall within thirty (30) days after request by Lessor,  
deliver to Lessor evidence satisfactory to Lessor 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 Lessor or Lessee or Lessor's  
agent or Lessee's agent and submission of same to Lessee or Lessor shall not be  
deemed an offer to lease. 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. The Parties shall amend  
this Lease from time to time to reflect any adjustments that are made to the  
Base Rent or other rent payable under this Lease. 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 an institutional insurance company or pension plan Lender in  
connection with the obtaining of normal financing or refinancing of the property  
of which the Premises are a part.  
  
48. Multiple Parties. Except as otherwise expressly provided herein, if more  
than one person or entity is named herein as either Lessor or Lessee, the  
obligations of such multiple parties shall be the joint and several  
responsibility of all persons or entities named herein as such Lessor or Lessee.  
  
  
  
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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 COMMERCIALLY REASONABLE  
AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE  
PREMISES.  
  
 IF THIS LEASE HAS BEEN FILLED IN, IT HAS BEEN PREPARED FOR YOUR  
 ATTORNEY'S REVIEW AND APPROVAL. FURTHER, EXPERTS SHOULD BE CONSULTED TO  
 EVALUATE THE CONDITION OF THE PROPERTY FOR THE POSSIBLE PRESENCE OF  
 ASBESTOS, UNDERGROUND STORAGE TANKS OR HAZARDOUS SUBSTANCES. NO  
 REPRESENTATION OR RECOMMENDATION IS MADE BY THE AMERICAN INDUSTRIAL  
 REAL ESTATE ASSOCIATION OR BY THE REAL ESTATE BROKERS OR THEIR  
 CONTRACTORS, AGENTS OR EMPLOYEES AS TO THE LEGAL SUFFICIENCY, LEGAL  
 EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH  
 IT RELATES; THE PARTIES SHALL RELY SOLELY UPON THE ADVICE OF THEIR OWN  
 COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE. IF THE  
 SUBJECT PROPERTY IS IN A STATE OTHER THAN CALIFORNIA, AN ATTORNEY FROM  
 THE STATE WHERE THE PROPERTY IS LOCATED SHOULD BE CONSULTED.  
  
  
The parties hereto have executed this Lease at the place and on the dates  
specified above their respective signatures.  
  
  
Executed at: San Diego, CA Executed at: /s/ illegible  
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on: Dec 4, 1997 on: illegible  
 ----------------------------- ------------------------------------  
  
By LESSOR: By LESSEE  
  
XXX-00000 Xxxxxxx Xxxxxx, LLC, a Collateral Therapeutics, a California  
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Delaware limited liability company corporation  
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By: ARE-QRS Corp. a MD Corp, By: /s/ Xxxxxxxxxxx X. Xxxxxxxx  
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Name Printed: Managing Member Name Printed: Xxxxxxxxxxx X. Xxxxxxxx  
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Title: Title: COO & CFO  
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By: /s/ Xxxx Xxxx By:  
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Name Printed: Xxxx Xxxx Name Printed:  
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Title: President Title:  
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Address:11440 X. Xxxxxxxx Xx #000 Address:  
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 S.D. XX 00000  
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Telephone:(000) 000-0000 Telephone:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
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Facsimile:(000) 000-0000 Facsimile:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
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BROKER: BROKER:  
  
Executed at:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Executed at:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
on:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
Name Printed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name Printed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
Telephone: ( )\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Telephone: ( )\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
Facsimile: ( )\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Facsimile: ( )\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
  
  
  
  
NOTE: These forms are often modified to meet changing requirements of law and  
 needs of the industry. Always write or call to make sure you are utilizing  
 a most current form: AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION, 000 Xx.  
 Xxxxxxxx Xx., X-0, Xxx Xxxxxxx, XX 00000, (000) 000-0000.  
  
  
  
 Initials:/s/ illegible  
MULTI-TENANT--MODIFIED NET -------------  
  
(C)American Industrial Real Estate Association 1993 /s/ illegible  
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 ADDENDUM TO STANDARD INDUSTRIAL/COMMERCIAL  
 MULTI-TENANT LEASE-MODIFIED NET  
  
  
 This ADDENDUM ("Addendum") forms a part of the Standard  
Industrial/Commercial Multi-Tenant Lease-Modified Net between Collateral  
Therapeutics, Inc., a California corporation ("Lessee"), and XXX-00000 Xxxxxxx  
Xxxxxx, LLC, a Delaware limited liability company ("Lessor"), with respect to  
the Premises within the Building located at 00000 Xxxxxxx Xxxxxx in San Diego,  
California. In the event of any inconsistency between this Addendum and the  
Lease, the terms and conditions of this Addendum shall govern and control.  
  
 1. Acquisition of Title. Lessee acknowledges and agrees that Lessor does not  
currently own the Building. Lessor is negotiating or has entered into a contract  
to purchase the Building from the existing owner. If, for any reason, Lessor  
does not acquire title to the Building within sixty (60) days after the date  
hereof, Lessor and Lessee shall each have the right to terminate this Lease, in  
which event the parties shall be released of all of their respective obligations  
under this Lease, and Lessee shall have no claim for damages or otherwise  
against Lessor, except that Lessor shall return all prepaid rent and the  
Security Deposit received by Lessor to Lessee within ten (10) days after such  
termination of this Lease.  
  
 2. Base Rent. Base Rent shall be increased annually on each anniversary of  
the Commencement Date as follows:  
  
  
  
  
 Months Base Rent Per Month Per Rentable Square Foot  
 ------ --------------------------------------------  
   
 13-24 $ 1.716  
 25-36 1.785  
 37-48 1.856  
 49-60 1.930  
  
  
 3. Premises. The Premises contains approximately 11,000 rentable square  
feet. The Premises are shown on Exhibit "A" attached to the Lease and by this  
reference incorporated herein. Within ten (10) business days after the date  
hereof, the parties shall have a space measurement consultant acceptable to  
Lessor and Lessee measure the Premises in accordance with BOMA standards  
(ANSIZ65.1-1980) and shall have executed an amendment to the Lease setting forth  
any adjustments to the Premises area, Base Rent and Lessee's Share.  
  
 4. Term. Lessee's Early Possession period shall begin upon Lessor's  
acquisition of fee title to the Building as described above. During such Early  
Possession, Lessee shall have the right to construct Lessee's improvements as  
provided in Section 6 below. The Commencement Date shall occur upon the earlier  
of (a) ninety (90) days after the beginning of Lessee's Early Possession, (b)  
Substantial Completion (as defined below) of Lessee's improvements or (c) the  
date Lessee begins to occupy the Premises for any purpose other than  
construction of Lessee's improvements.  
  
  
  
  
  
  
  
  
 5. Common Area Operating Expenses. Common Area Operating Expenses shall  
include a management fee not to exceed three percent (3%) of the then current  
annual Base Rent.  
  
 Common Area Operating Expenses shall exclude the following:  
  
 (1) Repairs or other work occasioned by fire, windstorm or  
other casualty or by the exercise of the right of eminent domain to the extent  
Lessor receives insurance and/or condemnation proceeds on account thereof;  
  
 (2) Leasing commissions, accountants' or attorneys' fees,  
costs and disbursement and other expenses incurred in connection with proposals,  
negotiations, or disputes with tenants or other occupants or prospective tenants  
or other occupants, or associated with the enforcement of any leases;  
  
 (3) Costs (including permit, license and inspection fees)  
incurred in constructing tenant improvements or decorating, painting or  
redecorating space for other tenants or other occupants or vacant rentable  
space;  
  
 (4) Any depreciation of the Building;  
  
 (5) Interest on debt or amortization payments on any mortgages  
or deeds of trust or any other borrowings;  
  
 (6) Advertising and promotional expenditures;  
  
 (7) Damage and repairs (i) necessitated by the gross  
negligence or willful misconduct of Lessor or Lessor's employees, contractors or  
agents or (ii) to the extent another tenant is obligated under their lease to  
reimburse Lessor for the cost thereof;  
  
 (8) Executive salaries or salaries of service personnel to the  
extent that such service personnel perform services other than in connection  
with the management, operation, repair or maintenance of the Premises, the  
Building or the Common Areas;  
  
 (9) Costs, penalties or fines arising from Lessor's or another  
tenant's violation of any governmental rule or authority;  
  
 (10) Costs arising from Lessor's charitable or political  
contributions  
  
 (11) Costs incurred due to Lessor's violation of any terms or  
conditions of this Lease or any other lease relating to the Building;  
  
  
  
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 (12) All rental and other amounts payable under any ground or  
underlying lease, unless directly attributable to the activities of Lessee or  
its agents, contractors or employees in the Building, or as a result of Lessee's  
breach or default under this Lease; and  
  
 (13) The cost of repairs and/or replacements of the foundation  
and structural supports of the Premises.  
  
