ATTACHMENT A

Summary of Terms of the Lease with
Palo Alto Lawn Bowls Club, Inc.

Lessor:
City of Palo Alto

Tenant:
Palo Alto Lawn Bowls Club, Inc.

Premises:
474 Embarcadero Road. Palo Alto

Term:
Five years with option to renew for an additional term of two years.

Consideration/Rent:

Monetary: $500.00 per month ($6,000/year) adjusted annually in proportion to the Consumer Price Index

Non-monetary: Public Benefits provided through required uses, services and activities.

Required and Permitted Use:

Required uses, service and activities to be provided by tenant:

1. Encourage and offer membership in the Palo Alto Lawn Bowling Club to residents of CITY.

2. Provide lessons in lawn bowling to non-member residents of CITY at reasonable times which may be set by agreements between TENANT and the Director of Community Services.

3. When not in use for normally scheduled activities, PREMISES to be made available for use by the CITY and community, through the Director of Community Services

Permitted uses, services and activities:

1. Use of PREMISES as a general meeting place for TENANT’s members, for games and recreational activities.
2. Periodic rental of the facility on an hourly basis to raise revenue to pay CITY lease costs.

Maintenance and Repair:

CITY to maintain the structure and main support systems not exclusively serving the PREMISES, including roof, electrical system exterior painting and structural repairs. Tenant to maintain PREMISES in a safe, clean, wholesome, and sanitary condition and substantial repair, and be responsible for any damage or repair resulting from TENANT'S use and not occasioned by normal wear and tear, including plumbing and glass breakage.

Utilities

TENANT to pay for all utilities and services furnished to the PREMISES except for water, which CITY shall provide.

Assignment/Subletting:

Any assignment or encumbrance of the lease is prohibited, except that TENANT may periodically rent space on an hourly basis to community groups and individuals, subject to compliance with CITY ordinances, rules and regulation and as long as the rental does not interfere with or limit the required services and uses.

Taxes, Assessments and Utilities:

Tenant shall be responsible for all taxes and assessments for the Premises.

Insurance:

Tenant shall maintain insurance meeting the City's standard requirements for insurance protection.
ATTACHMENT B

LEASE #

This Lease is made this ___ day of _______, 20__ by and between the City of Palo Alto, a chartered California municipal corporation, (CITY) and Palo Alto Lawn Bowls Club, Inc., a non-profit corporation, (TENANT).

RECITALS

1. On April 14, 1964, CITY and TENANT entered into a lease agreement for TENANT’s use of that certain building known as the Palo Alto Lawn Bowling Clubhouse located at 474 Embarcadero Road, Palo Alto, California.

2. In May, 1974, CITY and TENANT entered into a lease agreement which permitted continued use of the property until March 30, 1984.

3. On May 17, 1984, CITY and TENANT entered into a lease agreement which permitted continued use of the property until March 30, 1985.

4. On March 27, 1986, CITY and TENANT entered into a lease agreement which permitted continued use of the property until March 30, 1987.

5. On March 30, 1987, CITY and TENANT had agreed to a month to month holdover of the lease, pending development of the adjoining property (Gamble House).

6. On March 1, 1990, CITY and TENANT had entered into a lease agreement which permitted use of the property until February 28, 2000.

7. On March 1, 2000, CITY and TENANT exercised and five year option to extend the lease an additional five years which permitted use of the property until February 28, 2005.

8. Since March 1, 2005, CITY and TENANT have agreed to a month to month holdover of the lease, pending negotiation of a new lease.

9. CITY and TENANT now desire to enter into a new lease which will permit continued use of the property for a period of five (5) years beginning at the execution of this Lease.

Now, therefore, in consideration of these recitals and the following covenants, terms and conditions, the parties hereto mutually agree as follows:

1. PREMISES (RL 3.0) NS

A. Subject to the terms and conditions set forth in this Lease, CITY leases to TENANT that certain property (PREMISES) described and shown in "Exhibit C" attached to this Lease and by
this reference made a part of this Lease. Unless specifically provided elsewhere in this Lease, TENANT accepts the PREMISES "as-is" on the date of execution of this Lease.

B. It is understood and agreed that supervision and control of the area outlined by a broken line on said "Exhibit C" (hereinafter "bowling green") shall remain in the CITY and that the use thereof shall not be limited to members of TENANT but shall extend to any resident of CITY in conformance with rules and regulations which may be instituted from time to time by CITY’s Director of Community Services.

C. Lease is contingent on availability of playable lawn bowling green unless the green is closed for renovation by mutual consent between TENANT and the CITY.

II. TERM (RL 4.0) S

The term of this Lease shall be five (5) years, unless extended or terminated in accordance with this Lease, commencing the first day of the month following City Council approval hereof (the "Commencement Date"). TENANT shall, at the expiration of the term of this lease, or upon its earlier termination, surrender the property in as good condition as it is now at the date of this lease. The Parties expect reasonable wear and tear. The City shall have the right, upon the termination of the term or upon a breach, to enter the Premises and take possession of it.

III. OPTION TO EXTEND (RL 4.1)S

Provided Lessee is not in default hereunder, either at the time of exercise of the option to extend or at the time the extended Term commences, TENANT shall have the option to extend this Lease term for an additional period of two (2) years ("Option Period") with the same terms and conditions provided herein, provided the City approves Tenant’s request to extend the lease term. TENANT shall exercise this option by giving City written notice at least ninety (90) days but not more than one hundred eight (180) days prior to the expiration of the initial term of this lease. City shall notify Tenant of its approval or disapproval of Tenant’s request to extend within thirty (30) days of receipt of Tenant’s written notice. At that time both the CITY and TENANT shall review the then current rent and decide if the rent should be renegotiated. Any extension will be subject to the parties’ mutual agreement on the rental amount for the extended period.

IV. MONTHLY RENT (RL 5.0)S

In view of the public benefit to be derived by TENANT’s programs and the public use of the PREMISES as required hereunder, TENANT agrees to pay CITY five hundred Dollars ($500.00) per month. Rent shall be payable, in advance, on or before the first day of each month and shall be delivered to CITY’s Revenue Collections Division, 250 Hamilton Avenue, P.O. Box 10250, Palo Alto, CA 94303.

V. REVISION OF MONTHLY RENT (RL 5.1A) S
During the term of this lease, the monthly rent specified in Section IV (RENT) shall be adjusted on each anniversary of the Commencement Date (each, an “Adjustment Date”) in proportion to changes in the CPI in accordance with the following formula:

\[ A = (R) \left( \frac{CPI_c}{CPI_b} \right) \]

Where:
- \( A \) = Adjusted monthly rent.
- \( R \) = Initial monthly rent specified in Section IV (MONTHLY RENT).
- \( CPI_c \) = the CPI published for the third calendar month preceding the Adjustment Date.
- \( CPI_b \) = the CPI published for the third calendar month preceding the Commencement Date.

Notwithstanding the foregoing, the adjusted monthly rent shall not be less than the monthly rent in effect immediately prior to that Adjustment Date.

VI. USE OF THE PREMISES (RL 7.1) NS

A. Required Uses. Throughout the term of this Lease, Tenant shall provide the following uses, services and activities (“Required Uses”):

1. Tenant shall with regularity publicly encourage and offer membership in the Palo Alto Lawn Bowling Club to residents of CITY during the term of this agreement. TENANT shall provide lessons in lawn bowling to non-member residents of CITY at reasonable times and intervals as specified by the Director of Community Services.

