UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF ILLINOIS

PROOF OF CLAIM

03103119042172

Name of Debtor Against Which You Assert Your Claim

YOU MUST SELECT A DEBTOR AGAINST WHOM YOU ASSERT YOUR CLAIM YOU SELECT A DEBTOR BY CHECKING ONE BOX ON THE OTHER SIDE OF THIS NOTICE NOTE Check one box only Creditors holding claims against more than one Debtor must file a separate claim in the case of each Debtor against whom the creditor asserts a claim A creditor will be bound by the Debtor named in its proof of claim

NOTE This form should not be used to make a claim for an administrative expense arising after the commencement of the case A request for payment of an administrative expense may be filed pursuant to 11 U S C § 503

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim Attach copy of statement giving particulars

☐ **Check box if you have never received any notices from the bankruptcy court in this case**

☑ Check box if this address differs from the address on the envelope sent to you by the court

Name of Creditor and Address

03103119042172

~~GG 79TH STREET INC C/O GE CAPITAL ADVISORS~~
~~C/O CB RICHARD ELLIS~~
~~1550 E 79TH ST SUITE 105~~
~~BLOOMINGTON, MN 55425-1139~~

United Properties Investment
c/o Lindquist & Vennum
4200 IDS Center
80 S 8th St
Minneapolis, MN 55402

(see attached)

Creditor Telephone Number (612) 371-2493

The amounts reflected above if any constitute your claim as scheduled by the Debtor If you agree with the amounts set forth herein and have no other claim against the Debtor you do not need to file this proof of claim EXCEPT as stated below

If the amounts shown above are listed as Contingent Unliquidated or Disputed a proof of claim must be filed

If you have already filed a proof of claim with the Bankruptcy Court or BMC you do not need to file again

CREDITOR TAX I D #	ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR	Check here if this claim ☐ replaces or ☐ amends a previously filed claim dated _____

1 BASIS FOR CLAIM

☐ Goods sold
☐ Services performed
☐ Money loaned
☐ Bondholder
☐ Personal injury/wrongful death
☐ Taxes
☒ Other (describe briefly) Lease Claim (see attached)
☐ Retiree benefits as defined in 11 U S C § 1114(a)
☐ Wages salaries and compensation (Fill out below)

Your social security number _____

Unpaid compensation for services performed from _____ (date) to _____ (date)

2 DATE DEBT WAS INCURRED

3 IF COURT JUDGMENT, DATE OBTAINED

4 TOTAL AMOUNT OF CLAIM

$ 72,763 (unsecured)	$ _____ (secured)	$ _____ (unsecured priority)	$ _____ (total)

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below

☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim Attach itemized statement of all interest or additional charges

5 SECURED CLAIM

☐ Check this box if your claim is secured by collateral (including a right of setoff)

Brief description of collateral

☐ Real Estate
☐ Motor Vehicle
☐ Other _____

Value of collateral $ _____

Amount of arrearage and other charges at time case filed included in secured claim above if any $ _____

6 UNSECURED PRIORITY CLAIM

☐ Check this box if you have an unsecured priority claim

Specify the priority of the claim

☐ Wages salaries or commissions (up to $4 650*) earned within 90 days before filing of the bankruptcy petition or cessation of the Debtor's business whichever is earlier 11 U S C § 507(a)(3)

☐ Contributions to an employee benefit plan 11 U S C § 507(a)(4)

☐ Up to $2 100 of deposits toward purchase lease or rental of property or services for personal family or household use 11 U S C § 507(a)(6)

☐ Alimony maintenance or support owed to a spouse former spouse or child 11 U S C § 507(a)(7)

☐ Taxes or penalties owed to governmental units 11 U S C § 507(a)(8)

☐ Other Specify applicable paragraph of 11 U S C § 507(a) _____

Amounts are subject to adjustment on 4/1/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment

7 CREDITS The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim

8 SUPPORTING DOCUMENTS *Attach copies of supporting documents,* such as promissory notes purchase orders invoices itemized statements of running accounts contracts court judgments mortgages security agreements and evidence of perfection of lien DO NOT SEND ORIGINAL DOCUMENTS If the documents are not available explain If the documents are voluminous attach a summary

9 DATE-STAMPED COPY To receive an acknowledgment of your claim please enclose a self-addressed stamped envelope and an additional copy of your claim

The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is received on or before 4 00 pm Central Time on May 22 2003

BY MAIL TO
Bankruptcy Management Corporation
ATTN Conseco Inc Claims
PO Box 1042
El Segundo CA 90245-1042

BY HAND OR OVERNIGHT DELIVERY TO
Bankruptcy Management Corporation
ATTN Conseco Inc Claims
1330 East Franklin Avenue
El Segundo CA 90245

THIS SPACE FOR COURT USE ONLY

FILED
MAY 21 2003
BMC

Conseco Finance Servicing Claim
49676001566

DATE SIGNED	**SIGN** and print the name and title if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney if any)
5-20-03	George H Singer Attorney

Penalty for presenting fraudulent claim is a fine of up to $500 000 or imprisonment for up to 5 years, or both 18 U S C §§ 152 AND 3571

Name of Debtor Against Which You Assert Your Claim
Check One Box Only

- ☐ Conseco Finance Corp (02-49675-CAD)
- ☑ Conseco Finance Servicing Corp (02-49676-CAD)
- ☐ Conseco Agency of Alabama Inc (03-04692-CAD)
- ☐ Conseco Agency Inc (03 04693-CAD)
- ☐ Conseco Agency of Kentucky Inc (03-04694-CAD)
- ☐ Conseco Agency of Nevada Inc (03-04695-CAD)
- ☐ Conseco Agency of New York Inc (03-04696-CAD)
- ☐ Crum-Reed General Agency Inc (03-04697-CAD)
- ☐ Conseco Finance Canada Company (03-04698-CAD)
- ☐ Conseco Finance Canada Holding Company (03-04699 CAD)
- ☐ Conseco Finance Corp - Alabama (03-04700 CAD)
- ☐ Conseco Finance Credit Corp (03-04701-CAD)
- ☐ Conseco Finance Consumer Discount Company (03 04702-CAD)
- ☐ Conseco Finance Loan Company (03 04703-CAD)
- ☐ Conseco Finance Net Interest Margin Finance Corp I (03-04704-CAD)
- ☐ Conseco Finance Net Interest Margin Finance Corp II (03-04705 CAD)
- ☐ Green Tree Floorplan Funding Corp (03-04706 CAD)
- ☐ Green Tree Finance Corp - Two (03-04707-CAD)
- ☐ Landmark Manufactured Housing Inc (03-04708-CAD)
- ☐ Rice Park Properties Corporation (03-04709 CAD)

INSTRUCTIONS FOR FILING PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law In particular types of cases or circumstances such as bankruptcy cases that are not filed voluntarily by a debtor there may be exceptions to the general rules

— DEFINITIONS --

Debtor

The person corporation or other entity that has filed a bankruptcy case is called the debtor

Creditor

A creditor is any person corporation or other entity to whom the debtor owed a debt on the date that the bankruptcy case was filed

Proof of Claim

A form telling the bankruptcy court how much the debtor owed a creditor at the time the bankruptcy case was filed (the amount of the creditor's claim) This form must be filed with the court appointed Claims Agent Bankruptcy management Corporation at the address listed on the reverse side of this page

Secured Claim

A claim is a secured claim to the extent that the creditor has a lien on property of the debtor (collateral) that gives the creditor the right to be paid from that property before creditors who do not have liens on the property

Examples of liens are a mortgage on real estate and a security interest in a car truck boat television set or other item of property A lien may have been obtained through a court proceeding before a bankruptcy case began In some states a court judgment is a lien In addition to the extent a creditor also owes money to the debtor (has a right of setoff) the creditor s claim may be a secured claim (See also Unsecured Claim)

Unsecured Claim

If a claim is not secured claim it is an unsecured claim A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full

Unsecured Priority Claim

Certain types of unsecured claims are given priority so they are to be paid in bankruptcy cases before most other unsecured claims (if there is sufficient money or property available to pay these claims) The most common types of priority claims are listed on the proof of claim form Unsecured claims that are not specifically given priority status by the bankruptcy laws are classified as Unsecured Nonpriority Claims

Items to be completed in Proof of Claim form (if not already filled in)

Court, Name of Debtor, and Case Number

Fill in the name of the federal judicial district where the bankruptcy case was filed (for example District of Delaware) the name of the debtor in the bankruptcy case and the bankruptcy case number If you received a notice of the case from the Claims Agent Bankruptcy Management Corporation all of this information is near the top of the notice