 Lessee shall have the right to audit Lessor's books and records  
relating to Common Area Operating Expenses, provided that any audit of Common  
Area Operating Expenses for any calendar year must be commenced within one (1)  
year after the end of such calendar year and that Lessee may not audit the books  
and records relating to any calendar year more than once. Lessee shall be solely  
responsible for all costs and expenses of any audit unless the audit shows that  
Lessee was overcharged for Common Area Operating Expenses by more than five  
percent (5%), in which event Lessor shall pay Lessee's reasonable out of pocket  
costs and expenses of the audit. If the results of such audit show an  
underpayment of Common Area Operating Expenses by Lessee, Lessee shall  
immediately pay the amount of such underpayment to Lessor. If the results of  
such audit show an overpayment of Common Area Operating Expenses by Lessee,  
Lessee shall be entitled to a credit against the next payment or payments of  
Common Area Operating Expenses due under the Lease in the amount of such  
overpayment; provided, however, that Lessor shall have the right to contest the  
results of the audit in good faith.  
  
 Lessor shall give prior notice to Lessee prior to incurring capital  
repair/renovation costs (i.e., re-roofing, parking lot resurfacing, painting) in  
excess of $100,000 per repair/renovation which would be reimbursable by Lessee  
according to the provisions of the Lease, except that no notice shall be  
required in an emergency. The cost of any capital replacements and repairs  
reimbursed as Common Area Operating Expenses pursuant to the Lease shall be  
amortized on a straight-line basis over a period equal to the useful life of the  
item (as determined by reference to the vendor's or manufacturer's suggested  
useful life for such capital improvements or, where such reference does not  
exist, by reference to generally accepted accounting principals, consistently  
applied, but in no event less than five (5) years or, in the case of replacement  
of the roof of the Building, fifteen (15) years).  
  
 6. Lessee Improvement Allowance. Lessor shall contribute up to $225,000  
("Tenant Improvement Allowance") towards the actual, out of pocket cost of  
Lessee's required improvements, which improvements shall be fixtures permanently  
attached to the Premises. All tenant improvements paid for with the Tenant  
Improvement Allowance shall be the sole property of Lessor. Lessee acknowledges  
and agrees that a material consideration to Lessor to enter into this Lease is  
Lessee's agreement to spend at least $200,000 on improvements to the Premises  
that will constitute fixtures permanently attached to the Premises and which  
shall be and remain the sole property of Lessor ("Lessee's Contribution"). Any  
improvements costing in excess of the amount of the aggregate of the Tenant  
Improvement Allowance and the Lessee's Contribution shall be Lessor's sole  
property unless the same constitute Trade Fixtures which Lessor and Lessee agree  
to include on the Equipment List (as defined below) during the process of  
approving the plans and specifications for  
  
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Lessee's work. Lessee agrees to accept the Premises "As-Is, Where-Is" and that  
all improvement costs in excess of the $225,000.00 shall be the responsibility  
of Lessee. Lessee acknowledges that the parties expect that the cost of Lessee's  
improvements will exceed the Tenant Improvement Allowance by at least the amount  
of Lessee's Contribution. Lessee's improvements will include architectural fees,  
planning fees, permits, all construction work and any work necessary to bring  
the Building into compliance with any Applicable Laws, including the Americans  
With Disabilities Act and Title 24 Regulations. Lessee shall be responsible for  
the proper design and construction of all improvements, including obtaining all  
necessary permits. Lessee shall submit all preliminary and construction drawings  
to Lessor for Lessor's review and approval, which approval shall not be  
unreasonably withheld or delayed. Lessor shall have the right to approve  
Lessee's contractor for construction of the improvements, which approval shall  
not be unreasonably withheld or delayed. Lessee shall obtain, or cause its  
contractor to obtain, payment and performance bonds reasonably acceptable to  
Lessor. Lessee shall be required to comply with all Applicable Laws and shall be  
subject to and required to comply with the provisions to the Lease, including  
Section 7.3, in connection with the construction of the improvements. During the  
period of Early Possession, Lessee may proceed with construction of the  
improvements subject to the provisions of this Lease. Lessee agrees to  
diligently proceed with and complete such improvements as soon as practicable  
and in a good and workmanlike manner. Lessee's improvements shall be deemed to  
be "Substantially Complete" when the Premises are sufficiently complete to  
obtain a temporary certificate of occupancy (or its functional equivalent) from  
the City of San Diego. Lessee shall submit to Lessor promptly after Substantial  
Completion of Lessee's improvements invoices and other reasonable evidence of  
such costs. Lessor shall reimburse Lessee for such costs, up to $225,000, within  
thirty (30) days after delivery of such invoices and other evidence.  
  
 7. Condition. Paragraphs 2.2 and 2.3 of the Lease are hereby deleted in  
their entirety. Lessor shall deliver the Premises to Lessee clean and free of  
debris and all Hazardous Materials (as defined below), other than Hazardous  
Materials present on the Premises in compliance with Applicable Laws, on the  
Commencement Date and warrants to Lessee that the existing heating, ventilation  
and air conditioning systems, other than those constructed by Lessee, shall be  
in good working order on the Commencement Date and for a period of sixty (60)  
days after the Commencement Date. If a non-compliance with said warranty exists  
as of the Commencement Date or during such sixty (60) day period, Lessor shall,  
except as otherwise provided in this Lease, 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 sixty (60)  
days after the Commencement Date, correction of that non-compliance shall be the  
obligation of Lessee at Lessee's sole cost and expense. From and after the date  
that is sixty (60) days after the Commencement Date, Lessee shall be solely  
responsible for maintenance of the heating, ventilation and air conditioning  
system and shall keep in effect a maintenance contract with a contractor  
reasonably acceptable to Lessor.  
  
 8. As Is. Notwithstanding anything to the contrary contained herein,  
Lessee shall accept the Premises in its "as-is, where-is" condition, and Lessor  
shall have no obligation to remedy any  
  
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matters affecting the Premises, including any latent or patent defects except as  
specifically provided in Section 6 above or in Section 7.2 of the Lease. In  
addition, Lessor shall have no obligation to comply with any present or future  
Applicable Laws affecting the Premises. The parties intend that Lessee shall be  
fully responsible for all costs to comply with any existing and future  
Applicable Laws affecting the Premises, including the cost of any repairs and  
alterations to the Premises necessary to comply with such Applicable Laws. The  
parties have expressly negotiated this provision and have agreed to allocate the  
cost to comply with Applicable Laws as provided herein based on the rental rates  
and other consideration given to Lessee under the terms of this Lease. Lessee  
acknowledges that Lessor would have demanded a higher rental rate absent  
Lessee's agreement to assume these obligations. Lessor and Lessee agree that  
Lessee's obligation to make such repair and alterations shall apply regardless  
of whether the repairs or alterations to the Premises are structural or  
non-structural in nature. Lessee acknowledges that efforts to comply with  
Applicable Laws may interfere with its quiet enjoyment of the Premises.  
Nevertheless, Lessee agrees to accept any such interference and that such  
interference shall not excuse its obligations to comply with Applicable Laws  
hereunder. The parties intend that Lessee shall be responsible for all future  
Applicable Laws, whether or not presently foreseeable. Without in any way  
limiting Lessee's obligations, the parties intend that Lessee shall be  
responsible for all costs to comply with Applicable Laws relating to the  
Americans With Disabilities Act, Hazardous Materials (except as expressly  
provided in Section 6.2(o) of the Lease as amended by this Addendum), earthquake  
retrofitting, fire safety and similar requirements.  
  
 9. Default; Remedies. Paragraph 13.1(b) is modified to change the  
notice period therein from "three (3) days" to "three (3) business days." The  
worth at the time of the award of the amounts referred to in Paragraphs  
13.2(a)(i) and (ii) of the Lease shall be computed by allowing interest thereon  
at the rate of 14% per annum. Lessor has the remedy described in California  
Civil Code Section 1951.4 (Lessor may continue the Lease in effect after  
Lessee's breach and abandonment and recover rent as it becomes due, if Lessee  
has the right to sublet or assign, subject only to reasonable limitations).  
  
 10. Parking. The Building shall have a minimum of three (3) parking  
spaces per 1,000 square feet of rentable area within the Building. Lessee and  
its employees and invitees shall have the right to use thirty-three (33) parking  
spaces on an unreserved basis in common with other occupants of the Building and  
their employees and invitees, subject to reasonable parking rules and  
regulations that may be adopted by Lessor from time to time. Notwithstanding  
Section 2.6(b) of the Lease, Lessor shall only have the right to remove or tow  
away vehicles if Lessor gives Lessee reasonable prior written notice, except  
that no notice shall be required in the event of an emergency or the second or  
any subsequent violation by the same vehicle if such written notice of a prior  
violation by such vehicle was given.  
  
 11. Options to Extend. Subject to the terms and conditions set forth  
herein, Lessor hereby grants to Lessee two (2) options ("Options") to extend the  
Original Term of the Lease for a period of five (5) years each (the  
"Extensions"). Lessee may exercise an Option by delivering written notice of  
exercise to Lessor at least six (6) months prior to the expiration of the  
Original Term or the  
  
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prior Extension, if applicable. If Lessee exercises an Option in accordance with  
this provision, the terms and conditions applicable to such Extension shall be  
the same as those applicable during the Original Term, except that Lessee shall  
not be entitled to a tenant improvement allowance and the Base Rent shall be  
increased to an amount equal to the then prevailing market rental rate for  
comparable space within comparable buildings located in the vicinity of the  
Building.  
  