2. TENANT shall, at its own cost and expense, conform in every respect to all laws, statutes, ordinances and regulations now in force and that may be enacted hereafter affecting the use or occupancy of the PREMISES. TENANT shall use the PREMISES as a general meeting place for its members, for games and recreational activities. Tenant is permitted to rent the facility at rates and in accordance with a schedule to be approved by the City to raise revenue to pay CITY lease costs.

3. TENANT agrees to maintain in its by-laws the provision that CITY’s Director of Community Services or his nominee shall be an ex-officio member of the TENANT’s Board of Directors, with full right to participate in the deliberations of the Board without the right to vote.

4. TENANT agrees that when the PREMISES are not used for its normally scheduled activities, the PREMISES may be made available to the CITY or other community users subject to rules and regulations established by CITY’s Director of Community Services. The CITY will manage reservations for the Clubhouse during hours not used by the club. The CITY will provide building attendants to ensure that the building is safe, secure, and clean at the end of each rental. The fees collected by such
rental shall be retained by the CITY, and will not be credited against the $500.00 per month rent.

B. Permitted Uses. Lessee may only use the Premises for those required uses described in section VI.A and other uses related thereto. Premises shall not be used for any other purposes without City's prior written consent, which consent may be withheld in the sole and absolute discretion of the City.

C. Prohibited Uses. Lessee shall not use Premises for any purpose not expressly permitted hereunder. Lessee shall not create, cause, maintain or permit any nuisance or waste in, on, or about the Premises, or permit or allow the Premises to be used for any unlawful or immoral purpose. Lessee shall not do or permit to be done anything in any manner which unreasonably disturbs the users of the City Property or the occupants of neighboring property. Specifically, and without limiting the above, Lessee agrees not to cause any unreasonable odor, noise, vibration, power emission, or other item to emanate from the Premises. No materials or articles of any nature shall be stored outside upon any portion of the Premises. Lessee will not use Property in a manner that increases the risk of fire, cost of fire insurance or improvements thereon. No unreasonable sign or placard shall be painted, inscribed or placed in or on said Property; and no tree or shrub thereon shall be destroyed or removed or other waste committed of said Property. No bicycles, motorcycles, automobiles or other mechanical means of transportation shall be placed or stored anywhere on the Property except for the garage or driveway. No repair, overhaul or modification of any motor vehicle shall take place on the Property or the street in front of said Property. Lessee, at his/her expense, shall keep the Property in as good condition as it was at the beginning of the terms hereof, except damage occasioned by ordinary wear and tear, and except damage to the roof, sidewalks and underground plumbing, which is not the fault of Lessee.

VII. MAINTENANCE (RL 8.1) S

CITY shall be responsible for the maintenance and repair of the structure located on the PREMISES and main support systems not exclusively serving the PREMISES, including roof repair, electrical system repair, exterior painting and structural repairs.

Except as provided in the preceding sentence, TENANT expressly agrees to maintain the PREMISES in a safe, clean, wholesome, and sanitary condition and substantial repair, to the complete satisfaction of CITY and in compliance with all applicable laws. TENANT further agrees to provide approved containers for trash and garbage and to keep the PREMISES free and clear of rubbish and litter. CITY shall have the right to enter upon and inspect the PREMISES at any time for cleanliness and safety. Notwithstanding the above provisions, TENANT shall be responsible for damage or repair to the PREMISES or any of its support systems resulting from TENANT'S use of the PREMISES and not occasioned by normal wear and tear, including plumbing and glass breakage.
TENANT shall designate in writing to CITY an on-site representative who shall be responsible for the day-to-day operation and level of maintenance, cleanliness, and general order.

If TENANT fails to make any repairs or perform any maintenance work for which TENANT is responsible within a reasonable time (as determined by the City Manager in the City Manager's sole discretion) after demand by the CITY, CITY shall have the right, but not the obligation, to make the repairs at TENANT's expense; within ten (10) days of receipt of a bill therefor, TENANT shall reimburse CITY for the cost of such repairs, including a fifteen percent (15%) administrative overhead fee. The making of such repairs or performance of maintenance by CITY shall in no event be construed as a waiver of the duty of TENANT to make repairs or perform maintenance as provided in this Section.

VIII. ALTERATIONS BY TENANT (RL 10.0B) S

At any time during the term of this Lease Tenant may at Tenant's expense make alterations, additions, and changes in and to the interior of the Premises provided that the value of any improvements then on the Premises is not thereby diminished, and provided, however, that no such alterations, additions or changes which affect the structure or the exterior (including but not limited to the exterior walls and roof) of the improvements may be made without first procuring the approval in writing of the City Manager.

IX. CONSTRUCTION STANDARDS (RL 10.1) NS

All construction and alterations performed by or on behalf of Tenant shall conform to the construction and architectural standards approved by the City Council if required by the City of Palo Alto procedures or ordinances or otherwise by the City Manager. Once the work is begun, Tenant shall with reasonable diligence prosecute all construction to completion. All work shall be performed in a good and workmanlike manner, shall substantially comply with any plans and specifications approved by CITY and shall comply with all applicable governmental permits, laws, ordinances and regulations.

Tenant shall pay all costs for construction done or caused to be done by Tenant on the Premises as permitted or required by this Lease. Tenant shall keep the Premises free and clear of all claims and liens resulting from construction done by or for Tenant.

Tenant shall defend and indemnify CITY against all claims, liabilities and losses of any type arising out of work performed on the Premises by Tenant, together with reasonable attorneys' fees and all costs and expenses reasonably incurred by CITY in negotiating, settling, defending or otherwise protecting against such claims.

X. AS BUILT PLANS (RL 10.3) S

Upon completion of any (i) new construction, (ii) structural alterations or (iii) non-structural alterations costing more than $25,000, TENANT shall provide the City Manager with a complete set of reproducible "as built plans" reflecting actual construction within or upon the PREMISES.
XI. UTILITIES PROVIDED BY TENANT (RL 11.0) S

TENANT shall make all arrangements for and fully and promptly pay for all utilities and services furnished to the PREMISES or used by TENANT. CITY shall pay for water furnished to the PREMISES.

XII. INSURANCE (RL 12.0) S

Tenant’s responsibility for the PREMISES begins immediately on commencement and Tenant, at its sole cost and expense, and at no cost to City, shall purchase and maintain in full force and effect during the entire term of this Lease insurance coverage in an amount(s) and in a form acceptable to City as set forth in Exhibit B attached hereto and incorporated herein by reference. Said policies shall be maintained with respect to Tenant’s employees, if any, and all vehicles operated on the Premises. The policies shall include the required endorsements, certificates of insurance and coverage verifications as described in Exhibit B.

XIII. DAMAGE OR DESTRUCTION - LEASE TO GOVERN TENANT'S RIGHTS (RL 13.0) S

Except as provided herein, no destruction or damage to the Premises by fire, windstorm or other casualty, whether insured or uninsured, shall entitle Lessee to terminate this Lease. Tenant waives the provisions of any statutes that relate to termination of leases when leased property is destroyed, including Civil Code §1932(2) and Civil Code §1933(4), and agrees that Tenant’s rights in case of damage or destruction shall be governed solely by the provisions of this Lease.