Information about Creditor

If not already accurately pre-printed omplete the section giving the name address and telephone number of the creditor to whom the debtor owes money or property and the debtor's account number if any If (a) anyone else has already filed a proof of claim relating to this debt (b) if you never received notices from the bankruptcy court about this case (c) if your address differs from that to which the Claims Agent sent this notice or (d) if this proof of claim replaces or amends a proof of claim that was already filed check the appropriate boxes on the form

1 Basis for Claim

Check the type of debt for which the proof of claim is being filed If the type of debt is not listed check Other' and briefly describe the type of debt If you were an employee of the debtor fill in your social security number and the dates of work for which you were not paid

2 Date Debt Incurred

Fill in the date when the debt was first owed by the debtor

3 Court Judgments

If you have a court judgment for this debt state the date the court entered the judgment

4 Total Amount of Claim at Time Case Filed

Fill in the total amount of the entire claim If interest or other charges in addition to the principal amount of the claim are included check the appropriate place on the form and attach an itemization of the interest and charges

5 Secured Claim

If your claim is a secured claim check the appropriate boxes in this section You must state the type and value of property that is collateral for the claim attach copies of the documentation of your lien and state the amount past due on the claim as of the date the bankruptcy case was filed A claim may be partly secured and partly unsecured (See DEFINITIONS above)

6 Unsecured Priority Claim

If your claim is an unsecured priority claim (See DEFINITIONS above) check the appropriate boxes in this section and state the amount entitled to priority A claim may be partly priority and partly nonpriority if for example the claim is more than the amount given priority by the law Check the appropriate place to specify the type of priority claim

7 Credits

By signing this proof of claim you are stating under oath that in calculating the amount of your claim you have given the debtor credit for all payments received from the debtor

8 Supporting Documents

You must attach to this proof of claim form copies of documents that show the debtor owes the debt claimed or if the documents are too lengthy a summary of those documents If documents are not available you must attach an explanation of why they are not available

Please read – important information upon completion of this claim form you are certifying that the statements herein are true

Be sure to date the claim and place original signature of claimant or person making the claim for creditor where indicated at the bottom of the claim form Please type or print name of individual under the signature Be sure all items are answered on the claim form If not applicable insert Not Applicable

Return claim form and attachments if any and a second copy with any attachments to the Claims Agent Bankruptcy Management Corporation at the address on the front of this form

ADDENDUM TO PROOF OF CLAIM

In re Conseco, Inc (Jointly Administered)
BKY No 02-B49672

In re Conseco Financing Servicing Corp ("Debtor")
BKY No 02-49676-CAD

This Addendum and attachments/exhibits constitute an integral part of the Proof of Claim

Basis for Claim

This claim is based upon (1) amounts owed by the above-referenced Debtor to United Properties Investment LLC, a Minnesota limited liability company ("Landlord"), under that certain nonresidential real estate lease agreement (the "Agreement") for real property located at 1550 E 79th Street, Suite No 650 (the "Premises") that was formerly owned by SC 79th Street, Inc , a Delaware corporation, and (2) unpaid costs associated with the use and occupancy of the Premises A copy of each of the Agreements are attached to this Proof of Claim as **Exhibit A**

Reservation of Rights

Landlord reserves the right to amend this Proof of Claim for any reason including, without limitation, the Debtor's ultimate rejection of any of the Agreements and to properly account for any claim(s) for damages, indemnification and/or reimbursement Landlord reserves all other rights under the Agreements and applicable law Landlord further reserves the right to seek priority treatment for any unpaid, postpetition amounts, if any, that have or may have arisen under 11 U S C §§ 365(d)(3), 503, & 507

Contact Information

United Properties Investment, LLC
c/o Lindquist & Vennum P L L P
Attn George H Singer
4200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402
Telephone 612/371-2493
Facsimile 612/371-3207
e-mail gsinger@lindquist com

Calculation of Claim

Current Monthly Rent & CAM	$5,824	
Square Footage	2,975	
Current Rent PSF	$14 00	$23 49
2003 Tax and CAM	$9 49	
Tax and CAM Annual Increase	5 0%	

Total Rent Due Through 10/31/05 $172,706

One Year Rent	
((7 x $5,824 = $40,758) + (5 x $5,941 = $29,705)) =	$70,463
Costs	
Total Estimated Costs	$ 2,300
(re-keying, carpet cleaning, cleaning expenses)	$72,763

U ted Propert es
Conseco
Proof f Cla m

Squa Foo ge		
Current Rent P f	2 975	
2003 Tax nd Cam	$14 00	$23 49
Tax and Cam Annual Increase	$9 49	
	5 00%	

	J n-03	J l-03	A g-03	Sep-03	Oct-03	No -03	Dec-03	J n-04	Feb-04	Ma -04	Apr-04	M y-04	J n-04	J l-04	Aug-04	Sep-04	Oct-04	No -04	Dec-04	J n-05	Feb-05	M -05	Apr-05	May-05	J -05	J l-05	A g-05	Sep-05	Oct-05
Monthly Base Rent	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 471	3 47	3 471	3 47
Monthly Oper t ng E pense	2 353	2 353	2 353	2 353	2 353	2 353	2 353	2 470	2 470	2 470	2 470	2 470	2 470	2 470	2 470	2 470	2 470	2 470	2 470	2 594	2 594	2 594	2 594	2 594	2 594	2 594	2 594	2 594	2 594
Mo thly T t ls	$5 824	$5 824	$5 824	$5 824	$5 824	$5 824	$5 824	$5 941	$5 941	$5 941	$5 941	$5 941	$5 941	$5 941	$5 941	$5 941	$5 94	$5 941	$5 941	$6 065	$6 065	$6 065	$6 065	$6 065	$6 065	$6 065	$6 065	$6 065	$6 065

T t l Rent Due through 10/31/05 $172 706

Exhibit A

AMENDMENT TO LEASE AGREEMENT

This AMENDMENT TO LEASE AGREEMENT is entered into as of 9-14-00, 2000 by and between **SC 79TH STREET, INC**, a Delaware corporation ("**Landlord**"), and **CONSECO FINANCE SERVICING CORP. (formerly Green Tree Financial Servicing Corporation)**, a Deleware corporation ("**Tenant**")

WITNESSETH

WHEREAS, Landlord in-interest and Tenant have entered into a lease dated July 6, 1998 (the "**Lease**") of approximately 3,049 rentable square feet (the "**Current Demised Premises**") located in Suite 800 in the office building commonly known as Firstar Financial Center 1550 East 79th Street, Bloomington, Minnesota (the "**Building**"),

WHEREAS, Landlord and Tenant desire to relocate Tenant from Suite 800 to Suite 650 in the Building and to make certain other modifications and amendments thereto as hereinafter set forth,

WHEREAS, the defined terms used herein, unless otherwise defined herein shall have the meanings ascribed to those terms in the Lease, and

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained and for other good and valuable consideration, the receipt whereof is hereby acknowledge Landlord and Tenant do hereby agree as follows

1 **Effect** The Lease is hereby amended to the extent necessary to give effect to this Amendment and the terms of this Amendment shall supersede any contrary terms in the Lease All references in the Lease to "this Lease" shall be deemed to refer to the Lease as amended by this Amendment In all other respects the terms and conditions of the Lease shall remain unmodified and in effect

2 **Lease Term.** Commencing on October 1, 2000 and continuing sixty (60) months thereafter

3 **Demised Premises** The Current Demised Premises shall be amended and reduced from 3,049 rentable square feet to 2,975 rentable square feet, and any reference in the Lease to the Demised Premises shall thereafter be deemed to refer to and include Suite 650 (See floor plan showing Suite 650, attached hereto as Exhibit A)

4. **Tenant's Proportionate Share** One and ninety-three one-hundredths percent (1 93%)

5. **Base Rent** The Base Rent shall be Fourteen Dollars ($14 00) per rental square foot, equivalent to the sum of Three Thousand Four Hundred Seventy Dollars and Eighty Three Cents (3,470 83)

6 **Initial Monthly Payment** The following chart is provided as an estimate of Tenant's initial monthly payment broken down into its components The chart, however, does not supersede the specific provisions contained elsewhere in this Amendment or the Lease

Initial Base Rent	$3,470 83
Initial Common Area Maintenance Charge	$2,702 29
Total Initial Monthly Payment	$6,173 12