 11.1 Market Rate. The term "prevailing market rate" shall mean the  
prevailing market rate on the commencement date of the applicable Extension (i)  
for leases for a comparable term to the Extension of comparable space within the  
Building or (ii) if no such comparable leases have been entered into during the  
prior twelve (12) months, for leases for a term equal to the term of the  
Extension of comparable space within similar buildings within the City of San  
Diego Scientific Research Zoning Ordinance, entered into during the preceding  
twelve (12) months, in either case giving appropriate consideration to rental  
rates per rentable square foot, rental escalations, rental abatements, tenant  
improvement allowances and other terms that would directly affect the economic  
terms of a lease. Lessor and Lessee shall commence negotiation of the prevailing  
market rate within ten (10) days after Lessee delivers a written notice to  
Lessor of its exercise of an Option. If Lessor and Lessee do not agree, after  
good faith negotiations, within thirty (30) days, then each party shall submit  
to the other a proposal containing the prevailing market rate the submitting  
party believes to be correct ("Extension Proposal"). If either party fails to  
timely submit an Extension Proposal, the other party's submitted proposal shall  
determine the Base Rent for the Extension.  
  
 11.2 Arbitration. If both parties submit Extension Proposals, then  
Lessor and Lessee shall meet within seven (7) days after delivery of the last  
Extension Proposal and make a good faith attempt to mutually appoint a certified  
MAI real estate appraiser who shall have been active full-time over the previous  
ten (10) years in the appraisal of comparable properties located in the San  
Diego area. If Lessor and Lessee are unable to agree upon a single appraiser,  
then each shall, within ten (10) days after the meeting, select an appraiser  
that meets the foregoing qualifications. The two (2) appraisers so appointed  
shall, within five (5) days after their appointment, appoint a third appraiser  
meeting the foregoing qualifications. The determination of the appraiser(s)  
shall be limited solely to the issue of whether Lessor's or Lessee's Extension  
Proposal most closely approximates the prevailing market rate. The decision of  
the single appraiser or of the appraiser(s) shall be made within thirty (30)  
days after the appointment of a single appraiser or the third appraiser, as  
applicable. The appraiser(s) shall have no authority to create an independent  
structure of prevailing market rate or prescribe or change any or several of the  
components or the structure of the prevailing market rate; the sole decision to  
be made shall be which of the parties' Extension Proposals shall determine the  
prevailing market rate for the Extension. The decision of the single appraiser  
or majority of the three (3) appraisers shall be final and binding upon the  
parties. If either party fails to appoint an appraiser within the time period  
specified above, the appraiser appointed by one of them shall reach a decision  
which shall be binding upon Lessor and Lessee. The cost of the appraisals shall  
be paid equally by Lessor and Lessee. If the prevailing market rate is not  
determined by the first day of the Extension, then Lessee shall pay Lessor Base  
Rent in an amount equal to the Base Rent in effect immediately prior to the  
Extension until such determination is made.  
  
  
  
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After the determination of the prevailing market rate, the parties shall make  
any necessary adjustments to such payments made by Lessee.  
  
 11.3 Exercise. If Lessee does not exercise an Option in accordance with  
the terms hereof, such Option and any succeeding Option shall lapse, and Lessee  
shall have no further right to extend the term of this Lease. At the election of  
Lessor, any exercise of an Option by Lessee shall be void if Lessee is in  
default of any of the terms and conditions of this Lease beyond any applicable  
notice and cure period at the time of exercise or at any time prior to  
commencement of the applicable Extension.  
  
 12. Monument Sign. Lessee shall have a non-exclusive right to erect a  
monument sign for Lessee's exclusive use in connection with Lessee's business in  
the Building, at Lessee's sole cost and expense. The size and type of monument  
sign shall be subject to Lessor's reasonable approval, and such sign shall  
comply with all applicable laws, codes, rules and regulations and any existing  
covenants, conditions and restrictions affecting the Building.  
  
 13. Security Deposit. In addition to payment of the Base Rent for the  
first month upon execution of the Lease, Lessee shall deliver to Lessor an  
irrevocable standby letter of credit (the "Letter of Credit") which shall (i) be  
issued by a federal or state chartered bank or other financial institution (the  
"Issuer") acceptable to Lessor; (ii) be subject to draws payable at an office of  
Issuer located in San Diego, California; (iii) assure payment in the "Stated  
Amount" equal to the monthly Base Rent multiplied by four (4) months; (iv) name  
Lessor as beneficiary; (v) have a term ending at least one (l) year after its  
date of issuance; (vi) be payable in sight drafts accompanied only by Lessor's  
statement that it is entitled to the amount drawn in accordance with this  
agreement (without any reference to the requirement of prior notice to or the  
consent of Lessee); (vii) allow partial drawings; and (viii) be subject to the  
Uniform Customs and Practice for Documentary Credits (1993 Revision,  
International Chamber of Commerce Publication No. 500). Provided that Lessee has  
timely paid all Base Rent and additional rent and has performed all of its  
obligations in accordance with the Lease, the Stated Amount of the Letter of  
Credit shall be reduced to (a) an amount equal to the monthly Base Rent  
multiplied by three (3) months as of the first day of the fourth year of the  
term of this Lease and (b) to an amount equal to the monthly Base Rent  
multiplied by two (2) months as of the first day of the fifth year of the term  
of the Lease. The Letter of Credit shall be renewed annually, at least thirty  
(30) days prior to its expiration, for successive one year terms, until thirty  
(30) days after expiration of the Lease Term. Lessor, or any person designated  
by Lessor, may draw upon the Letter of Credit if Lessee has not paid any  
installment of rent due hereunder or fails to perform any other obligation of  
Lessee under this Lease. If Lessee does not deliver to Lessor a renewal or  
satisfactory replacement of the Letter of Credit within thirty (30) days prior  
to its expiration date, Lessee shall be in default under this Lease and Lessor  
shall have the right to draw upon the full amount of the Letter of Credit.  
  
  
  
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 14. Permitted Use. 6.1(a) of the Lease is hereby modified to add the  
following provision at the end thereof:  
  
 ". . .; provided, however, that none of the foregoing  
 restrictions shall prevent Lessee from maintaining a vivarium  
 in the Premises in accordance with standard practices for such  
 uses and Applicable Requirements (as hereinafter defined)."  
  
 15. Hazardous Substances. Paragraph 6.2 of the Lease is hereby deleted  
in its entirety and replaced with the follow:  
  
 6.2 Hazardous Materials.  
  
 a. Hazardous Materials. The term "Hazardous Material(s)" shall  
mean any toxic or hazardous substance, material or waste or any pollutant or  
contaminant or infectious or radioactive material, including but not limited to  
those substances, materials or wastes regulated now or in the future under any  
Hazardous Materials Laws and any and all of those substances included within the  
definitions of "hazardous substances," "hazardous materials," "hazardous waste,"  
"hazardous chemical substance or mixture," "imminently hazardous chemical  
substance or mixture," "toxic substances," "hazardous air pollutant," "toxic  
pollutant," or "solid waste" in the Hazardous Materials Laws. Hazardous  
Materials shall also mean any and all other similar terms defined in other  
federal, state and local laws, statutes, regulations, orders or rules, and  
materials and wastes which are, or in the future become, regulated under  
applicable local, state or federal law for the protection of health or the  
environment, or which are classified as hazardous or toxic substances, materials  
or wastes, pollutants or contaminants, as defined, listed or regulated by any  
federal, state or local law, regulation or order or by common law decision,  
including, without limitation, (i) trichloroethylene, tetrachloroethylene,  
perchloroethylene and other chlorinated solvents, (ii) oil or any petroleum  
products or fractions thereof, (iii) asbestos, (iv) polychlorinated biphenyls,  
(v) flammable explosives, (vi) urea formaldehyde and (vii) radioactive materials  
and waste, and (viii) infectious waste.  
  
 b. Hazardous Materials Laws. The term "Hazardous Materials  
Law(s)" shall mean any federal, state or local laws, ordinances, codes,  
statutes, regulations, administrative rules, policies and orders, and other  
authority, existing now or in the future, which classify, regulate, list or  
define hazardous substances, materials, wastes contaminants, pollutants and/or  
the Hazardous Materials, including without limitation the following statutes and  
regulations, and any other legal authority, regulations, or policies relating to  
or implementing such statutes and regulations:  
  
 i. Federal. Comprehensive Environmental Response,  
Compensation and Liability Act of 1980 ("CERCLA" or "Superfund"), as amended by  
the Superfund Amendments and Reauthorization Act of 1986 ("XXXX"), 42 U.S.C. ss.  
9601 et seq.; Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C.  
ss. 6901 et seq.; Clean Water Act ("CWA"), 33 U.S.C. ss. 1251 et seq.; Clean Air  
Act ("CAA"), 42 U.S.C. ss. 78401 et seq.; Toxic Substances Control Act ("TSCA"),  
15 U.S.C. ss. 2601 et seq.; The Refuse Act of 1899, 33 U.S.C. ss. 407;  
Occupational Safety  
  