XIV. DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS (RL 13.2) NS

A. Total Destruction. In the event the PREMISES or a substantial portion thereof are destroyed by any cause that renders the PREMISES unfit for the purposes designated in Clause V (REQUIRED USES OF THE PREMISES), and if the PREMISES are so badly damaged that they cannot be repaired within ninety (90) days from the date of such damage, either party may terminate this Lease by giving to the other party written notice within ten (10) days of the occurrence of such damage.

B. Insured Partial Destruction. If the PREMISES are partially destroyed by any cause insurable under fire insurance with a standard extended coverage casualty endorsement and the destroyed portion can be rebuilt or repaired within 90 days from the date of destruction, LESSOR shall repair the damage or destruction with reasonable diligence. In such event, this Lease shall remain in full force and effect; however, until the destroyed PREMISES are repaired, rental (if any) paid by TENANT to LESSOR shall be reduced by such destruction. However there shall be no rent abatement or offset should the damage or destruction be caused by TENANT, it employees, agents or contractors.

C. Non-Insured Partial Destruction. If the PREMISES are partially destroyed by any cause not insurable by fire insurance with an extended coverage casualty endorsement but the
PREMISES can still be used for the purposes designated in Clause V (REQUIRED USES OF THE PREMISES), TENANT may, at its option, terminate this Lease unless LESSOR commences rebuilding or repair of the destroyed portion of the PREMISES within 90 days from the date of destruction. However, there shall be no rent abatement or offset should the damage or destruction be caused by TENANT, its employees, agents or contractors.

Such termination by TENANT shall be accomplished by giving LESSOR written notice of termination not sooner than 90 days nor later than 100 days after the occurrence of such damage or destruction. This Lease shall terminate on the date such notice of termination is given to LESSOR. If LESSOR accomplishes such repair or if TENANT fails to exercise option to terminate, this Lease shall remain in full force and effect, however, until the destroyed PREMISES are repaired; rental paid by TENANT to LESSOR (if any) shall be reduced in the same proportion that TENANT’s square footage leased is reduced by such destruction. However there shall be no rent abatement or offset should the damage or destruction be caused by TENANT, its employees, agents or contractors.

Glass breakage shall not be deemed a partial destruction within the meaning of this clause.

XV. ASSIGNING AND SUBLETTING (RL 14.0) NS

The parties acknowledge that CITY has relied on the unique background, character and capabilities of TENANT in entering into this Lease or in establishing the rent payable under this Lease. Consequently, Tenant shall not, either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest herein, or any right or privilege appurtenant hereto, or allow any other person (the employees, agents and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof. Any purported assignment or subletting without such consent shall be void, and shall, at the option of the CITY, constitute a default under this Lease. TENANT does have the right to rent its space on an hourly basis.

For purposes of this Section, each of the following shall also be deemed an assignment subject to the provisions hereof: (i) if Tenant is a partnership or joint venture, a withdrawal, addition, or change (voluntary, involuntary, by operation of law, or otherwise) of any of the partners or venturers thereof; (ii) if Tenant is a limited liability company, a withdrawal, addition, or change (voluntary, involuntary, by operation of law, or otherwise) of any of the members or managers thereof; (iii) if Tenant is composed of more than one person, a purported assignment or transfer (voluntary or involuntary, by operation of law, or otherwise) from one thereof to the other or others thereof; (iv) if Tenant is a corporation, a change in the ownership (voluntary or involuntary, by operation of law, or otherwise) of 25% or more of its capital stock or members (or, in the case of a nonprofit corporation without members, of 25% or more of its directors); or (v) a change in Tenant’s status as a non-profit, charitable organization.

XVI. POST-ACQUISITION TENANCY (RL 16.0) S

TENANT hereby acknowledges that TENANT was not an occupant of the PREMISES at the time the PREMISES were acquired by CITY. TENANT further understands and agrees that as a
post-acquisition tenant, TENANT is not eligible and furthermore waives all claims for relocation assistance and benefits under federal, state or local law.

XVII. BOOKS AND RECORDS

TENANT will permit CITY to inspect and audit, at any reasonable time during the term of this Lease and for three (3) years thereafter, TENANT’S books and records pertaining to matters covered by this Lease, including but not limited to revenues collected for club membership and private rentals. TENANT further agrees to maintain and retain such records for at least three (3) years after the expiration or earlier termination of this Agreement.

XVIII. NOTICES (RL 20.0) S

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and shall be deemed given as of the time of hand delivery to the addresses set forth below, or three (3) days after deposit into the United States mail, postage prepaid, by registered or certified mail, return receipt requested. Hand delivery includes, without limitation, delivery by a reputable commercial delivery service and delivery by facsimile transmission (“Fax”) or internet electronic mail (“Email”) (if the receiving party has designated a Fax number and/or a valid internet Email address); provided, however, that delivery by Fax or by Email shall not be effective unless (i) transmitted during normal business hours of the receiving party, and (ii) confirmed by delivering party within 24 hours by delivery of a physical copy of the material initially sent by Fax or Email. Unless notice of a different address has been given in accordance with this section, all such notices shall be addressed as follows:

TO: CITY
Real Property Manager
City of Palo Alto
P.O. Box 10250
250 Hamilton Avenue
Palo Alto, CA 94303
FAX: (650) 329-2468

TO: TENANT
Palo Alto Lawn Bowls Club
474 Embarcadero Road
Palo Alto, CA 94301

with a copy to:

City Clerk, City of Palo Alto
P.O. Box 10250
250 Hamilton Avenue
Palo Alto, CA 94303
FAX: (650) 329-2646

and
City Attorney, City of Palo Alto
P.O. Box 10250
250 Hamilton Avenue
Palo Alto CA 94303
FAX: (650) 329-2646

XIX. ATTACHMENTS TO LEASE (RL 21.0) S

This Lease includes the following exhibits, which are attached hereto and by this reference incorporated into this Lease:

Exhibit A - General Conditions
Exhibit B – Insurance Requirements
Exhibit C - Description of Leased Premises

The inclusion of Sections in Exhibit A (GENERAL CONDITIONS) and Exhibit B (INSURANCE REQUIREMENTS) is not in any way intended to lessen the importance of these Sections, but is merely done to enhance the organization of various Sections and this Lease.

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

CITY:  TENANT:

CITY OF PALO ALTO (LESSOR)  PALO ALTO LAWN BOWLS, INC.
BY:_______________  BY:________________________
  City Manager or Designee

ATTEST:

BY:_______________  By:________________________
  City Clerk

(Its:)

APPROVED AS TO FORM:

By:________________________
  Senior Asst. City Attorney

RECOMMENDED FOR APPROVAL;
By: ______________________
Assistant City Manager

By: ______________________
Director, Community Services

By: ______________________
Real Property Manager
EXHIBIT A
GENERAL CONDITIONS

1. DEFINITION AND AUTHORITY OF CITY MANAGER (RL 27.1) S

City Manager means the City Manager of the CITY, and the City Manager’s designee or designees. The City Manager may establish different designees for different purposes. The City Manager may designate persons individually or by office or title. If a person is designated by office or title, and the position is eliminated or the title changed, the designation shall automatically apply to the position or title succeeding to the responsibilities of the former position or title.