7. **Relocation Related Expenses** Landlord agrees to pay Tenant's reasonable relocation related expenses, the total cost of which shall be approximately Forty Six Thousand Dollars ($46,000 00), for the purpose of providing Tenant with comparable work space and work related equipment The relocation related expenses shall apply to (a) tear down/relocation/re-installment of workstations, (b) physical relocation, (c) reprinting materials, (d) relocation strategies/CRESA partners fee and (e) miscellaneous expenses as mutually agreed to by the parties

8. **Construction of Tenant Improvements** In addition to the relocation related expenses provided in Section 7 above, Landlord shall construct Tenant improvements in accordance with the plans and specifications agreed to by the parties, prepared by BDH & Young Space Design dated 7-28-00, attached hereto as Exhibit B ("Plans and Specifications) The Plans and Specifications as provided in Exhibit B are final Tenant shall make no changes or modifications to the Plans and Specifications without the prior written consent of Landlord which consent may be withheld in Landlord's sole discretion Landlord shall pay all construction costs for Tenant Improvement directly to the contracting parties entitled to payment Landlord shall use reasonable due diligence to substantially complete Tenant Improvement by October 1, 2000

9 **Early Termination** Notwithstanding anything to the contrary in the Lease or this Amendment, Tenant shall have the option to terminate the Lease effective the third anniversary of the commencement date provided for in this Amendment Tenant shall exercise its option by delivery to Landlord not less than six (6) months prior to the effective date of termination of the lease term, (a) written notice of its exercise of its option, (b) a termination fee equal to (i) Landlord's unamortized expenses in connection with the Lease, estimated at Fifty Nine Thousand Six Hundred Twenty Five Dollars and Fifty Two Cents ($59,625 52), plus (ii) three months gross rent

10 **Exhibition Of Demised Premises** Tenant shall permit Landlord and its agents, upon twenty-four (24) hours' prior notice (except in the case of emergencies in which event no prior notice need be given), to enter and pass through the Demised Premises or any part thereof at reasonable times during normal business hours to (a) post notices of nonresponsibility, (b) exhibit the Demised Premises to holders of encumbrances on the interest of Landlord under

the lease and to prospective purchasers, mortgagees or Tenants of the Building and (c) during the period of six (6) months prior to the expiration of the lease term of the Demised Premises, exhibit the Demised Premises to prospective tenants thereof

11 **Tenant Representations** Tenant hereby represents to Landlord that there has been no assignment of the Lease and no sublease of all or any portion of the Current Demised Premises, there are no existing defenses or offsets which Tenant has against enforcement of the Lease, and Landlord and Tenant are not currently in default under the Lease

12 **Security Deposit** No security deposit is required under this Amendment to the Lease

13 **Entire Agreement** The Lease, including, without limitation, this Amendment and all exhibits which are attached hereto and hereby incorporated by reference, constitutes the entire agreement between Landlord and Tenant with respect to the subject matter hereof Tenant acknowledges that it has not been induced to enter into this Amendment by any agreements or representations which are not set forth in this Amendment This Amendment shall not be effective until execution and delivery by both Landlord and Tenant

By signing this Amendment, the parties agree to the above terms

LANDLORD

SC 79TH STREET, INC
By GE Capital Investment Advisors, Inc ,
its investment advisor

By _____
Printed Name Robert D Norberg
Its Vice President

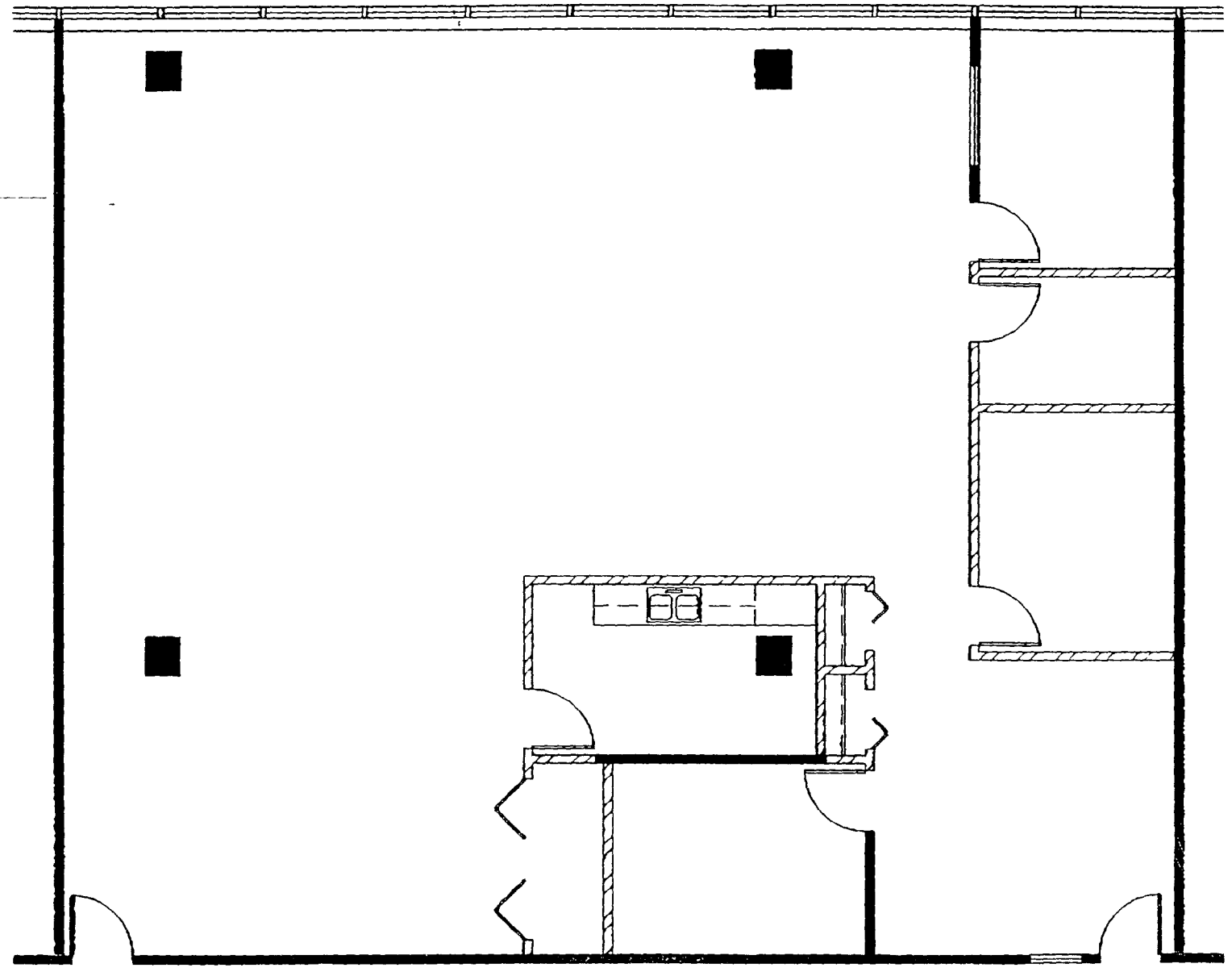
TENANT

CONSECO FINANCE SERVICING CORP

By _____
Printed Name Brian F. Corey
Its Senior Vice President, General Counsel and Secretary

EXHIBIT A

Floor plan showing Suite 650



OFFICE LEASE
(Multitenant Building)

Building. 1550 EAST 79TH STREET (FIRSTAR FINANCIAL CENTER)

Landlord. SC 79TH STREET, INC.