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and Health Act ("OSHA"), 29 U.S.C. ss. 651 et seq.; Hazardous Materials  
Transportation Act, 49 U.S.C. Section 1801, et seq.; United States Department of  
Transportation Table (49 CFR 172.101 and amendments thereto) and the  
Environmental Protection Agency Table (40 CFR Part 302 and amendments thereto);  
  
 ii. California. Xxxxxxxxx-Xxxxxxx-Xxxxxx Hazardous Substance  
Account Act ("California Superfund"), Cal. Health & Safety Code ss. 25300 et  
seq.; California Hazardous Waste Control Act, Cal. Health & Safety Code Sections  
25100 et seq.; Xxxxxx-Cologne Water Quality Control Act ("Xxxxxx-Cologne Act"),  
Cal. Water Code ss. 13000 et seq.; Hazardous Waste Disposal Land Use Law, Cal.  
Health & Safety Code ss. 25220 et seq.; Safe Drinking Water and Toxic  
Enforcement Act of 1986 ("Proposition 65"), Cal. Health & Safety Code ss.  
25249.5 et seq.; Hazardous Substances Underground Storage Tank Law, Cal. Health  
& Safety Code ss. 25280 et seq.; California Hazardous Substance Act, Cal. Health  
& Safety Code ss. 28740 et seq.; Air Resources Law, Cal. Health & Safety Code  
ss. 39000 et seq.; Hazardous Materials Release Response Plans and Inventory,  
Cal. Health & Safety Code xx.xx. 25500-25541; Toxic Pits Cleanup Act of 1984  
("TCPA"), Cal. Health & Safety Code xx.xx. 25208-25208.17;  
  
 iii. Other Laws and Regulations. All other regulations  
promulgated pursuant to said foregoing laws or any amendments or replacement  
thereof, provided such amendments or replacements shall in no way limit the  
original scope and/or definition of Hazardous Materials defined herein as of the  
execution date of this Lease.  
  
 c. Compliance with Hazardous Materials Laws. Lessee covenants  
not to cause or permit any Hazardous Materials to be brought upon, kept, stored  
or used in or about the Premises or the Building without the prior written  
consent of Lessor, which consent shall not be unreasonably withheld or delayed,  
except that Lessee, in connection with its Permitted Use of the Premises, may  
keep, store and use materials that constitute Hazardous Materials which are  
customary for such Permitted Use, provided such Hazardous Materials are kept,  
stored and used in quantities which are customary for such Permitted Use and are  
kept, stored and used in full compliance with all requirements of this Paragraph  
6.2. Lessee shall not cause or permit any Hazardous Materials to be brought  
upon, kept, generated, disposed or used in connection with the Premises or by  
Lessee, its agents, employees, contractors or invitees in a manner or for a  
purpose prohibited by or which could result in liability under any applicable  
law, regulation, rule or ordinance, including, without limitation, the Hazardous  
Materials Laws. Lessee shall, at its own expense, at all times and in all  
respects comply with all Hazardous Materials Laws relating to the industrial  
hygiene, environmental protection or the use, analysis, generation, manufacture,  
storage, presence, disposal or transportation of any Hazardous Materials caused  
or permitted by Lessee or its agents, employees, contractors or invitees to be  
brought upon, kept, stored, released, or used on, under or about the Premises.  
Lessee shall, at its own expense, procure, maintain in effect and comply with  
all conditions of any and all permits, licenses and other governmental and  
regulatory approvals relating to the presence of Hazardous Materials caused or  
permitted by Lessee or its agents, employees, contractors or invitees to be  
brought upon, kept, stored, released, or used on, under or about the Premises  
within, on, under or about the Premises or required for Lessee's use of the  
Premises, Lessee shall cause any and all  
  
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Hazardous Materials caused or permitted by Lessee or its agents, employees  
contractors or invitees to be brought upon, kept, stored, released, or used on,  
under or about the Premises to be removed from the Premises and transported in  
accordance with and in compliance with all Hazardous Materials Laws. Lessee  
shall in all respects, handle, treat, deal with and manage any and all Hazardous  
Materials in, on, under or about the Premises in complete conformity with all  
applicable Hazardous Materials Laws and prudent industry practices of the  
biotechnology industry regarding the management of such Hazardous Materials.  
Upon expiration or earlier termination of this Lease, Lessee shall at its own  
expense, cause all Hazardous Materials (to the extent such Hazardous Materials  
are generated, stored, released or disposed of during the Term of this Lease by  
Lessee, to be removed from the Premises and transported for use, storage or  
disposal in accordance and in compliance with all applicable Hazardous Materials  
Laws. Lessee shall not take any remedial action in response to the presence of  
any Hazardous Materials in, on, about or under the Premises or the Building, nor  
enter into any settlement agreement, consent, decree or other compromise in  
respect to any claims relating to any way connected with the Premises or the  
Building without first notifying Lessor of Lessee's intention to do so and  
affording Lessor ample opportunity to appear, intervene or otherwise  
appropriately assert and protect Lessor's interest with respect thereto. Lessee  
agrees that it shall not (A) operate on or about the Premises any facility  
required to be permitted or licensed as a hazardous waste facility or for which  
interim status as such is required, nor (B) conduct any other activities on or  
about the Premises that could result in the Property being deemed to be a  
"hazardous waste facility" (including, but not limited to, any storage or  
treatment of Hazardous Materials wastes which could have such a result).  
  
 d. Notice of Actions. Lessee shall immediately notify Lessor  
in writing of (a) any enforcement, clean-up, removal or other governmental or  
regulatory action instituted, completed or threatened pursuant to any Hazardous  
Materials Laws; (b) any claim made or threatened by any person against Lessor,  
or the Premises, relating to damage, contribution, cost recovery, compensation,  
loss or injury resulting from or claimed to result from any Hazardous Materials;  
and (c) any reports made to any environmental agency arising out of or in  
connection with any Hazardous Materials in, on or about the Premises or with  
respect to any Hazardous Materials removed from the Premises, including, any  
complaints, notices, warnings, reports or asserted violations in connection  
therewith. Lessee shall also provide to Lessor, as promptly as possible, and in  
any event within five (5) business days after Lessee first receives or sends the  
same, with copies of all claims, reports, complaints, notices, warnings or  
asserted violations relating in any way to the Premises or Lessee's use thereof.  
Lessor shall give notice to Lessee of any matters described above in this  
Subparagraph (d) which may affect the Premises or Lessee. All manifests for the  
transportation and/or disposal of Hazardous Materials shall list the Lessee or  
its agent as a responsible party and in no way shall attribute responsibility  
for any such Hazardous Materials to Lessor.  
  
 e. Disclosure and Warning Obligations. Lessee shall also  
comply with all laws, ordinances and regulations regarding the disclosure of the  
presence or danger of Hazardous Materials. Lessee acknowledges and agrees that  
all reporting and warning obligations required under the Hazardous Materials  
Laws are the sole responsibility of Lessee, whether or not such Hazardous  
  
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Materials Laws permit or require Lessor to provide such reporting or warnings,  
and Lessee shall be solely responsible for complying with Hazardous Materials  
Laws regarding the disclosure of, the presence or danger of Hazardous Materials,  
including, without limitation, all notices or other requirements under  
California Health and Safety Code Section 25915 et seq., and 25249.5 et seq. and  
California Code of Regulations Section 12000 et seq.  
  
 f. Indemnification. Lessee shall indemnify, defend (with  
counsel reasonably acceptable to Lessor), protect and hold Lessor and each of  
Lessor's officers, directors, partners, employees, agents, attorneys, successors  
and assigns (collectively "Indemnitees") free and harmless from and against any  
and all claims, liabilities, damages, costs, penalties, forfeitures, losses  
(including diminution in value of the Building and lost rents) or expenses  
(including attorneys' fees) for death or injury to any person or damage to any  
property whatsoever (including water tables and atmosphere) ("Claims") arising  
or resulting in whole or in part, directly or indirectly, from (i) Lessee's  
violation of any of the provisions of this Paragraph 6.2 or (ii) the presence,  
use, generation, release or discharge of Hazardous Materials, in, on, under,  
upon or from the Premises or the Building or from the transportation or disposal  
of Hazardous Materials to or from the Premises by or on behalf of Lessee,  
whether discovered prior to or after the expiration or earlier termination of  
this Lease. Lessee's obligations hereunder shall include, without limitation,  
and whether foreseeable or unforeseeable, all costs of any required or necessary  
repairs, clean-up or detoxification or decontamination of the Premises or the  
Building, and the presence and implementation of any closure, remedial action or  
other required plans in connection therewith, and shall survive the expiration  
of or early termination of the term of this Lease, and any costs and fees  
incurred in the enforcement of the indemnity action.  
  