Any consent or approval anticipated by, required under, or consistent with this Lease may be given on behalf of CITY by the City Manager. The City Manager is not authorized to enter into any amendment of this Lease without the approval of the City Council of CITY.

Notwithstanding any grant of authority to the City Manager under this Lease, the City Manager may in the City Manager’s sole and absolute discretion waive the grant of authority in a specific matter, in which event the City Council of CITY shall retain the authority to act in that matter on behalf of CITY.

2. PARTNERSHIP/CORPORATE AUTHORITY & LIABILITY (RL 27.2) S

If TENANT is a partnership, each general partner:

A. represents and warrants that the partnership is a duly qualified partnership authorized to do business in Santa Clara County; and

B. shall be jointly and severally liable for performance of the terms and provisions of this Lease.

If TENANT is a limited liability company, each individual signing this Lease on behalf of TENANT represents and warrants that:

A. he or she is duly authorized to do so in accordance with the Articles of Organization and Operating Agreement of TENANT; and

B. TENANT is a duly qualified limited liability company authorized to do business in the State of California.

If TENANT is a corporation, each individual signing this Lease on behalf of TENANT represents and warrants that;
A. he or she is duly authorized to do so in accordance with an adopted Resolution of TENANT’S Board of Directors or in accordance with the Bylaws of the corporation; and

B. TENANT is a duly qualified corporation authorized to do business in State of California.

As used in this Lease, the term "TENANT" shall include TENANT, its agents, sublessees, concessionaires, or licensees, or any person acting under contract with TENANT; however, the definition of TENANT used herein, shall not be construed to authorize or permit any sublease or license not authorized or permitted elsewhere in this Lease.

3. TIME (RL 27.3) S

Time is of the essence of this Lease.

4. SIGNS (RL 27.4) S

TENANT agrees not to construct, maintain, or allow any sign to be placed upon the PREMISES except as may be approved by CITY. Unapproved signs, banners, etc., may be removed by CITY.

5. PERMITS AND LICENSES (RL 27.5) S

Neither CITY's execution of this Lease nor any consent or approval given by or on behalf of CITY hereunder in its capacity as a party to this Lease shall waive, abridge, impair or otherwise affect CITY's powers and duties as a governmental body. Any requirements under this Lease that Tenant obtain consents or approvals of CITY are in addition to and not in lieu of any requirements of law that Tenant obtain approvals or permits. However, CITY shall attempt to coordinate its procedures for giving contractual and governmental approvals so that Tenant's requests and applications are not unreasonably denied or delayed. TENANT shall be solely responsible for obtaining any and all permits and/or licenses that may be required by law, including but not limited to building permits and business licenses.

6. MECHANICS LIENS (RL 27.6) S

TENANT shall at all times indemnify and save CITY harmless from all claims for labor or materials supplied in connection with construction, repair, alteration, or installation, by or on behalf of the TENANT, of structures, improvements, equipment, or facilities within the PREMISES, and from the cost of defending against such claims, including attorney fees. TENANT shall provide CITY with at least ten (10) days written notice prior to commencement of any work that could give rise to a mechanics lien or stop notice. CITY reserves the right to enter upon PREMISES for the purposes of posting Notices of Non-Responsibility.

In the event a lien is imposed upon the PREMISES as a result of such construction, repair, alteration, or installation, TENANT shall either:

A. Record a valid Release of Lien; or
B. Deposit sufficient cash with CITY to cover the amount of the claim on the lien in question and authorize payment to the extent of said deposit to any subsequent judgment holder that may arise as a matter of public record from litigation with regard to lienholder claim; or

C. Procure and record a bond in accordance with Section 3143 of the Civil Code, which releases the PREMISES from the claim of the lien from any action brought to foreclose the lien.

Should TENANT fail to accomplish one of the three optional actions within fifteen (15) days after the filing of such a lien, the Lease shall be in default and may be subject to immediate termination.

7. LEASE ORGANIZATION AND RULES OF CONSTRUCTION (RL 27.7) S

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons.

The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms, as used in this agreement, refer to this agreement.

All the terms and provisions hereof shall be construed to effectuate the purposes set forth herein, and to sustain the validity hereof.

The titles and headings of the sections of this agreement have been inserted for convenience of reference only, are not to be considered a part hereof and shall not in any way modify or restrict any of the terms of provisions hereof or be considered or given any effect in construing this agreement or any provision hereof in ascertaining intent, if any question of intent shall arise.

8. ENTIRE AGREEMENT (RL 27.1) S

This Lease contains all of the agreements and understandings of the parties regarding the PREMISES, and supersedes any and all prior leases or agreements entered into by CITY for use of the PREMISES. All such prior leases or agreements are null and void.

9. AMENDMENTS (RL 27.8) S

Any modifications or amendments of this Lease must be written, and shall not be effective unless executed by both parties.

10. UNLAWFUL USE (RL 27.9) S
TENANT agrees that no improvements shall be erected, placed upon, operated, nor maintained within the PREMISES, nor any business conducted or carried on therein or therefrom, in violation of the terms of this Lease, or of any regulation, order of law, statute, or ordinance of a governmental agency having jurisdiction over TENANT'S use of the PREMISES.

Lessee further agrees not to use Premises for any purpose not expressly permitted hereunder. Lessee shall not (i) create, cause, maintain or permit any nuisance or waste in, on or about the Premises or permit or allow the Premises to be used for any unlawful or immoral purpose, and (ii) do or permit to be done anything in any manner which unreasonably disturbs the users of the Lawn Bowl Green, Gamble Gardens, or the occupants of neighboring property. Specifically, and without limiting the above, Lessee agrees not to cause any unreasonable odors, noise, vibration, power emissions or other item to emanate from the Premises. No materials or articles of any nature shall be stored outside upon any portion of the Premises.

11. NONDISCRIMINATION (RL 27.10) S Revised 8-19-93

TENANT and its employees shall not discriminate against any person because of race, color, religion, ancestry, age, sex, national origin, disability, sexual preference, housing status, marital status, familial status, weight or height of such person. TENANT shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, age, national origin, disability, sexual preference, housing status, marital status, familial status, weight or height of such person. TENANT covenants that in all of the activities TENANT conducts or allows to be conducted on the leased PREMISES, TENANT shall accept and enforce the statements of the policy set forth in Palo Alto Municipal Code Section 9.73.010 regarding human rights and nondiscrimination. If TENANT is found in violation of Palo Alto Municipal Code Section 9.73.010 by a court or administrative body of competent jurisdiction or in violation of the nondiscrimination provision of the State of California Fair Employment Practices Act or similar provisions of federal law or executive order in the conduct of its activities under this Lease by the State of California Fair Employment Practices Commission or the equivalent federal agency or officer, it shall thereby be found in default under this Lease, and such default shall constitute a material breach of this Lease. CITY shall then have the power to cancel or suspend this Lease in whole or in part.

12. INSPECTION (RL 27.11) S

CITY'S employees and agents shall have the right at all reasonable times, upon not less than twenty-four (24) hours prior notice to Lessee, for the purpose of inspecting same, determining if the provisions of this Lease are being complied with, showing same to prospective purchasers, lenders or lessees, and making such alterations, repairs, improvements or additions to the Premises as City may deem necessary.