Tenant GREEN TREE FINANCIAL SERVICING CORPORATION

INDEX TO LEASE

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EXHIBITS

EXHIBIT "A"	DESCRIPTION OF LANDLORD'S PROPERTY
EXHIBIT "B"	DEMISED PREMISES
EXHIBIT "C"	CONSTRUCTION TENANT ACCEPTANCE OF SPACE "AS IS"
EXHIBIT "D"	TENANT CONSTRUCTION RULES AND REGULATIONS

OFFICE LEASE

ARTICLE 1
DEFINITIONS AND CERTAIN BASIC PROVISIONS

1 1 Definitions The following list sets out certain defined terms and certain financial and other information pertaining to this lease,

(a) "Landlord" SC 79th Street, Inc , a Delaware corporation

(b) Landlord's address c/o GE Capital Investment Advisors, Inc , 444 Market Street, Suite 2100, San Francisco, California 94111, Attention Asset Management

(c) "Tenant" Green Tree Financial Servicing Corporation

(d) Tenant's address for notices Green Tree Financial Servicing Corporation, 332 Minnesota Street, Suite 600, St. Paul, MN 55101

With copies to Area Manager, Green Tree Financial Servicing Corporation, 1550 East 79th Street, Suite 800, Bloomington, MN,

and to Regional Manager, Green Tree Financial Servicing Corporation, 1000 Des Peres Road, Suite 300, St Louis, MO 63131

(e) Tenant's trade name Same

(f) Tenant's Guarantor None

(g) "Agent" Tobin Real Estate, CB Richard Ellis

(h) "Building" Landlord's property located in the City of Bloomington, County of Hennepin, State of Minnesota, which property is described or shown on ***Exhibit "A"*** attached to this lease With regard to ***Exhibit "A"***, the parties agree that the exhibit is attached solely for the purpose of locating the Building and the Demised Premises within the Building and that no representation, warranty, or covenant is to be implied by any other information shown on the exhibit (i e , any information as to buildings, tenants or prospective tenants, etc is subject to change at any time)

(i) "Demised Premises" That certain area in the Building commonly described as Suite 800 containing approximately 3,049 rentable square feet and being described or shown cross-hatched on the floor plan(s) attached hereto as ***Exhibit "B"***

(j) "Commencement Date" August 1, 1998, subject to Section 3 1 hereof

(k) Lease Term Subject to the provisions of Section 24 18, Commencing on the Commencement Date and continuing for five (5) years after the Commencement Date, provided that if the Commencement Date is a date other than the first day of a calendar month, the lease term shall be extended by the number of days remaining in the calendar month in which the Commencement Date occurs

(l) Base Rent $14 50 per rentable square foot

(m) Tenant's Proportionate Share one and ninety-eight one-hundredths percent (1 98%)

(n) Security deposit None

(o) Permitted use general office use and for no other purpose whatsoever

1 2 Initial Monthly Payment The following chart is provided as an estimate of Tenant's initial monthly payment broken down into its components The chart, however, does not supersede the specific provisions contained elsewhere in this lease

Initial Base Rent (Sections 1 1(l) and 4 1)	$ 3,684 21
Initial Common Area Maintenance Charge (Sections 1 1(m) and 4 2)	$ 2,566 24
Total Initial Monthly Payment	$ 6,250 45

ARTICLE 2.
GRANTING CLAUSE

Landlord leases the Demised Premises to Tenant, and Tenant leases the Demised Premises from Landlord, upon the terms and conditions set forth in this lease

ARTICLE 3
DELIVERY OF DEMISED PREMISES

3 1 Construction Landlord shall construct Tenant Improvements for Tenant in accordance with the terms of ***Exhibit "C"*** attached to this Lease This Lease shall commence on the date of "Substantial Completion" of the "Tenant Improvements" (as such terms are defined in the Work Letter attached hereto as ***Exhibit "C"***), or such earlier date as Tenant takes possession or commences use of the Demised Premises for any purpose other than construction (the "Commencement Date") In the event permission is given to Tenant to enter or occupy all or a portion of the Demised Premises prior to the Commencement Date for purposes other than construction and installation of furniture and furnishings, such occupancy shall be subject to all of the terms and conditions of the Lease, including the payment of rent, except that the Term hereof shall commence on the date Tenant enters or occupies the Premises prior to the Commencement Date When the Commencement Date has been determined, Landlord shall execute a written acknowledgment in a form reasonably prescribed by Landlord ("Landlord's Notice"), stating the actual Commencement Date, which shall be served on Tenant as provided herein

3 2 Effect of Delay Tenant agrees that Landlord shall have no liability, nor shall Tenant be entitled to terminate or cancel this Lease, if the Tenant Improvements are not Substantially Completed by the Commencement Date, provided that Landlord will waive the payment of rent and other charges covering any period prior to tender of possession of the Demised Premises to Tenant In no event shall a

Tenant Delay excuse Tenant's performance hereunder Tenant shall be responsible for, and immediately pay upon demand to Landlord, any and all costs and expenses incurred by Landlord in connection with any Tenant Delay (as defined in the Work Letter Agreement)

ARTICLE 4
RENT

4 1 Base Rent Tenant shall pay to Landlord at 1550 East 79th Street, Bloomington, MN, or to such other person or at such other place as Landlord shall designate, as rent for the Demised Premises and in legal tender at the time of payment, Base Rent equal to Forty-Four Thousand Two Hundred Ten and 50/100 Dollars ($44,210 50) payable in equal monthly installments of Three Thousand Six Hundred Eighty-Four and 21/100 Dollars ($3,684,21) per month in advance on the first day of every calendar month commencing on the Commencement Date

4 1 1 If the Term commences on a day other than the first day of the calendar month or ends on a day other than the last day of the calendar month, the Base Rent for such month shall be pro rated Tenant's covenant to pay rent shall be independent of every other covenant set forth in this lease and rent shall be paid without deduction, set-off, discount or abatement.

4 1 2 Anything contained in this Section 4 1 to the contrary notwithstanding, Tenant shall pay the first monthly installment of Base Rent concurrently with the execution of this lease

4 1 3 All charges, costs and sums required to be paid by Tenant to Landlord under this lease in addition to Base Rent shall be deemed "Additional Rent", and Base Rent and Additional Rent shall herein collectively be referred to as "Rent"

4 2 Additional Rent

4 2 1 As used in this Section 4 2 the following terms shall have the following meanings

(i) Expenses shall consist of all operating expenses of the Property Operating expenses shall include all costs, expenses and disbursements of every kind, nature and description which Landlord shall pay or become obligated to pay in connection with ownership, management, operation, maintenance and repair of and the necessary replacements in the Property and of the personal property, fixtures, machinery, equipment, systems and apparatus located therein or used in connection therewith, except the following Taxes, cost of alterations of any premises in the Building for other tenants of the Building, costs of capital improvements of the Property (except that operating expenses shall specifically include the cost, as advised by Landlord, of any labor or cost savings device or installation installed subsequent to the date hereof), interest and principal payments on mortgages, the rental value of Landlord's office in the Building, if applicable, cost and expenses incurred in connection with negotiations with prospective tenants of the Building Without limiting the generality of the foregoing, expenses shall include, but shall not be limited to, the following

(a) Wages and salaries of all employees engaged in operating and maintenance or security of the Property, including taxes, insurance and benefits relating thereto,

(b) All supplies and materials purchased in operation and maintenance of the Property,

(c) Cost of all utilities for the Property including the cost of water and power, heating, lighting, air conditioning and ventilating for the Building (but excluding therefrom all costs under Section 4 2 2 hereof as estimated by Landlord or Landlord's electrical engineer, of providing electrical service for all tenant spaces in the Building for building standard lighting fixtures and for incidental tenant uses, the cost of providing electrical services for all public areas and special service areas of the Building shall not be excluded),

(d) Cost of all maintenance and service agreements for the Property and the equipment therein or thereon, including, but not limited to, management, alarm service, scavenger service, repair or replacement of any heating, ventilating and air conditioning equipment, wages and union benefits of employees (including the amount of any social security taxes, unemployment insurance, contributions and "fringe" benefits), window cleaning, elevator maintenance and janitorial services,

(e) Cost of all insurance relating to the Property, including the cost of casualty, rental and liability insurance applicable to the Building and Landlord's personal property used in connection therewith,

(f) Cost of repairs and general maintenance (excluding repairs and maintenance paid by proceeds of insurance or by Tenant or other third parties), and

(g) Cost, as amortized by Landlord, of any labor savings or cost saving device or installation installed subsequent to the date hereof

In the event that the Building is not fully occupied during any fiscal year all or any portion of which occurs during the Term, the variable Expenses for that year shall be equitably adjusted to reflect the Expenses as though the Building were fully occupied

The definition of Expenses which may be charged to Tenant as Additional Rent under the Lease shall specifically exclude, in addition to matters specifically excluded in the Lease, (a) costs resulting from defective design or construction of the Building, (b) amounts paid to affiliates of Landlord for goods and/or services at rates in excess of fair market value, (c) costs resulting from negligence of Landlord or its agents or employees, and (d) costs for any removal of abatement of Hazardous Substances or asbestos These specific exclusions are not intended to be exhaustive, and are intended to supplement and not limit any exclusion or limitations of operating expenses which are provided for in the Lease