 g. Environmental Audits. Upon request by Lessor during the  
term of this Lease, prior to the exercise of any renewal term and/or prior to  
vacating any portion of the Premises, Lessee shall undertake and submit to  
Lessor an environmental audit from an environmental company reasonably  
acceptable to Lessor which audit shall evidence Lessee's compliance with this  
Paragraph 6.2. If the audit confirms the presence of Hazardous Materials in the  
soil or surface or the groundwater, or likelihood thereof, Lessor shall have the  
right to require Lessee to immediately commence all necessary remediation,  
abatement, removal and cleanup actions to return the Premises and any other  
property of whatever nature to their condition existing prior to the appearance  
of Hazardous Materials. Any plan of remediation, abatement, removal and cleanup  
shall be subject to the prior approval of Lessor, in its sole discretion. Lessee  
shall not disclose to any third parties any information regarding any Hazardous  
Materials surveys, studies, reports or inspections, relating to the Premises  
without obtaining Lessor's advance written consent, and shall promptly provide  
to Lessor copies of all such surveys, studies, reports or inspections.  
  
 h. Delivery of Documents. If applicable, Lessee shall provide  
Lessor in writing the following information and/or documentation at the  
commencement of this Lease and within sixty (60) days of any change in or  
addition to the required information and/or documentation, (provided, however,  
that in the case of the materials described in subparagraphs (a), (b), (c) and  
(e) below, Lessee shall not be required to deliver copies of such materials to  
Lessor but shall maintain copies  
  
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of such materials to such extent and for such periods as may be required by  
applicable law and shall permit Lessor or its representatives to inspect such  
materials during normal business hours at any time and from time to time upon  
reasonable notice to Lessee):  
  
 (a) A list of all Hazardous Materials that Lessee receives,  
uses, handles, generates, transports, stores, treats or disposes of from time to  
time in connection with its operations in the Premises.  
  
 (b) All Material Safety Data Sheets ("MSDS's"), if any,  
required to be completed with respect to operations of Lessee at the Premises  
from time to time in accordance with Title 26, California Code of Regulations  
ss. 8-5194 or 42 U.S.C. ss. 11021, or any amendments thereto, and any Hazardous  
Materials Inventory Sheets that detail the MSDS's.  
  
 (c) All hazardous waste manifests (as defined in Title 26,  
California Code of Regulations ss. 22-66481), if any, that Lessee is required to  
complete from time to time in connection with its operations at the Premises.  
  
 (d) A copy of any Hazardous Materials Management Plan  
required from time to time with respect to Lessee's operations at the Premises.  
pursuant to California Health & Safety Code xx.xx. 25500 et seq., and any  
regulations promulgated thereunder, as amended.  
  
 (e) Copies of any Contingency Plans and Emergency Procedures  
required of Lessee from time to time due to its operations in accordance with  
Title 26, California Code of Regulations xx.xx. 22-67140 et seq., and any  
amendments thereto, and copies of any Training Programs and Records required  
under Title 26, California Code of Regulations, ss. 22-67105, and any amendments  
thereto.  
  
 (f) Copies of any biennial reports required to be furnished  
to the California Department of Health Services from time to time relating to  
Hazardous Materials, pursuant to Title 26, California Code of Regulations, ss.  
22-66493, and any amendments thereto.  
  
 (g) Copies of all industrial wastewater discharge permits  
issued to or held by Lessee from time to time in connection with its operations  
on the Premises.  
  
 (h) Copies of any other lists or inventories of Hazardous  
Materials on or about the Premises that Lessee is otherwise required to prepare  
and file from time to time with any governmental or regulatory authority.  
  
 i. Radioactive Materials. Lessee shall secure Lessor's prior  
written approval for any proposed receipt, storage, possession, use, transfer or  
disposal of "radioactive materials" or radiation," as such materials are defined  
in Title 26, California Code of Regulations ss. 17-0100, and/or any other  
materials possessing the characteristics of the materials so defined, which  
approval Lessor may withhold in its sole and absolute discretion; provided, that  
such approval shall not be  
  
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required for any radioactive materials for which Lessee has secured prior  
written approval of the Nuclear Regulatory Commission and delivered to Lessor a  
copy of such approval. Lessee, in connection with any such authorized receipt,  
storage, possession, use, transfer or disposal of radioactive materials or  
radiation, shall:  
  
 (a) Comply with all federal, state and local laws, rules,  
regulations, orders, licenses and permits;  
  
 (b) Maintain, to such extent and for such periods as may be  
required by applicable law, and permit Lessor or its representatives to inspect  
during normal business hours at any time and from time to time upon reasonable  
notice to Lessee, a list of all radioactive materials or radiation received,  
stored, possessed, used, transferred or disposed of from time to time, to the  
extent not already disclosed through delivery of a copy of a Nuclear Regulatory  
Commission approval with respect thereto as contemplated above; and  
  
 (c) Maintain, to such extent and for such periods as may be  
required by applicable law, and permit Lessor or its representatives to inspect  
during normal business hours at any time and from time to time upon reasonable  
notice to Lessee, all licenses, registration materials, inspection reports,  
governmental orders and permits in connection with the receipt, storage,  
possession, use, transfer or disposal of radioactive materials or radiation from  
time to time.  
  
 j. No Duty. Notwithstanding Lessor's rights of inspection and  
review under this Paragraph (6.2), Lessor shall have no obligation or duty to so  
inspect or review, and no third party shall be entitled to rely on Lessor to  
conduct any sort of inspection or review by reason of the provisions of this  
Paragraph (6.2).  
  
 k. End of Term. Lessee shall surrender possession of the  
Property in the good condition, including, without limitation, receiving any  
clearances and/or certifications verifying compliance with all federal, state  
and local laws, rules, regulations and orders regarding environmental condition  
and cleanup. In the event Lessee does not comply with the provisions of this  
Paragraph 6.2(k) on the expiration or earlier termination of this Lease, Lessee  
shall be held to the terms of this Lease and required to pay Rent. If Lessee  
shall vacate the Property after termination of this Lease without having  
effected such clean up and obtained such clearances and certifications, then  
Lessor may obtain same at Lessee's cost. Lessor's action in such regard shall  
not eliminate Lessee's liability to pay for same or to pay Rent as a holdover  
hereunder.  
  
 l. Records. Lessee shall maintain at the Premises throughout  
the term of this Lease and, after termination for expiration of the Lease, at  
its main office, for such period as may be required by law, but in any event at  
least seven (7) years beyond the expiration or earlier termination of the Lease,  
records of all Hazardous Materials used in Lessee's business at the Premises or  
otherwise brought onto the Premises by Lessee, and all records of employee  
exposure to laboratory chemicals (and related medical records) to the extent  
maintained by Lessee or as may  
  
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be required by applicable OSHA regulations or other Applicable Laws. Lessee   
or its representatives may from time to time inspect and copy such records.  
  
 m. Lab Animals. Lessee may keep laboratory animals and   
plants in areas of the Premises approved by Lessor, provided that Lessee   
maintains all animal and plant areas in a safe and sanitary condition at all   
time and shall not permit any waste or unreasonable level of odors outside   
the animal and plant areas. In addition, Lessee shall fully comply with, and   
shall not permit any violation of, any Applicable Laws with regard to the   
keeping of laboratory animals and plants and to animal experiments and   
biohazardous waste. Lessee shall further comply with any reasonable rules and   
regulations promulgated from time to time by Lessor regarding the use of such   
animals and/or plants. Lessee shall ensure that the use of Hazardous   
Materials, animals and/or plants with respect to the Premises does not cause   
any nuisance or otherwise interfere with the use and enjoyment of remaining   
portions of the Building by Lessor, other occupants and their employees and   
invitees.  
  
 n. Safety. Lessee shall keep the Premises equipped with all   
safety equipment and appliances, and shall have in effect at the Premises all   
emergency personnel, procedures, training programs and accident or incident   
reporting systems as may be required under any Applicable Laws or that are   
considered good business practices for similar operations. Lessee agrees that   
it will not interfere with the ability of any other tenant or occupant of the   
Building to comply with the good manufacturing practices ("GMP") regulations   
promulgated by the United States Food and Drug Administration ("FDA") which   
may regulate the operation of such tenants or occupants. Without limiting the   
foregoing, Lessee shall be obligated to construct additional barriers   
acceptable to the FDA between the Premises and the premises of any other   
tenants, at Lessee's sole cost, to eliminate any such adverse effect on the   
ability to comply with such GMP regulations. Lessee shall prevent any animal   
infestation of other portions of the Building outside of the Premises, all in   
accordance with any applicable FDA regulations that may apply to other   
tenants or occupants.  
  
 o. Lessor Indemnity. Lessor represents that, to Lessor's   
actual knowledge, without duty of inquiry or investigation, except as set   
forth in the Phase I environmental assessment of the Premises dated January   
6, 1997, prepared by Property Solutions, Inc. and previously provided to   
Lessee (the "Phase I"), as of the Commencement Date it is unaware of any   
Hazardous Materials present in, on, or under the Building in violation of   
Hazardous Materials Laws except as disclosed by the Phase I. Lessor agrees to   
indemnify, defend and hold Lessee harmless from and against any and all   
claims, damages, fines, judgments, penalties, costs, liabilities or losses   
and expenses (including reasonable attorneys' fees and consultant and expert   
fees) arising from or relating to Hazardous Materials present within, on or   
under the Premises in violation of applicable laws prior to the Commencement   
Date, excluding, however, any Hazardous Materials brought onto the Premises   
by Lessee or any of its agents, employees, invitees or contractors. Paragraph   
9.7 of the Lease is hereby deleted. Except as provided in this Subparagraph   
o, Lessor shall have no obligations with respect to any Hazardous Materials   
which may at any time be present on, under, in or adjacent to the Premises or   
the Building.  
  