13. HOLD HARMLESS (RL 27.12) S

TENANT hereby waives all claims, liability and recourse against CITY including the right of contribution for loss or damage of or to persons or property arising from TENANT'S use of the PREMISES. CITY and its elected and appointed officials, officers, agents, employees and
volunteers (individually and collectively "Indemnitees") shall have no liability to TENANT or
to any other person or entity for, and to the fullest extent permitted by law, TENANT shall
indemnify, hold harmless and defend the Indemnitees against, any and all claims, liability,
demands, damages, losses, attorneys' fees, defense costs including expert witness fees, court
costs, and any other costs or expenses, arising out of TENANT's use of the PREMISES or
arising from performance of non performance of the terms of this Lease. In the event CITY or
another Indemnitee are names as co-defendant, TENANT shall notify CITY of such fact and
shall represent the Indemnitees in such legal action by legal counsel acceptable to the CITY.

14. TAXES AND ASSESSMENTS (RL 27.13) S

This Lease may create a possessory interest that is subject to the payment of taxes levied on such
interest. Lessee specifically acknowledges it is familiar with §107.6 of the California Revenue
and Taxation Code, realizes that a possessory interest subject to property taxes may be created,
agrees to pay any such tax, and hereby waives any rights Lessee may have under said California
Revenue and Taxation Code §107.6. It is understood and agreed that all taxes and assessments
(including but not limited to the possessory interest tax) which become due and payable upon the
PREMISES or upon fixtures, equipment, or other property installed or constructed thereon, shall
be the full responsibility of TENANT and TENANT shall pay the taxes and assessments prior to
delinquency.

15. SUCCESSORS IN INTEREST (RL 27.14) S

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein
shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the
parties hereto, all of whom shall be jointly and severally liable hereunder.

16. CIRCUMSTANCES WHICH EXCUSE PERFORMANCE (FORCE MAJEURE) (RL 27.15) S

If either party hereto shall be delayed or prevented from the performance of any act required
hereunder by reason of strikes, lockouts, labor disputes, Acts of God, inability to obtain labor,
materials or reasonable substitutes, governmental restrictions, governmental regulation,
governmental controls, judicial orders, enemy, or hostile governmental actions, civil commotion,
fire or other casualty, and other causes without fault and beyond the reasonable control of the
party obligated (financial inability excepted), performance of such act shall be excused for the
period of the delay and the period for the performance of any such act shall be extended for a
period equivalent to the period of such delay.

17. PARTIAL INVALIDITY (RL 27.16) S

If any term, covenant, condition, or provision of this Lease is determined to be invalid, void, or
unenforceable in full or in part, by a court of competent jurisdiction, the remainder of the
provisions hereof shall remain in full force and effect and shall in no way be affected, impaired,
or invalidated thereby.
18. **WAIVER OF RIGHTS (RL 27.17) S**

The failure of CITY or TENANT to insist upon strict performance of any of the terms, covenants, or conditions of this Lease shall not be deemed a waiver of any right or remedy that CITY or TENANT may have, and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants, and conditions of the Lease thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant, or condition of the Lease.

19. **DEFAULT BY TENANT (RL 27.18) S**

A. **Default Defined.** The occurrence of any of the following events shall constitute a material default or breach of this lease by TENANT:

1. TENANT’s failure to pay all or any portion of rent or any other payment due CITY at the times and in the manner provided in this Lease, if the failure continues for three (3) days after notice has been given to TENANT;

2. TENANT’s a.) abandonment or vacation the PREMISES (absence from the PREMISES for ten (10) days or more shall conclusively be deemed an abandonment of the PREMISES), b.) violation of the provisions of Section XV of the Lease (ASSIGNING, SUBLETTING, and ENCUMBERING), or c.) failure to provide evidence of insurance coverage throughout the term of this Lease in accordance with Section XII of the Lease (INSURANCE); and

3. TENANT’s violation of any other provision of this Lease, if the violation is not cured within thirty (30) days after written notice of such violation by CITY to TENANT. However, if the violation cannot reasonably be cured within thirty (30) days, TENANT shall have a reasonable period of time (as determined by the City Manager) to cure such violation so long as Tenant commences to cure the default within the thirty-day period and thereafter diligently and in good faith continues to cure the default.

4. TENANT’s:

   a. filing of a voluntary petition or having an involuntary petition filed against it in bankruptcy or under any insolvency act or law;

   b. adjudication as a bankrupt; or

   c. attempt to make a general assignment for the benefit of its creditors.

B. **Rights and Remedies of CITY.** If TENANT commits a default, as defined in Subparagraph A. of this Section, CITY shall have the following rights and remedies, which rights and remedies shall not be exclusive, but which shall be
cumulative and in addition to any and all rights and remedies now or hereafter allowed by law or otherwise specifically provided in other Sections in this Lease:

1. CITY may continue this Lease in full force and effect and not terminate TENANT'S right to possession of the PREMISES, in which event CITY shall have the right to collect rent and other payments when due;

2. CITY may terminate this Lease and TENANT'S right to possession of the PREMISES;

3. CITY may have a receiver appointed to collect rentals and conduct TENANT'S business;

4. CITY may cure the default for the account and at the expense of TENANT. If CITY, by reason of an act of default by TENANT, is compelled to pay, or elect to pay, any sum of money or do any act that will require the payment of any sum of money, the sum or sums paid by CITY, together with an administrative charge equal to fifteen percent (15%) of said sum or sums, shall be deemed to be additional rent due CITY under this Lease and shall be due immediately from TENANT at the time the sum is paid, and if repaid at a later date shall bear interest at the rate of 10% per annum from the date the sum is paid by CITY until CITY is reimbursed by TENANT;

5. CITY may seek an action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of CITY;

6. CITY may seek a mandamus or other suit, action of proceeding at law or in equity to enforce its right against TENANT and any of its officers, agents, employees, assigns or subtenants, and to compel it to perform and carry out its duties and obligations under the law and this Lease.

C. Termination and Damages

1. CITY and TENANT specifically agree that acts of maintenance or preservation or efforts to relet the PREMISES (including the making of alterations and/or improvements to the PREMISES in connection with any reletting), and/or the appointment of a receiver upon initiative of CITY to protect CITY'S interests under this Lease will not constitute a termination of TENANT'S right to possession. CITY'S efforts to mitigate the damages caused by TENANT'S default shall not constitute a waiver of CITY'S right to recover damages under this Section.

2. Upon a termination of TENANT'S right to possession, CITY shall have the right to recover from TENANT:
a. The worth, at the time of award, of the unpaid rental which had been earned at the time of termination of this Lease; and

b. The worth, at the time of award, of the amount by which the unpaid rent which would have been earned after the date of termination of this Lease until the time of award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided; and

c. 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 TENANT proves could be reasonably avoided; and

d. Any other amount necessary to compensate CITY for all detriment approximately caused by TENANT'S default or which in the ordinary course of things would be likely to result therefrom, including, without limitation, all costs incurred by CITY in connection with reletting the PREMISES, court costs and reasonable attorney's fees.