(ii) Limited Expenses shall mean all items constituting Expenses except for management fees, cost of all insurance relating to the Property, including the cost of casualty, rental and liability insurance applicable to the Building and Landlord's personal property used in connection therewith and the cost of all fuel and utilities for the Building including the cost of water and power, heating, lighting, air conditioning and ventilating of the Building

(iii) Taxes shall mean all real estate taxes, assessments (whether they be general or special), sewer rents, rates and charges, transit taxes, taxes based upon government charge, general, special, ordinary or extraordinary which may now or hereafter be levied or assessed against the Property or the personal property, fixtures, machinery equipment, systems and apparatus located therein or used in connection therewith In case of special taxes or assessments which may be payable in installments, only the amount of each installment paid during a fiscal year shall be included in Taxes for

that year There shall be included in Taxes for any year the amount of all fees, costs and expenses (including attorneys' fees) paid by Landlord during such year in seeking or obtaining any refund or reduction thereof If at any time during the Term of this lease (or any renewal or extension thereof) the method of taxation prevailing at the commencement of the Term shall be altered so that any new tax, assessment, levy, imposition or charge, or any thereof, shall be measured by or be based in whole or in part upon this lease, or the Building, or the Demised Premises, or the Property, or the rent, additional rent or other income from any or all of the foregoing and shall be imposed upon the Landlord, then all such taxes, assessments, levies, impositions or charges, or the part thereof, to the extent that they are so measured or based, shall be deemed to be included within the term Taxes for the purposes hereof to the extent that such Taxes would be payable if the Property were the only property of Landlord subject to such Taxes There shall be excluded from Taxes all federal income taxes, federal excise profit taxes, franchise, capital stock and federal or state estate or inheritance taxes of Landlord It is agreed that Tenant will be responsible for taxes on its personal property

(iv) Fiscal year shall mean any twelve (12) month period (including, without limitation, the calendar year) which Landlord may from time to time select as the fiscal year of the Property, provided, that in case Landlord changes such fiscal year, the fiscal years before and after the change may contain less than twelve (12) months

(v) Tenant's proportionate Share shall mean the percentage obtained by dividing the net rentable area of the Premises by the net rentable area of the Property, each as reasonably determined by Landlord If changes are made to the number of square feet of net rentable area in the Premises or in the Property, Tenant's Proportionate Share shall be appropriately adjusted and the computations of rent shall be appropriately adjusted upon written notice to Tenant so as to take into account the different Tenant's Proportionate Share figures applicable during each portion of the applicable fiscal year

(vi) Landlord shall, in its reasonable discretion and consistent with the provisions of this Lease, determine from time to time the method of computing Expenses, the allocation of Expenses among the various parts and types of space within the Property and the allocation of Expenses relating to more than one fiscal year

4 2 2 For each fiscal year, Tenant shall pay Tenant's Proportionate Share of the Expenses for such year Landlord shall, after the close of each fiscal year, give Tenant a statement of each years' actual Expenses Tenant shall pay Landlord, within thirty (30) days of statement receipt, Tenant's Proportionate Share of such Expenses less the sums received by Landlord pursuant to subsection 4 2 3 below, or Landlord shall credit overpayment in accordance with Section 4 2 3 For each fiscal year, Tenant shall pay Tenant's Proportionate Share of the Taxes for such year Tenant shall pay Landlord within thirty (30) days of statement receipt, Tenant's Proportionate Share of such Taxes less the sums received by Landlord pursuant to subsection 4 2 3 below Any sums payable by Tenant under this provision, including amounts to be paid under subsection 4 2 3 below shall be deemed "Additional Rent "

4 2 3 For each fiscal year (all or any portion of which occurs during the Term), Landlord shall provide Tenant the projected Expenses and the projected Taxes for such year prior to the first day of such year or as soon thereafter as is reasonably practicable or in the event of the first fiscal year, as soon after the execution of this lease as is reasonably practicable, and Tenant shall thereafter pay projected Additional Rent for such year which shall be paid in monthly installments at the same time that Base Rent is paid hereunder and each such installment shall equal one-twelfth (1/12th) of Tenant's Proportionate Share of any projected Expenses and one-twelfth (1/12th) of Tenant's Proportionate Share

of any projected increase in Taxes over the Base Taxes If the amount paid by Tenant pursuant to this subsection 4 2 3 is less than Tenant's Proportionate Share of actual Expenses, Tenant shall pay to Landlord within thirty (30) days of statement receipt, the amount of the difference If the amount paid by Tenant pursuant to this subsection 4 2 3 is in excess of Tenant's Proportionate Share of actual Expenses, the amount of such excess shall be credited to the next payments of Additional Rent pursuant to this subsection 4 2 3, or if the Term has ended shall first be credited to any amounts due Landlord and then paid to Tenant If the amount paid by Tenant pursuant to this subsection 4 2 3 is less than Tenant's Proportionate Share of actual Taxes, Tenant shall pay to Landlord within thirty (30) days of statement receipt, the amount of the difference If the amount paid by Tenant pursuant to this subsection 4 2 3 is in excess of Tenant's Proportionate Share of actual Taxes, the amount of such excess shall be credited to the next payments of Additional Rent pursuant to this subsection 4 2 3, or if the Term has ended shall first be credited to any amount due Landlord and then paid to Tenant

4 2 4 If the Term ends on any day other than the last day of a fiscal year, the Expense adjustment referred to in subsections 4 2 2 and 4 2 3 above and the Tax adjustment referred to in subsections 4 2 2 and 4 2 3 above shall be pro rated based on the number of days in such fiscal year included in the Term That is, Tenant shall only pay the Expense adjustment or Tax adjustment for the calendar days of the Term included in such termination year

4 2 5 Tenant, at its expense, shall have the right at all reasonable times to examine the books and records of Landlord relating to this lease for any year or years for which additional rent payments as set forth in this section become due provided such examination for any fiscal year (" Subject Year") occurs within ninety (90) days following Tenant's receipt of the statement of Expenses and Taxes for such Subject Year Should a tenant of the Building cause an examination to be made of the books and records of Landlord and should such examination reveal that Tenant is entitled to a reduction in the payment of Additional Rent pursuant to this Section 4 2, Landlord shall advise Tenant of that fact and the amount of such reduction shall be credited to the next payments of Additional Rent pursuant to this Section 4 2, or if the Term has ended shall first be credited to any amount due Landlord and then paid to Tenant

4 2 6 Anything in this Article 4 to the contrary notwithstanding, for the purpose of computing Expenses, Limited Expenses shall not exceed, during each fiscal year, all or any portion of which occurs during the Term, an amount equal to One Hundred Ten percent (110%) of the Limited Expenses for the preceding fiscal year (taking into account the last paragraph of subsection 4 2 1(i) above)

4 3 Intentionally Deleted

4 3 Payment, Late Charge It is understood that the Base Rent is payable on or before the first day of each calendar month (in accordance with Section 4 1 above), without offset or deduction of any nature In the event any rental is not received within ten (10) days after its due date for any reason whatsoever, or if any rental payment is by check which is returned for insufficient funds, then in addition to the past due amount Tenant shall pay to Landlord one of the following (the choice to be at the sole option of Landlord unless one of the choices is improper under applicable law, in which event the other alternative will automatically be deemed to have been selected) (a) a late charge in an amount equal to ten percent (10%) of the rental then due, in order to compensate Landlord for its administrative and other overhead expenses, or (b) interest on the rental then due at the maximum contractual rate which could legally be charged in the event of a loan of such rental to Tenant (but in no event to exceed 1-1/2% per month), such interest to accrue continuously on any unpaid balance due to Landlord by Tenant during the

period commencing with the rental due date and terminating with the date on which Tenant makes full payment of all amounts owing to Landlord at the time of said payment Any such late charge or interest payment shall be payable as additional rental under this lease, shall not be considered as a waiver by Landlord of any default by Tenant hereunder, and shall be payable immediately on demand

4 4 Right to Change Payment Terms If Tenant fails in two (2) consecutive months to make rental payments within ten (10) days after due, Landlord, in order to reduce its administrative costs, may require, by giving written notice to Tenant (and in addition to any late charge or interest accruing pursuant to Section 4 4 above, as well as any other rights and remedies accruing pursuant to Article 18 below, or any other provision of this lease or at law), that Base Rents are to be paid quarterly in advance instead of monthly, and that all future rental payments are to be made on or before the due date by cash, cashier's check, or money order and that the delivery of Tenant's personal or corporate check will no longer constitute a payment of rental as provided in this lease Any acceptance of a monthly rental payment or of a personal or corporate check thereafter by Landlord shall not be construed as a subsequent waiver of said rights