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 16. Maintenance Obligations. The last sentence of Paragraph 7.1(b)   
is hereby deleted. If Lessor fails to perform Lessor's obligations under   
Section 7.2 of the Lease and Lessor does not commence such performance within   
ten (10) business days after Lessee provides Lessor with written notice of   
such failure, and if such failure materially interferes with Lessee's use of   
the Premises, Lessee may perform such obligations on Lessor's behalf, and if   
Lessee so elects, Lessor shall reimburse Lessee, within twenty (20) days   
after demand, for the reasonable costs thereof (and any reasonable costs and   
fees associated with Lessee's collection of such costs).  
  
 17. Utility Installations, Trade Fixtures, Alterations. Lessor's   
consent to any Alterations or Utility Installations pursuant to Section   
7.3(a) of the Lease shall not be unreasonably withheld. The last sentence of   
Section 7.3(a) of the Lease is modified to change the amount of $2,500 to   
$10,000. Similarly, the dollar amount stated in the last sentence of Section   
7.3(b) of the Lease is hereby changed from $2,500 to $10,000.  
  
 The last sentence of Section 7.3(c) is modified such that Lessee   
shall only be required to pay Lessor's reasonable attorneys' fees and costs.   
The term Utility Installations shall not include any laboratory equipment,   
otherwise included in "Trade Fixtures," notwithstanding the description   
contained in Section 7.3(a). For example, fume hoods shall be considered to   
be Trade Fixtures and are not "ventilating equipment."  
  
 The term "Trade Fixtures" shall also mean (i) Lessee's lab benches,   
safety lockers, signs, and laboratory animal enclosures, and (ii) anything   
else affixed to the Premises by Lessee at its expense for purposes of trade,   
manufacture, ornament or domestic use (except replacement of similar work or   
material originally installed by Lessor) which can be removed without   
material injury to the Premises unless such thing has, by the manner in which   
it is affixed, become an integral part of the Premises. Any Trade Fixtures   
purchased by Lessee and installed in the Premises, which Lessee intends to   
remove from the Premises upon the expiration or earlier termination of this   
Lease, shall be separately identified on a list ("Equipment List") to be   
agreed upon as part of Lessor's approval of Lessee's plans and   
specifications. The Trade Fixtures on the Equipment List shall be and remain   
the sole property of Lessee and Lessor hereby waives any rights which Lessor   
may claim to have in and to Lessee's personal property and the Trade Fixtures   
on the Equipment List, no matter how arising, including all rights of levy or   
distraint for rent. Notwithstanding anything to the contrary set forth above,   
Trade Fixtures shall not include any improvements or other items paid for   
with the Tenant Improvement Allowance or Lessee's Contribution, as all such   
improvements shall be and remain the sole property of Lessor.  
  
 Notwithstanding anything to the contrary contained in Section 7.4 of   
the Lease, Lessee shall not be obligated to remove any Alterations or Utility   
Installations from the Premises, and such Alterations and Utility   
Installations shall remain in the Premises and become the property of Lessor   
upon expiration or earlier termination of the Lease, unless Lessor notifies   
Lessee in writing at the time Lessor consents to such Alteration or Utility   
Installation (if Lessee obtains such consent) that Lessee will be required to   
remove such Alteration or Utility Installation upon expiration or earlier   
termination of the Lease.  
  
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 18. Insurance. Lessee's deductible under Paragraph 8.4 of the Lease   
may be up to $10,000 per occurrence. If Lessor elects to obtain earthquake   
insurance with respect to the Building, such insurance shall be written with   
such commercially reasonable premiums as are maintained by or available to   
prudent owners of similar projects in the San Diego metropolitan area. The   
insurance maintained by Lessor on the Building shall include reasonable   
deductibles as are maintained by prudent owners of similar projects in the   
San Diego metropolitan area; provided, however, that Lessee's liability for   
any deductible in connection with any insured casualty shall not exceed an   
amount equal to Lessee's Share of the deductible; provided, however, that if   
the damage or destruction is the result of the negligence or willful   
misconduct of Lessee or its agents, employees, contractors or invitees,   
Lessee shall be liable for the entire amount of the deductible.  
  
 19. Indemnity and Exemption of Lessor from Liability. Section 8.7 of   
the Lease is amended to delete the words "except for Lessor's negligence   
and/or breach of express warranties," with the following: "Except for   
Lessor's gross negligence or willful misconduct and/or breach of its express   
obligations under this Lease,...." The following language is hereby added to   
the beginning of Section 8.8 of the Lease: "Except for Lessor's gross   
negligence, willful misconduct and/or breach of its express obligations under   
this Lease,...."  
  
 20. Damage or Destruction. Lessor shall use commercial reasonable   
efforts to provide Lessee with a written statement containing Lessor's   
estimate of the repair period as soon as practical, but no later than sixty   
(60) days after the date of the damage or destruction. Paragraph 9.5 of the   
Lease is modified to provide that either Lessor or Lessee may terminate the   
Lease under the circumstances described therein. Paragraph 9.6(a) is modified   
to add at the end thereof the following: "except to the extent caused by   
Lessor's gross negligence, willful misconduct and/or breach of its express   
obligations under this Lease." If Lessor reasonably determines that repairs   
pursuant to Section 9 of the Lease will require more than one hundred eighty   
(180) days to complete, or if repairs are not substantially completed within   
one hundred eighty (180) days following the commencement thereof, Lessee may,   
at its option, terminate this Lease by delivering prior written notice to   
Lessor no later than ten (10) days after Lessor notifies Lessee that such   
repairs will require more than one hundred eighty (180) days to complete or   
ten (10) days after such one hundred eighty (180) day period has elapsed   
without the repairs being completed. This Lease shall terminate thirty (30)   
days after timely delivery of such notice by Lessee provided that if Lessor   
completes the repairs within such thirty (30) day period, the Lease shall   
remain in full force and effect.  
  
 21. Real Property Taxes. Notwithstanding Section 10 of the Lease,   
Real Property Taxes shall not include: (a) any item to the extent otherwise   
included in Operating Expenses; (b) any environmental assessments, charges or   
liens arising in connection with the remediation of Hazardous Materials   
present within the Building on the Commencement Date and pursuant to   
Hazardous Materials Laws in effect on or before the Commencement Date of this   
Lease; (c) costs or fees other than reassessments (which shall be included in   
Real Property Taxes) payable to public authorities in connection with any   
future construction, renovation and/or improvements to the Building,   
including fees for transit, housing, schools, open space, child care, arts   
programs, traffic mitigation measures, environmental impact reports, traffic   
studies, and transportation system management plans  
  
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required solely as a result of such future construction, renovation or   
improvements and that would not otherwise be applicable to the Building, (d)   
reserves for future Real Property (e) any personal property taxes   
attributable to sculptures, paintings or other objects of art, (f)   
inheritance, estate or franchise taxes imposed upon or assessed against   
Lessor, or (g) taxes on the net income of the Lessor. If a reduction in Real   
Property Taxes is obtained for any year of the Term which Lessee paid   
Lessee's Share of Real Property Taxes, then Common Area Operating Expenses   
for such year shall be retroactively adjusted and Lessor shall provide Lessee   
with a credit against Lessee's next due obligations for Lessee's Share of   
Common Area Operating Expenses or, if none, refund such amount to Lessee   
within thirty (30) days based on such adjustment.  
  
 22. Lessor's Liability. Notwithstanding Section 17 of the Lease, a   
Lessor whose interest in this Lease or the Premises is foreclosed by a   
foreclosure of a deed of trust shall not be relieved of liability unless the   
holder of the deed of trust has provided a non-disturbance agreement in favor   
of Lessee pursuant to Section 30 of the Lease or the party who acquires the   
Lessor's interest otherwise agrees to recognize Lessee's right to possession   
under the Lease and not to disturb Lessee's possession hereunder so long as   
Lessee is not in default hereunder.  
  