"The worth, at the time of the award," as used in paragraphs (a) and (b) of this section is to be computed by allowing interest at the rate of 10% per annum. "The worth, at the time of the award," as used in paragraph (c) of this section, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus 1%.

Nothing in this Section shall affect CITY'S right to indemnification for liability arising prior to termination of this Lease for personal injury or property damage pursuant to other provisions of this Lease.

D. Appointment of Receiver. If a receiver is appointed at the request of CITY in any action against TENANT to take possession of the PREMISES and/or to collect the rents or profits derived therefrom, the receiver may, if it is necessary or convenient in order to collect such rents from profits, conduct the business of TENANT then being carried on in the PREMISES, and may take possession of any personal property belonging to TENANT and used in the conduct of such business and may be used by the appointed receiver in conducting such business on behalf of CITY and TENANT. Neither the application for the appointment of such receiver nor the appointment of such receiver shall be construed as an election by CITY to terminate this Lease unless a notice of such intention is given to TENANT. TENANT agrees to indemnify and hold CITY harmless from any liability arising out of the entry by any such receiver and the taking of possession of the PREMISES and/or use of personal property.

20. DEFAULT BY CITY (RL 27.19)

CITY shall be in default of this Lease if CITY fails or refuses to perform any provision of this Lease that CITY is obligated to perform if the failure to perform is not cured within thirty (30) days after notice of the default has been given by Tenant to CITY. If the default cannot reasonably be cured within thirty days, CITY shall not be in default of this Lease if CITY
commences to cure the default within the thirty-day period and diligently and in good faith continues to cure the default.

21. **COSTS OF SUSTAINING AN ACTION FOR BREACH OR DEFAULT (RL 27.20) S**

In the event either CITY or TENANT commences legal action against the other claiming a breach or default of this Lease, the prevailing party in such litigation shall be entitled to recover from the other cost of sustaining such action, including reasonable attorney fees, as may be fixed by the Court.

22. **RESERVATIONS TO CITY (RL 27.21) S**

The PREMISES are accepted "as is" and "where is" by TENANT subject to any and all existing easements, and encumbrances. City makes no warranty or representation of any kind concerning the condition of the Premises, or the fitness of the Premises for the use intended by Lessee, and hereby disclaims any personal knowledge with respect thereto, it being expressly understood by the parties that Lessee has personally inspected the Premises, knows its condition, finds it fit for Lessee’s intended use, accepts it as is and has ascertained that it can be used for the limited purposes specified in Section VI (USES OF THE PREMISES). CITY reserves the right to install, lay, construct, maintain, repair, and operate such sanitary sewers, drains, storm water sewers, pipelines, manholes, and connections; water, oil, and gas pipelines; telephone and telegraph power lines; and the applications and appurtenances necessary or convenient for connection therewith, in, over, upon, through, across and along the PREMISES or any part thereof, and to enter the PREMISES for any and all such purposes. CITY also reserves the right to grant franchises, easements, rights of way, and permits, in, over, upon, through, across, and along any and all portions of the PREMISES. No right reserved by CITY in this Section shall be so exercised as to interfere unreasonably with TENANT'S operation hereunder. CITY agrees that rights granted to third parties by reason of this Section shall contain provisions that the surface of the land shall be restored as nearly as practicable to the original condition upon the completion of any construction.

23. **SURRENDER OF PREMISES (RL 27.22) S**

Upon expiration or termination of this Lease TENANT shall redeliver possession of the PREMISES to CITY in substantially the same condition that existed immediately prior to TENANT’S occupancy, reasonable wear and tear, flood, earthquake and act of war excepted.

24. **DISPOSITION OF ABANDONED PERSONAL PROPERTY (RL 27.24) S**

If upon expiration or termination of this Lease TENANT fails to remove any personal property belonging to TENANT from the PREMISES, such property shall at the option of CITY at any time after forty-five (45) days after the date of expiration or termination be deemed to have been transferred to CITY. CITY shall have the right to remove and to dispose of such property without liability therefor to TENANT or to any person claiming under TENANT, and shall have no need to account therefor.
25. QUITCLAIM OF TENANT'S INTEREST (RL 27.25) S

Upon expiration or termination of this Lease for any reason, including but not limited to termination because of default by TENANT, TENANT shall, at CITY’S request execute, acknowledge and deliver to CITY within five (5) days after receipt of written demand thereof, a good and sufficient deed whereby all rights, title, and interest of TENANT in the PREMISES are quitclaimed to CITY. Should TENANT fail or refuse to deliver the required deed to CITY, CITY may prepare and record a notice reciting the failure of TENANT to execute, acknowledge and deliver such deed and the notice shall be conclusive evidence of the termination of this Lease, and of all right of TENANT or those claiming under TENANT in and to the PREMISES.

26. HOLDING OVER (RL 27.26) S

After the term of this lease has expired, and until the Parties execute a written extension to the Lease, or Lessee surrenders the Property to the City, this Lease shall continue on a month-to-month basis subject to all terms and conditions of this lease, at City's then prevailing monthly rate of rent for the Property. The rent under a month-to-month tenancy shall be payable in advance of each month due and payable in full by the first day of each successive month of the Lease. The rent under a month-to-month tenancy shall be adjusted on each anniversary of the Commencement Date (Adjustment Date) Lessee shall be liable for such other damages incurred through the loss of a prospective tenant, or other expenses incurred due to its breach of this condition of the Lease. Nothing contained in this Lease shall give to Lessee the right to occupy the Property after the expiration of the term, or upon an earlier termination for breach.

27. CONFLICT OF INTEREST (RL 27.27) S

Lessee shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this agreement. TENANT warrants and covenants that no official or employee of CITY nor any business entity in which any official or employee of CITY is interested: (1) has been employed or retained to solicit or aid in the procuring of this agreement; or (2) will be employed in the performance of this agreement without the divulgence of such fact to CITY. In the event that CITY determines that the employment of any such official, employee or business entity is not compatible with such official's or employee's duties as an official or employee of CITY, TENANT upon request of CITY shall immediately terminate such employment. Violation of this provision constitutes a serious breach of this Lease and CITY may terminate this Lease as a result of such violation.

28. EMINENT DOMAIN (RL 27.28) S

If all or any part of the PREMISES (or the building in which the PREMISES are located) is condemned by a public entity in the lawful exercise of its power of eminent domain, this Lease shall cease as to the part condemned. The date of such termination shall be the effective date of possession of the whole or part of the PREMISES by the condemning public entity.

If only a part is condemned and the condemnation of that part does not substantially impair the capacity of the remainder to be used for the purposes required by this Lease, TENANT shall
continue to be bound by the terms, covenants and conditions of this Lease. However, the then monthly rent shall be reduced in proportion to the diminution in value of the PREMISES. If the condemnation of a part of the PREMISES substantially impairs the capacity of the remainder to be used for the purposes required by this Lease, TENANT may:

A. Terminate this Lease and thereby be absolved of obligations under this Lease which have not accrued as of the date of possession by the condemning public entity; or

B. Continue to occupy the remaining PREMISES and thereby continue to be bound by the terms, covenants and conditions of this Lease. If TENANT elects to continue in possession of the remainder of the PREMISES, the monthly rent shall be reduced in proportion to the reduced in proportion to the diminution in value of the PREMISES.