ARTICLE 5.
BOOKS AND RECORDS

Tenant shall, when requested by Landlord from time to time, furnish a true and accurate audited statement of its financial condition prepared in conformity with recognized accounting principles and in a form reasonably satisfactory to Landlord

ARTICLE 6
USE OF DEMISED PREMISES

6 1 Permitted Use The Tenant shall use and occupy the Demised Premises only for the purposes described in Section 1 1(o) above and shall not use or permit the Demised Premises to be used for any other purpose without the prior written consent of Landlord, which consent the Tenant agrees may be withheld by Landlord in its sole and absolute discretion

6 2 Acceptance of Demised Premises Tenant acknowledges that except as set forth in Article 3 hereof, neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the Demised Premises or the Building or with respect to the suitability or fitness of either for the conduct of Tenant's business or for any other purpose The taking of possession or use of the Demised Premises by Tenant for any purpose other than construction shall conclusively establish that the Demised Premises and the Building were at such time in satisfactory condition and in conformity with the provisions of this lease

6 3 Conduct of Business

6 3 1 Nuisances Tenant shall not do or permit anything to be done in or about the Demised Premises which will obstruct or interfere with the rights of other tenants or occupants of the Building or injure or annoy them Tenant shall not allow the Demised Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit anything to be done in or about the Demised Premises which would constitute a nuisance Tenant shall not commit or allow to be committed any waste in or upon the Demised Premises

6 3 2 Effects on Utilities Tenant shall not without the prior written consent of Landlord, use any apparatus or device in or about the Demised Premises which shall cause any substantial noise or vibration or which will increase the amount of electricity or water, if any, usually furnished or supplied for use of the Demised Premises as general office space

6 3 3 Noxious Activities Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance in the Demised Premises, nor shall any animals or birds be brought in or kept in or about the Demised Premises or the Building No cooking shall be done or permitted by Tenant on the Demised Premises, nor shall the Demised Premises be used for the storage of merchandise, for washing clothes or for lodging Tenant shall not use or keep in, the Demised Premises or the Building any kerosene, gasoline or inflammable or combustible fluid or material or use any method of heating or air conditioning other than that supplied by Landlord Tenant shall not conduct, or permit to be conducted, any sale by auction on the Demised Premises

6 3 4 Compliance with Law and Recorded Covenants Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules and regulations now in force or which may hereafter be in force, and with the requirements of any fire insurance underwriters or other similar body now or hereafter constituted relating to or affecting the condition, use or occupancy of the Demised Premises Tenant shall use the Demised Premises and comply with any recorded covenants, conditions, and restrictions affecting the Demised Premises and the Building as of the commencement of the lease or which are recorded during the lease Term

6 3 5 Increase Insurance Tenant shall not do or permit anything to be done in or about the Demised Premises nor bring or keep anything therein which will in any way, increase the existing rate of or affect in any other way any fire or other insurance upon the Building, or cause a cancellation of any insurance policy covering the Building or any part thereof Notwithstanding anything to the contrary contained herein, Tenant shall promptly, upon demand, reimburse Landlord for the full reason of Tenant's failure to comply with the provisions of this section, it being understood that such demand for reimbursement shall not be Landlord's exclusive remedy

6 4 Rules and Regulations Tenant and its employees, agents and visitors shall observe faithfully the Rules and Regulations Tenant agrees to abide by and comply with such Rules and Regulations and any amendments, modifications, and/or additions thereto as may hereafter be adopted and published by written notice to tenants by Landlord Landlord shall not be liable to Tenant for any violation of such Rules and Regulations, or the breach in any provision in any lease, by any other tenant. Breach of the Rules and Regulations shall not be grounds for termination of this lease unless Tenant continues such breach after ten (10) days' written notice from Landlord provided, however, that any such notice shall be in lieu of, and not in addition to, any notice required under Section 18 1 of this lease In the event of any inconsistencies between the language of this lease and the Rules and Regulations, the language of this lease shall prevail

6 5 Signage Requirements Tenant shall not place, or permit to be placed or maintained, on any exterior door, wall or window of the Demised Premises any sign, awning or canopy, or advertising matter or other thing of any kind and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door, or that can be seen through the glass, of the Demised Premises except as specifically approved in writing by the Landlord Tenant further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or thing as may be approved, in good condition and repair at all times Tenant agrees at Tenant's sole cost, that any Tenant sign will be

maintained in strict conformance with Landlord's sign criteria, if any Landlord shall provide a directory in the lobby of the Building and shall display the name of each Tenant in said directory

6 6 Hazardous Materials Tenant, at its sole cost and expense, shall comply with all laws relating to the storage, use and disposal of hazardous, contaminated or radioactive materials and wastes ("Hazardous Materials")

6 6 1 Liability of Tenant Any Hazardous Materials located on the Demised Premises and arising out of the occupancy and use of the Demised Premises by Tenant shall be the sole responsibility of Tenant and Tenant shall be liable and responsible for, without limitation (i) removal from the Demised Premises of any such materials and wastes and the cost of such removal, (ii) damages to persons or property in or on the Demised Premises, (iii) claims resulting therefrom, (iv) fines imposed by any governmental agency and (v) any other liability as provided by law

6 6 2 Water or Soil Contamination If the presence of Hazardous Materials on the Demised Premises caused or permitted or exacerbated by Tenant results in contamination or deterioration of the water or soil resulting in a level of contamination prohibited by any governmental agency having jurisdiction over such contamination, then Tenant shall promptly take any and all action necessary to clean up such contamination as soon as possible Tenant shall defend, indemnify and hold Landlord harmless from any and all such responsibilities, damages, claims, fines and liabilities, including without limitation any costs, expenses and attorney's fees At any time prior to the expiration of the lease Term, Landlord shall have the right to conduct appropriate tests of water and soil and to deliver to Tenant the results of such tests to demonstrate that contamination in excess of permissible levels has occurred as a result of Tenant's use of the Demised Premises

6 6 3 Indemnifications of Landlord Tenant shall further be solely responsible for and shall defend indemnify Landlord from and against all third party claims, costs and attorney's fees and costs, arising out of or in connection with any removal, clean up, restoration and materials required hereunder to return the Demised Premises and any other property of whatever nature to their condition existing prior to the appearance of the Hazardous Materials

6 6 4 Survival of Tenant's Obligations Tenant's obligations hereunder shall survive the termination of this lease

6 6 5 Continuance of Rent During any period of time employed by Tenant after the termination of this lease to complete the removal from the Demised Premises of any Hazardous Materials, Tenant shall continue to pay the full Rent in accordance with this lease, which Rent shall be prorated daily

ARTICLE 7
MAINTENANCE AND REPAIR

7 1 Tenants Obligations Except as may be Landlord's responsibility pursuant to Section 7 2 of this lease, Tenant shall, at Tenant's sole cost and expense, keep and maintain the Demised Premises in good condition and repair, including without limitation, all necessary maintenance and repairs to all portions of the Demised Premises and all partitions, doors, doorjambs, door closures, hardware fixtures, and equipment, repairs, exclusive of normal maintenance services All damage or injury to the Building

caused by the act or negligence of Tenant, its employees, agents or visitors, shall be repaired by Landlord at Tenant's sole cost and expense unless covered by insurance

It is the intention of Landlord and Tenant that, at all times during the lease Term, Tenant shall, at its cost, maintain the Demised Premises in an attractive, first-class and fully operative condition

7 2 Landlord's Maintenance Anything contained in the foregoing Section 7 1 to the contrary notwithstanding, Landlord shall repair and maintain the structural portions of the Building, including the basic plumbing, air conditioning, and electrical systems installed or furnished by Landlord If such maintenance and repairs are necessitated in part or whole by the act, neglect, fault or omission or any duty by Tenant, its agents, servants, employees or visitors, Tenant shall pay to Landlord within ten (10) days after request therefor by Landlord, the reasonable cost (or portion thereof equitably allocated to Tenant, in Landlord's best judgment) of such maintenance and repair unless covered by insurance Except as specifically set forth above and as provided in Article 13 hereof, there shall be no abatement of Rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations, or improvements in or to any portion of the Building and/or the Demised Premises or in or to fixtures, appurtenances, and equipment therein unless interruption continues for more than five (5) days, at which time rent shall abate Tenant waives any and all right to make repairs at Landlord's expense under any other such law, statute, or ordinance now or hereafter in effect.