 23. Transfer to Affiliate Permitted. Any provision in the Lease to   
the contrary notwithstanding, Lessor's consent shall not be required for an   
assignment or subletting to: (a) any entity who controls, is controlled by or   
is under common control with Lessee; (b) any successor corporation resulting   
from merger, consolidation, or non-bankruptcy reorganization (provided that   
Lessee's net worth and ability to perform its obligations under the Lease are   
not reduced, and the occupancy density of the Premises is not materially   
increased, as a result of such merger, consolidation or reorganization); or   
(c) to any person or legal entity having a consolidated tangible net worth of   
at least $15,000,000 (provided that Lessee's net worth and ability to perform   
its obligations under the Lease are not reduced, and the occupancy density of   
the Premises is not materially increased, as a result of such acquisition),   
which acquires all the assets of Lessee as a going concern of the business   
being conducted on the Premises (each of the foregoing is hereinafter   
referred to as a "Lessee Affiliate"); provided that before such assignment   
shall be effective, (a) said Lessee Affiliate shall assume, in full, the   
obligations of Lessee under this Lease pursuant to an assignment and   
assumption agreement in favor of, and reasonably satisfactory to, Lessor, (b)   
Lessor shall be given written notice of such assignment and assumption and   
(c) the use of the Premises by the Lessee Affiliate shall be for the   
Permitted Uses only. For purposes of this paragraph, the term "control" means   
ownership, directly or indirectly, of more than 50% of the voting ownership   
interests in Lessee. For purposes of this Lease, the sale or transfer of less   
than 50% (on a cumulative basis throughout the Lease term) of Lessee's   
capital stock and any sale of capital stock through a public stock exchange,   
shall not be deemed an assignment, subletting or other transfer or   
encumbrance of the Lease of the Premises. In the event of any assignment or   
sublease by Lessee, Lessee shall pay Lessor upon receipt, as additional rent,   
fifty percent (50%) of the amount received by Lessee under such assignment or   
sublease in excess of the rent payable hereunder plus Lessee's reasonable   
costs of assignment or subletting, provided that the foregoing shall not   
apply to an assignment or sublease by Lessee to a Lessee Affiliate. Lessee's   
fee under Section 12.1(e) of the Lease shall not exceed $1,000 per request.   
Sections 12.2(g) and (h) of the Lease are hereby deleted.  
  
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 24. Availability Utilities. Except for Lessor's gross negligence or   
willful misconduct in performing its obligations with respect to the Building   
structure or the Common Areas of the Project, Lessor shall not be liable in   
damages or otherwise for any failure or interruption of any utility service   
being furnished to the Premises. If any such failure is caused by Lessor's   
gross negligence or willful misconduct and prevents Lessee from operating its   
business within the Premises for more than five (5) consecutive business   
days, Rent after such five (5) business day period shall equitably xxxxx   
until utilities are restored to the Premises. A failure or interruption not   
caused by the gross negligence or willful misconduct of Lessor or its   
employees, agents or contractors that results in material interference with   
Lessee's use or occupancy of the Premises shall not result in any abatement   
of Rent except to the extent of Lessee's Share of any proceeds of any rental   
abatement insurance maintained by Lessor.  
  
 25. Subordination. Section 30.1 of the Lease is modified to provide   
that, as a condition to any subordination to a Security Device, the holder of   
such Security Device will provide to Lessee a non-disturbance agreement   
described in Section 30.3 of the Lease. The form of any nondisturbance   
agreement to be provided to Lessee pursuant to Section 30.3 of the Lease   
shall be reasonably acceptable to Lessee.  
  
 26. Lessor's Access. Section 32 of the Lease is modified to provide   
that, except in cases of emergency, Lessor shall give Lessee twenty-four (24)   
hours advance notice of any entry upon the Premises and that Lessor may enter   
the Premises for the purpose of showing the same to prospective lessees only   
during the last twelve (12) months of the Term of the Lease.  
  
 27. Signs. The last sentence of Section 34 of the Lease is hereby   
deleted in its entirety.  
  
 28. Options. Section 39.2 of the Lease is modified to provide that   
the Options to renew the Term of the Lease may be assigned to and exercised   
by any assignee of Lessee's rights hereunder who is a Lessee Affiliate.   
Section 39.4 of the Lease is deleted in its entirety.  
  
LESSOR: LESSEE:  
  
ARE-11025 ROSELLE STREET, LLC, a COLLATERAL THERAPEUTICS, Inc.,  
Delaware limited liability company a California corporation  
  
  
  
By: /s/ illegible By: /s/ Xxxxxxxxxxx X. Xxxxxxxx  
 -------------------------------- ----------------------------------  
 Its: Its: Chief Operating Officer  
 --------------------------- ------------------------------  
  
  
  
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 ALEXANDRIA  
  
[Logo]  
 ALEXANDRIA REAL ESTATE  
 EQUITIES, INC.  
 00000 X. XXXXXXXX XXXXX  
 XXXXX 000 - XXX XXXXX, XX 00000  
 TEL: 000-000-0000  
 FAX: 000-000-0000  
  
  
  
  
November 25, 1997  
 Via Facsimile  
Xxxxxxxxxxx X. Xxxxxxxx  
Chief Operating Officer and Financial Officer  
Collateral Therapeutics  
0000 Xxxxx Xxxxxx Xxxxx  
Xxx Xxxxx, XX 00000  
  
  
RE: Standard Industrial/Commercial Multi-Tenant Lease-Modified Net, dated  
 November 24, 1997 ("Lease") by and between Collateral Therapeutics, as  
 lessee ("Lessee") and XXX-00000 Xxxxxxx Xxxxxx, LLC, as lessor  
 ("Lessor") for premises located 00000 Xxxxxxx Xxxxxx, Xxx Xxxxx,  
 Xxxxxxxxxx 00000.  
  
  
Dear Xx. Xxxxxxxx:  
  
This letter shall confirm the agreement of Lessor and Lessee that   
notwithstanding the provisions of paragraph 4 of the Addendum to the above   
referenced Lease, Lessee's Early Possession period shall not commence until   
two (2) business days after Lessor has delivered written notice to Lessee   
that the Premises have been vacated and surrendered by Xxxxxxx   
Communications, Inc. in the physical condition required by the Lease. The   
parties hereby acknowledge that the Early Possession period is expected to   
commence on or about January 15, 1998. Lessor hereby covenants to use   
commercially reasonable efforts to cause Xxxxxxx Communications, Inc. to   
vacate the Premises as close as possible to said date, following expiration   
of its lease under applicable law.  
  
Except as otherwise agreed to by the parties in two (2) written agreements   
dated concurrently herewith, the Lease shall remain unmodified and in full   
force and effect, and all of the terms and provisions of the Lease as herein   
modified, are hereby ratified and reaffirmed by both the Lessor and Lessee.   
This letter may be executed in as many counterparts as may be deemed   
necessary and convenient, and by the different parties on separate   
counterparts, each of which, when so  
  
  
  
  
  
  
Xxxxxxxxxxx X. Xxxxxxxx  
November 25, 1997  
Page Two  
  
  
  
  
executed, shall be deemed an original, but all such counterparts shall   
constitute one and the same instrument. Any capitalized terms contained in   
this letter shall have the meaning ascribed to them in the Lease.  
  
Sincerely, ACCEPTED AND AGREED TO AS  
 OF THE DATE FIRST WRITTEN  
XXX-00000 Xxxxxxx Street, LLC ABOVE:  
a Delaware limited liability company  
By: ARE-QRS Corp, a Maryland corporation, COLLATERAL THERAPEUTICS, INC.  
 Managing Member a California corporation  
  
  
By: /s/ Xxxx X. Xxxxxxxx  
 ------------------------------------  
 Xxxx X. Xxxxxxxx By: /s/ Xxxxxxxxxxx X. Xxxxxxxx  
Its: Senior Vice President ----------------------------  
 Name: Xxxxxxxxxxx X. Xxxxxxxx  
 --------------------------  
 Its: COO & CFO  
 ---------------------------  
  
  
cc: Xxxx Xxxxxx GAK:hfg  
 Xxxx Xxxx  
  
  
  
  
  
  
  
[LOGO] COLLATERAL  
 THERAPEUTICS  
  
 0000 Xxxxx Xxxxxx Xxxxx  
 Xxx Xxxxx, XX 00000  
 Tel: 000.000.0000  
 Fax: 000.000.0000  
  
  
Mr. Xxxx Xxxx  
Alexandria Real Estate Equities, Inc., a Maryland corporation  
00000 Xxxx Xxxxxxxx Xxxxx, xxxxx 000  
Xxx Xxxxx, Xxxxxxxxxx 00000 November 25, 1997  
  
  
RE: Lease XXX-00000 Xxxxxxx Xxxxxx, LLC, a Delaware limited liability  
 company ("Lessor") and Collateral Therapeutics, Inc., a California  
 corporation ("Lessee") for Premises Located at 00000 Xxxxxxx Xxxxxx,  
 Xxx Xxxxx, XX 00000 ("Lease"); Removal of Trade Fixtures Upon Lease  
 Termination or Expiration  
  
Dear Xxxx:  
  
This letter is provided to the Lessor of the above-referenced Lease, which   
has been negotiated by Lessor and Lessee, and constitutes an additional   
agreement of the parties with respect to Lessee's rights thereunder. The   
agreement contained herein is a condition precedent to the effectiveness of   
the Lease. In the event of any inconsistency between this agreement and the   
Lease, the terms and conditions of this agreement shall govern and control.  
  