TENANT shall provide CITY with written notice advising CITY of TENANT'S choice within thirty (30) days of possession of the part condemned by the condemning public entity.

CITY shall be entitled to and shall receive all compensation related to the condemnation, except that TENANT shall be entitled to: (a) that portion of the compensation which represents the value for the remainder of the Lease term of any TENANT-constructed improvements taken by the condemning public entity, which amount shall not exceed the actual cost of such improvements reduced in proportion to the relationship of the remaining Lease term to the original Lease term, using a straight line approach, and (b) any amount specifically designated as a moving allowance or as compensation for Tenant’s personal property. Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease.

29. HAZARDOUS SUBSTANCES (RL 27.30) S

A. Compliance with Laws. Lessee shall not cause or permit any Hazardous Material (as defined below) to be brought upon, kept or used in or about the Premises or Project by Lessee, its agents, employees, contractors or invitees.

B. Termination of Lease. City shall have the right to terminate the Lease in City’s sole and absolute discretion in the event that (i) any anticipated use of the Premises by Lessee involves the generation or storage, use, treatment, disposal or release of Hazardous Material in a manner or for a purpose prohibited or regulated by any governmental agency, authority or Hazardous Materials Laws; (ii) Lessee has been required by any lender or governmental authority to take remedial action in connection with Hazardous Material contaminating the Premises, if the contamination resulted from Lessee’s action or use of the Premises; or (iii) Tenant is subject to an enforcement order issued by any governmental authority in connection with the release, use, disposal or storage of a Hazardous Material on the Premises.

C. Assignment and Subletting. If (i) any anticipated use of the Premises by any proposed assignee or sublessee involves the generation or storage, use, treatment or disposal or release of Hazardous Material in a manner or for any purpose, (ii) the proposed assignee or sublessees has been required by any prior landlord, lender or governmental authority to take remedial action in connection with
Hazardous Material contaminating a property, if the contamination resulted from such party’s action or use of the property in question, or (iii) the proposed assignee or sublessee is subject to an enforcement order issued by any governmental authority in connection with the release, use, disposal or storage of a Hazardous Material, then it shall not be unreasonable for City to withhold its consent to an assignment or subletting to such proposed assignee or sublessee.

**D. Hazardous Materials Defined.** 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 of the following statutes or regulations and any and all of those substances included within the definitions of “hazardous substances,” “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 (a) “CERCLA” or “Superfund” as amended by SARA, 42 U.S.C. Sec. 9601 et seq., (b) RCRA, 42 U.S.C. Sec. 6901 et seq., (c) CWA., 33 U.S.C. Sec. 1251 et seq., (d) CAA, 42 U.S.C. 78401 et seq., (e) TSCA, 15 U.S.C. Sec. 2601 et seq., (f) The Refuse Act of 1899, 33 U.S.C. Sec. 407, (g) OSHA, 29 U.S.C. 651 et seq. (h) Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq., (i) USDOT Table (40 CFR Part 302 and amendments) or the EPA Table (40 CFR Part 302 and amendments), (j) California Superfund, Cal. Health & Safety Code Sec. 25300 et seq., (k) Cal. Hazardous Waste Control Act, Cal. Health & Safety Code Section 25100 et seq., (l) Porter-Cologne Act, Cal. Water Code Sec. 13000 et seq., (m) Hazardous Waste Disposal Land Use Law, Cal. Health & Safety Code Sec. 25220 et seq., (n) “Proposition 65,” Cal. Health and Safety Code Sec. 25249.5 et seq., (o) Hazardous Substances Underground Storage Tank Law, Cal. Health & Safety Code Sec. 25280 et seq., (p) California Hazardous Substance Act, Cal. Health & Safety Code Sec. 28740 et seq., (q) Air Resources Law, Cal. Health & Safety Code Sec. 39000 et seq., (r) Hazardous Materials Release Response Plans and Inventory, Cal. Health & Safety Code Secs. 25500-25541, (s) TCPA, Cal. Health and Safety Code Secs. 25208 et seq., and (t) regulations promulgated pursuant to said laws or any replacement thereof, or as similar terms are defined in the federal, state and local laws, statutes, regulations, orders or rules. Hazardous Materials shall also mean any and all other substances, 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 contaminant, 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) any petroleum products or fractions thereof, (iii) asbestos, (iv) polychlorinated biphenyls, (v) flammable explosives, (vi) urea formaldehyde, and (vii) radioactive materials and waste.

**E. City’s Right to Perform Tests.** At any time prior to the expiration of the Lease Term, City shall have the right to enter upon the Premises in order to conduct tests of water and soil and to deliver to Tenant the results of such tests to demonstrate
that levels of any Hazardous Materials in excess of permissible levels has occurred as a result of Tenant's use of the Premises. Tenant shall be solely responsible for and shall indemnify, protect, defend and hold City harmless from and against all claims, costs and liabilities including actual attorneys' fees and costs arising out of or in connection with any removal, remediation, clean up, restoration and materials required hereunder to return the Premises and any other property of whatever nature to their condition existing prior to the appearance of the Hazardous Materials. The testing shall be at Tenant's expense if City has a reasonable basis for suspecting and confirms the presence of Hazardous Materials in the soil or surface or groundwater in on, under, or about the Premises or the Project, which has been caused by or resulted from the activities of Tenant, its agents, employees, contractors or invitees.

F. **Hazardous Materials Indemnity.** Lessee shall indemnify, defend (by counsel reasonably acceptable to City), protect and hold Landlord harmless from and against any and all claims, liabilities, penalties, forfeitures, losses and/or expenses, including, without limitation, diminution in value of the Premises or Project, damages for the loss or restriction on use of the rentable or usable space or of any amenity of the Premises or Project, damages arising from any adverse impact or marketing of the Premises or Project and sums paid in settlement of claims, response costs, cleanup costs, site assessment costs, attorneys’ fees, consultant and expert fees, judgments, administrative rulings or orders, fines, costs of death or of injury to any person or damage to any property whatsoever (including, without limitation, groundwater, sewer systems and atmosphere), arising from, or caused or resulting, either prior to or during the Lease Term, in whole or in part, directly or indirectly, by the presence or discharge in, on, under or about the Premises or Project by Lessee, Lessee’s agents, employees, licensees or invitees or at Lessee’s direction, of Hazardous Material, or by Lessee’s failure to comply with any Hazardous Materials Law, whether knowingly or by strict liability. Lessee’s indemnification obligations shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary Hazardous Materials management plan, investigation, repairs, cleanup or detoxification or decontamination of the Premises or Project, and the presence and implementation of any closure, remedial action or other required plans, and shall survive the expiration of or early termination of the Lease Term. For purposes of the indemnity provided herein, any acts or omissions of Lessee or its employees, agents, customers, sublessees, assignees, contractors or subcontractors of Lessee (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Lessee.