7 3 Life-Safety Systems If there now is or shall be installed in the Building a sprinkler system, heat or smoke detection system or any other so called life-safety system, and any such system or any of its appliances shall be damaged or injured or not in proper working order by reason of any act or omission of Tenant, Tenant's agents, servants, employees contractors, visitors or licensees, Tenant shall forthwith notify Landlord, and Landlord shall restore the same to good working condition at Tenant's cost and expense If any bureau, department, or official of the state, county or city government or any governmental authority having jurisdiction, require or recommend that any changes, modifications, replacements, alterations, or additional equipment be made or supplied in or to any such system by reason of Tenant's business, or the location of partitions, trade fixtures, or other contents of Demised Premises, or if any such changes, modifications, replacements, alterations or additional equipment become necessary to prevent the imposition of a penalty or charge against the full allowance for any such system in the insurance rate as fixed by any insurance company, Landlord shall, at Tenant's cost and expense make and supply such changes, modifications, replacements, alterations or additional equipment

ARTICLE 8.
ALTERATIONS

8 1 Alterations Tenant shall not make any alterations, additions or improvements to the Demised Premises (collectively, the "Alterations") without the prior written consent of Landlord, except for the installation of unattached, movable trade fixtures which may be installed without drilling, cutting or otherwise defacing the Demised Premises Tenant shall furnish complete plans and specifications to Landlord at the time it requests Landlord's consent to any Alterations if the desired Alterations (i) will affect the Building's mechanical, electrical, plumbing or life safety systems or services, or (ii) will require the filing of plans and specifications with any governmental or quasi-governmental agency or authority, or (iii) will cost in excess of Five Thousand Dollars ($5,000 00) Subsequent to obtaining Landlords consent and prior to commencement of the Alterations, Tenant shall deliver to Landlord any

building permit required by applicable law and a copy of the executed construction contract(s) Tenant shall reimburse Landlord within ten (10) days after the rendition of a bill for all of Landlord's actual out-of-pocket costs incurred in connection with any Alterations, including, without limitation, all management, engineering outside consulting, and construction fees incurred by or on behalf of Landlord for the review and approval of Tenant's plans and specifications and for the monitoring of construction of the Alterations If Landlord consents to the making of any Alteration, such Alteration shall be made by Tenant at Tenant's sole cost and expense by a contractor approved in writing by Landlord Tenant shall require its contractor to maintain insurance in such amounts and in such form as Landlord may require Any construction, alteration, maintenance, repair, replacement, installation, removal or decoration undertaken by Tenant in connection with the Demised Premises shall be completed in accordance with plans and specifications which must be approved by Landlord, shall be carried out in a good workmanlike and prompt manner and in accordance with the provisions of ***Exhibit "D"*** annexed hereto, shall comply with all applicable Regulations of the authorities having jurisdiction thereof, and shall be subject to supervision by Landlord or its employees, agents or contractors If the Alterations which Tenant causes to be constructed result in Landlord being required to make any alterations and/or improvements to other portions of the Building in order to comply with any applicable Regulations, then Tenant shall reimburse Landlord upon demand for all costs and expenses incurred by Landlord in making such alterations and/or improvements Any Alterations made by Tenant shall become the property of Landlord upon installation and shall remain on and be surrendered with the Demised Premises upon the expiration or sooner termination of this lease, except Tenant shall upon demand by Landlord which shall be determined at the time of approval, at Tenant's sole cost and expense, forthwith and with all due diligence remove all or any portion of any Alterations made by Tenant which are designated by Landlord to be removed and repair and restore the Demised Premises in a good and workmanlike manner to their original condition, reasonable wear and tear excepted

8 2 Quality of Work All construction work done by Tenant within the Demised Premises shall be performed in a good and workmanlike manner with new materials of first-class quality, lien-free and in compliance with all governmental requirements and Regulations, and in such manner as to cause a minimum of interference with other construction in progress and with the transaction of business in the Building Tenant agrees to indemnify Landlord and hold Landlord harmless against any loss, liability or damage resulting from such work, and Tenant shall, if requested by Landlord, furnish a bond or other security satisfactory to Landlord against any such loss, liability or damage

8 3 General Contractor In the event Tenant uses a general contractor to perform construction work within the Demised Premises, Tenant shall, prior to the commencement of such work, require said general contractor to execute and deliver to Landlord a waiver and release of any and all claims against Landlord and liens against the Building to which such contractor might at any time be entitled and to execute and record a Bond to Pay Claims (the "Bond") and shall deliver a copy of the recorded Bond to Landlord The delivery of the waiver and release of lien and the Bond within the time period set forth above shall be a condition precedent to Tenant's ability to enter on and begin its construction work at the Demised Premises and, if applicable, to any reimbursement from Landlord for its construction work

8 4 Landlord's Nonresponsibility Nothing contained in this lease shall be construed as constituting the consent or request of Landlord, express or implied, to or for the performance by any contractor, laborer, materialman or vendor of any labor or services or for the furnishing of any materials for any construction, alteration, addition, repair or demolition of or to the Demised Premises or any part thereof All materialmen, contractors, artisans, mechanics, laborers and any other persons now or hereafter furnishing any labor, services, materials, supplies or equipment to Tenant with respect to any

portion of the Demised Premises are hereby charged with notice that they must look exclusively to Tenant to obtain payment for same Tenant and any subtenants shall have no power to do any act or make any contract which may create or be the foundation of any lien, mortgage or other encumbrance upon the reversionary or other estate of Landlord, or any interest of Landlord in the Demised Premises NOTICE IS HEREBY GIVEN THAT LANDLORD IS NOT AND SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO TENANT OR TO ANYONE HOLDING THE DEMISED PREMISES OR ANY PART THEREOF, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF LANDLORD IN AND TO THE DEMISED PREMISES

8 5 Building Remodeling In the event that Landlord elects to remodel all or any portion of the Building, Tenant will cooperate with such remodeling, including Tenant's tolerating temporary inconveniences (and even the temporary removal of Tenant's signs in order to facilitate such remodeling, as it may relate to the exterior of the Demised Premises)

ARTICLE 9.
RIGHTS OF LANDLORD

9 1 Entry and Inspection

9 1 1 Landlord's Inspection and Maintenance Tenant shall permit Landlord and its agents at all reasonable times during normal business hours to enter into and upon the Demised Premises for the purpose of inspecting the same and to take all required materials and equipment into the Demised Premises and perform all required work therein, including the erection of scaffolding, props, or other mechanical devices, for the purpose of making alterations, repairs, or additions to the Demised Premises or the Building, or providing any service to be provided by Landlord under this lease In exercising its rights hereunder, Landlord shall use due diligence to not substantially interfere with Tenant's use of the Demised Premises

9 1 2 Emergency Entry Landlord and its agents may enter the Demised Premises at any time in case of emergency and shall have the right to use any and all means which Landlord may deem proper to open such doors during an emergency in order to obtain entry to the Demised Premises Any entry to the Demised Premises obtained by Landlord in the event of an emergency shall not, under any circumstances, be construed or deemed to be a forcible or unlawful entry into, or detainer of, the Demised Premises, or to be an eviction of Tenant from the Demised Premises or any portion thereof Landlord shall, at all times, have and retain a key with which to unlock all the doors in, upon, or about the Demised Premises, excluding Tenant's vaults and safes No locks or bolts shall be altered, changed, or added without the prior written consent of Landlord

9 1 3 Exhibition Of Demised Premises Tenant shall permit Landlord and its agents, upon twenty-four (24) hours prior notice (except in the case of emergencies in which event no prior notice need be given), to enter and pass through the Demised Premises or any part thereof at reasonable times during normal business hours to (a) post notices of nonresponsibility, (b) exhibit the Demised Premises to holders of encumbrances on the interest of Landlord under the lease and to prospective purchasers, mortgagees or lessees of the Building, and (c) during the period of six (6) months prior to the expiration of the lease Term, exhibit the Demised Premises to prospective tenants thereof In addition to the foregoing, Landlord may post customary "For Sale" or "For lease" signs on the Demised Premises If

during the last month of the lease Term, Tenant shall have removed substantially all of Tenant's property and personnel from the Demised Premises, Landlord may enter the Demised Premises and repair, alter, and redecorate the same, without abatement of Rent and without liability to Tenant, and such acts shall have no effect on this lease