Lessor and Lessee hereby agree that, notwithstanding any provision to the   
contrary in the Lease or otherwise pursuant to Applicable Laws, the items   
listed below shall constitute "Trade Fixtures" pursuant to Section 7.3 of the   
Lease, and in accordance with Paragraph 16 of the Addendum to the Lease,   
constitute the Trade Fixtures which Lessee may remove from the Premises upon   
the expiration or earlier termination of the Lease:  
  
 1. Glass washer  
 2. Glass dryer  
 3. AutoClaves  
 4. Vivarium cages and tables  
 5. Deionized water skid  
 6. Premises telephone systems  
 7. Premises alarm systems  
 9. Biological safety cabinets  
  
  
  
  
  
  
  
[LOGO]  
  
 10. All of the Lessee's laboratory equipment located in the  
 Premises, including, but not limited to, refrigerators,  
 freezers and incubators.  
  
Please indicate your acknowledgement of an agreement to the Lessee's removal   
of the foregoing Trade Fixtures upon the expiration or earlier termination of   
the Lease, subject only to the Lessee's compliance with its obligations set   
forth in Section 7.3 of the Lease regarding the repair of any damages to the   
Premises caused by the removal thereof.  
  
 Very truly yours,  
  
  
 /s/ Xxxxxxxxxxx X. Xxxxxxxx  
  
  
 Xxxxxxxxxxx X. Xxxxxxxx  
 Chief Operating Officer and  
 Financial Officer  
  
  
ACKNOWLEDGED AND AGREED:  
  
XXX-00000 Xxxxxxx Xxxxxx, LLC, a Delaware limited liability company BY ARE-QRS  
 CORP, A MD CORP, MANAGING MEMBER  
  
  
By: /s/ Xxxx X. Gold  
 ------------------------  
Name: Xxxx X. Gold  
 ----------------------  
Title: President  
 ---------------------  
  
  
  
  
  
  
  
  
[LOGO] COLLATERAL  
 THERAPEUTICS  
  
 0000 Xxxxx Xxxxxx Xxxxx  
 Xxx Xxxxx, XX 00000  
 Tel: 000.000.0000  
 Fax: 000.000.0000  
  
Mr. Xxxx Xxxx  
Alexandria Real Estate Equities, Inc.  
00000 Xxxx Xxxxxxxx Xxxxx, Xxxxx 000  
Xxx Xxxxx, Xxxxxxxxxx 00000 November 25, 1997  
  
XXX-00000 Xxxxxxx Xxxxxx, LLC, a Delaware limited liability company  
  
RE: Standard Industrial/Commercial Multi-Tenant Lease-Modified Net Between  
 Collateral Therapeutics, Inc., a California Corporation ("Lessee"), and  
 XXX-00000 Xxxxxxx Xxxxxx, LLC, a Delaware limited liability company  
 ("Lessor") with respect to the Premises within the Building located at  
 00000 Xxxxxxx Xxxxxx in San Diego, California (the "Lease")  
  
Dear Xxxx:  
  
Enclosed please find two (2) originals of the above referenced Lease signed   
by the Lessee. The effectiveness of the attached Lease signed by Lessee is   
conditioned upon Lessor satisfying the following conditions precedent, and   
the Lease shall be void if any of the conditions are not met by December 2,   
1997:  
  
 1. Lessor must sign and date the Letter Agreement attached hereto  
 regarding the list of equipment and trade fixtures which may be  
 removed by Lessee upon termination or expiration of the Lease  
 ("Letter Agreement"); and  
  
 2. Lessor must return the fully-executed Lease, Letter Agreement and a  
 signed counterpart of this letter (also executed by Alexandria Real  
 Estate Equities, Inc.  
 ("ARE")) by December 2, 1997.  
  
Lessee is also entering into this Lease with the understanding that the   
proposed Lessor is an affiliate of ARE and that ARE will provide or cause to   
be provided to ARE-11025 the amount of the Tenant Improvement Allowance   
described in Section 6 of the Addendum to the Lease.  
  
By signing below, ARE commits to providing or causing to be provided to   
ARE-11025 the full amount of the Tenant Improvement Allowance to be used in   
accordance with the Lease, and both ARE and ARE-11025 acknowledge and agree   
that Collateral Therapeutics, Inc. would not enter into the Lease without   
such commitment from ARE.  
  
 [SIGNATURES CONTINUED ON NEXT PAGE]  
  
  
  
  
  
  
[LOGO]  
  
Collateral Therapeutics, Inc., a California corporation  
  
  
  
  
/s/ Xxxxxxxxxxx X. Xxxxxxxx Date: 11-25-97  
---------------------------------- ----------------------  
Signature  
  
By: Xxxxxxxxxxx X. Xxxxxxxx  
Its: Chief Operating Officer and  
 Financial Officer  
  
  
  
ACKNOWLEDGED AND AGREED:  
  
Alexandria Real Estate Equities, Inc., a Maryland corporation  
  
  
  
 /s/ Xxxx X. Gold Date: Dec 4, 1997  
---------------------------------- ---------------------  
Signature  
  
By: Xxxx X. Gold  
 -------------------------------   
Its: President  
 ------------------------------   
  
  
  
XXX-00000 Xxxxxxx Xxxxxx, LLC, a Delaware limited liability company BY ARE-QRS  
 CORP, A MD CORP, MANAGING MEMBER  
  
  
 /s/ Xxxx X. Gold Date: Dec 4, 1997  
---------------------------------- ---------------------  
Signature  
  
By: Xxxx X. Gold  
 -------------------------------   
Its: President  
 ------------------------------   
  
  
  
  
  
  
  
[LOGO] COLLATERAL  
 THERAPEUTICS  
  
 0000 Xxxxx Xxxxxx Xxxxx  
 Xxx Xxxxx, XX 00000  
 Tel: 000.000.0000  
 Fax: 000.000.0000  
  
  
Mr. Xxx Emri  
X.X. Xxxxxxxx, Inc., dba Professors Capital  
000 Xxxxxxxx Xxxxx, Xxxxx 000  
Xxxxxx Xxxxx, Xxxxxxxxxx 00000 December 3, 1997  
  
RE: Standard Industrial/Commercial Multi-Tenant Lease-Modified Net Between  
 Collateral Therapeutics, Inc. a California corporation ("Lessee"), and  
 XXX-00000 Xxxxxxx Xxxxxx, LLC, a Delaware limited liability company  
 ("Lessor") with respect to the Premises within the Building located at  
 00000 Xxxxxxx Xxxxxx in San Diego, California (the "Lease")  
  
Dear Xxx:  
  
The above-referenced Lease in effective only on the condition that XXX-00000  
Xxxxxxx Xxxxxx, LLC ("ARE-11025") or X.X. Xxxxxxxx, Inc., dba Professors Capital  
("Professors Capital") sign it by December 8, 1997.  
  
By signing below, Professors Capital represents and warrants that if XXX-00000  
Xxxxxxx Xxxxxx, LLC ("ARE-11025") fails to sign the above-referenced Lease and  
if Alexandria Real Estate Equities, Inc. and ARE fail to satisfy the obligations  
set forth in the letter attached hereto regarding effectiveness of the Lease by  
December 8, 1997, Professors Capital will enter into a new lease and the Letter  
Agreement regarding trade fixtures and equipment which may be removed by Lessee  
upon termination or expiration of the Lease.  
  
Collateral Therapeutics, Inc., a California corporation  
  
  
  
 /s/ Xxxxxxxxxxx X. Xxxxxxxx Date:  
-------------------------------------- -----------  
Signature  
  
By: Xxxxxxxxxxx X. Xxxxxxxx  
Its: Chief Operating Officer and  
 Financial Officer  
  
X.X. Xxxxxxxx, Inc., dba Professors Capital  
  
  
  
 /s/ Xxxxxx Emri Date: 12/4/97  
------------------------------------- ----------------  
Signature  
  
By: Xxxxxx Emri  
 ----------------------------------  
Its: Principal  
 ---------------------------------  
  
  
  
  
  
  
[LOGO] COLLATERAL  
 THERAPEUTICS  
  
 0000 Xxxxx Xxxxxx Xxxxx  
 Xxx Xxxxx, XX 00000  
 Tel: 000.000.0000  
 Fax: 000.000.0000  
  
  
Mr. Xxxx Xxxx  
Alexandria Real Estate Equities, Inc., a Maryland corporation  
00000 Xxxx Xxxxxxxx Xxxxx, xxxxx 000  
Xxx Xxxxx, Xxxxxxxxxx 00000 December 4, 1997  
  
  
RE: Lease between XXX-00000 Xxxxxxx Street, LLC ("ARE-11025"), a Delaware  
 limited liability company ("Lessor") and Collateral Therapeutics, Inc., a  
 California corporation ("Lessee") for Premises Located at 00000 Xxxxxxx  
 Xxxxxx, Xxx Xxxxx, XX 00000 ("Lease"); Extension of period to sign the  
 Lease, letter agreement regarding Removal of Trade Fixtures Upon Lease  
 Termination or Expiration, and letter agreement regarding conditions  
 precedent.  
  
Dear Xxxx:  
  
We hereby extend the period by which the Lease and letter agreements described  
above must be signed to December 8, 1997  
  
 Very truly yours,  
  
 /s/ Xxxxxxxxxxx X. Xxxxxxxx  
  
 Xxxxxxxxxxx X. Xxxxxxxx  
 Chief Operating Officer and  
 Financial Officer