G. **Tenant’s Use of Premises.**

i. **TENANT** shall comply with all laws now or hereafter in effect relating to the use of Hazardous Materials on, under or about the PREMISES, and TENANT shall not contaminate the PREMISES, or its subsurfaces, with any Hazardous Materials.
ii. TENANT shall not cause or permit any Hazardous Materials to be used, stored, generated, or disposed of on or in the PREMISES by TENANT, TENANT's agents, employees, contractors, or invitees without first obtaining the written consent of the CITY'S Fire Chief and the City Manager.

iii. TENANT shall be solely and fully responsible for the reporting of all Hazardous Materials releases to the appropriate public agencies, when such releases are caused by or result from TENANT'S activities on the PREMISES. TENANT shall immediately inform CITY of any release of Hazardous Materials, whether or not the release is in quantities that would otherwise be reportable to a public agency.

iv. TENANT shall be solely and fully responsible and liable for such releases at the Premises, or into CITY'S sewage or storm drainage systems. TENANT shall take all necessary precautions to prevent any of its Hazardous Materials from entering into any storm or sewage drain system or from being released on the Premises. TENANT shall remove releases of its Hazardous Materials in accordance with all laws. In addition to all other rights and remedies of CITY hereunder, if the release of Hazardous Materials caused by TENANT is not removed by TENANT within ninety (90) days after discovery by TENANT, CITY or any other third party, CITY may pay to have the same removed and TENANT shall reimburse CITY for such costs within five (5) days of CITY'S demand for payment.

vi. TENANT'S obligations under this Section shall survive the expiration or earlier termination of this Lease.

30. ALL COVENANTS ARE CONDITIONS (RL 27.31) S

All provisions of the Lease are expressly made conditions.

31. PARTIES OF INTEREST (RL 27.32) S

Nothing in this agreement, expressed or implied, is intended to, or shall be construed to, confer upon or to give to any person or party other than CITY and TENANT the covenants, condition or stipulations hereof. All covenants, stipulations, promises and agreements in this Lease shall be for the sole and exclusive benefit of CITY and TENANT.

32. RECORDATION OF LEASE (RL 27.33) S

Neither CITY nor TENANT shall record this Lease; however, a short-form memorandum of Lease may be recorded at CITY'S request.
EXHIBIT B
INSURANCE REQUIREMENTS

Insurance Requirements for Lessee:

Lessee shall purchase and maintain the insurance policies set forth below on all of its operations under this Lease at its sole cost and expense. Such policies shall be maintained for the full term of this Lease and the related warranty period (if applicable). For purposes of the insurance policies required under this Lease, the term "City" shall include the duly elected or appointed council members, commissioners, officers, agents, employees and volunteers of the City of Palo Alto, California, individually or collectively.

Coverages (RL 28.1A) S

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance (for lessees with employees).
4) Property insurance against all risks of loss to any tenant improvements or betterments

The policy or policies of insurance maintained by TENANT shall provide the following limits and coverages:

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<tr>
<th>POLICY</th>
<th>MINIMUM LIMITS OF LIABILITY</th>
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<tbody>
<tr>
<td>(1) Commercial General Liability</td>
<td>$1,000,000 per each occurrence for bodily injury, personal injury and property damage</td>
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<tr>
<td>(2) Automobile Liability</td>
<td>$1,000,000 Combined Single Limit</td>
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<td>Including Owned, Hired and Non-Owned Automobiles</td>
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<tr>
<td>(3) Workers' Compensation Employers Liability</td>
<td>Statutory</td>
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<td>$1,000,000 per accident for bodily injury or disease</td>
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<td>(4) Tenant's Property Insurance</td>
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<td>Tenant shall procure and maintain property insurance coverage for:</td>
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<tr>
<td>(a) all office furniture, trade fixture, office equipment, merchandise,</td>
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and all other items of Tenant’s property in, on, at, or about the premises and the building, include property installed by, for, or at the expense of Tenant;
(b) all other improvements, alterations, and additions to the premises (excluding the existing building) installed by, for, or at the expense of the TENANT.

Tenant’s property insurance must fulfill the following requirements:
(a) it must be written on the broadest available “all risk” policy form or an equivalent form acceptable City of Palo Alto, including earthquake sprinkler leakage.
(b) for no less than ninety percent (90%) of the full replacement cost (new without deduction for depreciation) of the covered items and property; and
(c) the amounts of coverage must meet any coinsurance requirements of the policy or policies.

(RL 28.2)

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the option of the CITY either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the CITY, its officers, officials, employees and volunteers; or the TENANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Insurance shall be in full force and effect commencing on the first day of the term of this Lease.

Where applicable, each insurance policy required by this Lease shall:

1. Be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days’ prior written notice by certified mail, return receipt requested, has been given to the CITY.

2. Include a waiver of all rights of subrogation against the CITY and the members of the City Council and elective or appointive officers or employees, and each party shall indemnify the other against any loss or expense including reasonable attorney fees, resulting from the failure to obtain such waiver.

3. Name the CITY OF PALO ALTO as a loss payee on the property policy.

4. Provide that the CITY, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects liabilities arising out of activities performed by or on behalf of the TENANT; products and completed operations of the TENANT; premises owned, occupied or used by the TENANT; or automobiles...
owned, leased, hired or borrowed by the TENANT. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officers, officials, employees, agents or volunteers.

5. Provide that for any claims related to this Lease, the TENANT's insurance coverage shall be primary insurance as respects the CITY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents or volunteers shall be excess of the TENANT's insurance and shall not contribute with it.

6. Provide that any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the CITY, its officers, officials, employees, agents or volunteers.

7. Provide that TENANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

8. TENANT agrees to promptly pay to CITY as Additional Rent, upon demand; the amount of any increase in the rate of insurance on the Premises or on any other part of Building that results by reason of TENANT's act(s) or TENANT's permitting certain activities to take place.

Acceptability of Insurers

All insurance policies shall be issued by California-admitted carriers having current A.M. Best's ratings of no lower than A-.VII.

Other Insurance Requirements

TENANT shall deposit with the City Manager, on or before the effective date of this Lease, certificates of insurance necessary to satisfy CITY that the insurance provisions of this Lease have been complied with, and to keep such insurance in effect and the certificates therefor on deposit with CITY during the entire term of this Lease. Should TENANT not provide evidence of such required coverage at least three (3) days prior to the expiration of any existing insurance coverage, CITY may purchase such insurance, on behalf of and at the expense of TENANT to provide six months of coverage.

CITY shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of the CITY's Risk Manager (or comparable official), the insurance provisions in this Lease do not provide adequate protection for CITY and for members of the public using the PREMISES, the City Manager may require TENANT to obtain insurance sufficient in coverage, form, and amount to provide adequate protection as determined by the Risk Manager. CITY'S requirements shall be reasonable and shall be designed to assure protection from and against the kind and extent of risk that exists at the time a change in insurance is required.
The City Manager shall notify TENANT in writing of changes in the insurance requirements. If TENANT does not deposit copies of acceptable insurance policies with CITY incorporating such changes within sixty (60) days of receipt of such notice, or in the event TENANT fails to maintain in effect any required insurance coverage, TENANT shall be in default under this lease without further notice to TENANT. Such failure shall constitute a material breach and shall be grounds for immediate termination of this Lease at the option of CITY.

The procuring of such required policy or policies of insurance shall not be construed to limit TENANT'S liability hereunder nor to fulfill the indemnification provision and requirements of this Lease. Notwithstanding the policy or policies of insurance, TENANT shall be obligated for the full and total amount of any damage, injury, or loss caused by or connected with this Lease or with use or occupancy of the PREMISES.