9 1 4 No Abatement of Rent Tenant shall not be entitled to any rebate or abatement of Rent for any loss of occupancy or quiet enjoyment of the Demised Premises resulting from any entry into or upon the Demised Premises by Landlord or its agents authorized by this Section, or for any damage, injury, or inconvenience occasioned thereby unless interruption continues for more than five (5) days at which time rent shall abate

9 2 Transfer by Landlord In the event of a transfer of all of Landlord's ownership interests in the Building, other than a transfer for security purposes only, Landlord shall be automatically relieved of any and all obligations and liabilities of Landlord hereunder accruing from and after the closing of such transfer Tenant's right to quiet possession of the Demised Premises shall not, however, be disturbed on account of any such transfer, so long as Tenant shall pay the Rent and observe and perform all the provisions of this lease unless this lease is otherwise terminated pursuant to specific lease provisions relating to termination

9 3 Intentionally Deleted

9 4 Right of Landlord to Perform If Tenant shall fail to pay any sum of money, other than Rent due Landlord required to be paid by it hereunder or shall fail to perform any other act on its part to be performed hereunder, Landlord may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such other act on Tenant's behalf, provided that Landlord delivers three (3) days notice prior to performing any work on behalf of Tenant and Tenant fails to commence to perform such work within five (5) days after receipt of Landlord's notice All sums so paid by Landlord and all necessary incidental costs, together with an administrative charge in the amount of ten percent (10%) of any costs incurred by Landlord, and interest thereon at the rate permitted under Subsection 4 4 of this lease accruing from the date paid or incurred by Landlord until reimbursed to Landlord by Tenant, shall be payable to Landlord by Tenant as Rent on demand and Tenant covenants to pay all such sums Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of Tenant's nonpayment of such sums, as in the case of default by Tenant in the payment of Rent to Landlord

9 5 Rights Reserved Landlord reserves the following rights, exercisable without notice and without incurring any liability to Tenant therefor, and without effecting an eviction, constructive or actual, or disturbance of Tenant's use or possession, or giving rise to any claim for set-off or abatement of Rent

9 5 1 To change the Building's name,

9 5 2 To install, affix, and maintain any and all signs on the exterior and interior of the Building,

9 5 3 To designate and approve, prior to installation, all types of window shades, blinds, drapes, awnings, window ventilators, and other similar equipment, and to control all internal lighting that may be visible from the exterior of the Building,

9 5 4 To retain at all times, and to use in appropriate instances, keys to all doors within and into the Demised Premises,

9 5 5 To refinish, repaint or to make repairs, alterations, additions, or improvements, whether structural or otherwise, in and about the Building, or any part thereof, and for such purposes to enter upon the Demised Premises, and during the continuance of said work to temporarily close doors, entryways, public spaces, and corridors in the Building, and to interrupt or temporarily suspend Building services and facilities, Landlord to use reasonable efforts to minimize any interruption or interference with Tenant's use or occupancy of the Demised Premises when performing such work,

9 5 6 To approve the weight, size, and location of safes and other heavy equipment and articles in and about the Demised Premises and the Building, and to require all such items and furniture to be moved into and out of the Building and the Demised Premises only at such times and in such manner as Landlord shall direct in writing,

9 5 7 To require all persons entering or leaving the Building or Demised Premises during such hours as Landlord may from time to time reasonably determine to identify themselves to a watchman by registration or otherwise and to establish their right to enter or leave, and to exclude or expel any peddler, solicitor or beggar at anytime from the Demised Premises or the Building,

9 5 8 At any time or times, to decorate and to make repairs, alterations, additions and improvements, structural or otherwise, in or to the Property, Demised Premises or Building or any part thereof,

9 5 9 To do or permit to be done any work in or about the exterior of the Building or any adjacent land,

9 5 10 To grant to anyone the exclusive right to conduct any business or render any service in the Building or Property, provided such exclusive right shall not operate to exclude Tenant from the use expressly permitted by this lease,

9 5 11 To close the Building or Property at 6 30 p m or at such other reasonable time as Landlord may determine to customers and clients of Tenant, but not the Tenant or Tenant's employees (provided that customers or clients may be within the Building at other times provided they are specifically accompanied by Tenant or Tenant's employees),

9 5 12 To change the arrangement of entrances, doors and corridors in the Building,

9 5 13 To install, operate and maintain a building security system which monitors, by closed circuit television or otherwise, all persons entering and leaving the Building,

9 5 14 To install and maintain pipes, ducts, conduits, wires and structural elements located in the Demised Premises which serve other parts of the Building or other tenants,

9 5 15 To schedule Tenant's move into and out of the Building, and

9 5 16 To grant exclusive parking spaces to tenants of the Building

ARTICLE 10.
UTILITIES

10 1 Telephone Tenant shall make arrangements directly with the telephone company servicing the Building for such telephone service in the Demised Premises as may be desired by Tenant. Tenant shall pay the entire cost of all telephone charges and maintenance of light fixtures

10 2 Other Services If Tenant desires telegraphic, telephonic, burglar alarm, computer installations or signal service (which services shall be at Tenant's sole expense), Landlord shall, upon request, direct where and how all connections and wiring for such service shall be introduced and run In the absence of such directions, Tenant shall make no borings, cutting or installation of wires or cables in or about the Demised Premises

10 3 Electrical Tenant shall make arrangements directly with energy providers for all energy consumption within the Demised Premises Tenant shall be directly metered and billed by the energy providers for all such energy consumption within the Demised Premises

ARTICLE 11
INSURANCE COVERAGES

11 1 Landlord's Insurance Landlord shall procure and maintain throughout the term of this lease a policy or policies of insurance, at its sole cost and expense subject to reimbursement as provided in Article 4 above, causing the Building to be insured under standard fire and extended coverage insurance (excluding hurricane, storm and earthquake insurance unless readily obtainable at commercially reasonable rates) and liability insurance (plus whatever endorsements or special coverages Landlord, in its sole discretion, may consider appropriate), to the extent necessary to comply with Landlord's obligations pursuant to other provisions of this lease

11 2 Tenant's Insurance Tenant shall procure and maintain throughout the term of this lease, at its sole cost and expense, the following insurance

(1) Comprehensive General Liability Insurance providing coverage for bodily injury (including death), property damage and products liability insurance (where such exposure exists) This policy shall contain a broad form contractual liability endorsement under which the insurer agrees to insure Tenant's obligations under Article 17 hereof Such insurance shall have a combined single limit of not less than One Million Dollars ($1,000,000) per occurrence, or such greater amount as Landlord may from time to time require,

(2) Fire and extended coverage insurance covering Tenant's personal property, fixtures, improvements, wall coverings, floor coverings, window coverings, alterations, furniture, and equipment against loss or damage by fire, flood, windstorms, hail, earthquakes, explosion, riot, damage from aircraft and vehicles, smoke damage, vandalism and malicious mischief and such other risks as are from time to time covered under "extended coverage" endorsements and special extended coverage endorsements commonly known as "all risks" endorsements, containing the waiver of subrogation required in Section 12 3 of this lease and in an amount equal to the greater of the full replacement value or the amount required by the holder of any mortgage from time to time placed upon the Building or a portion of the Building containing the Demised Premises,

(3) State Worker's Compensation Insurance in the statutorily mandated limits and Employers Liability Insurance with limits of not less than Five Hundred Thousand Dollars ($500,000), or such greater amount as Landlord may from time to time require,

(4) Business Interruption Insurance for a period of at least twelve (12) months commencing with the date of loss insuring that the Rent will be paid to Landlord during this period if the Demised Premises are destroyed or rendered inaccessible, and

(5) Such other insurance as Landlord may reasonably require from time to time

It is expressly understood and agreed that the foregoing minimum limits of insurance coverage shall not limit the liability of Tenant for its acts or omissions as provided in this lease All of the foregoing insurance policies (with the exception of Worker's Compensation Insurance to the extent not available under statutory law) shall name Landlord, any mortgagee or any managing agent for the Building and such other parties as Landlord shall from time to time designate as an additional insured as their respective interests may appear, and shall provide that any loss shall be payable to Landlord and any other additional insured parties as their respective interests may appear All insurance required hereunder shall be placed with companies which are rated A VII or better by Best's Insurance Guide and licensed to do business in the State where the Building is located All such policies shall be written as primary policies with deductibles not to exceed 10% of the amount of coverage Any other policies, including Landlord's policy, will serve as excess coverage Tenant shall deliver certificates of insurance for all such policies and all endorsements thereto, prior to the Commencement Date, or, in the case of renewals thereto, fifteen (15) days prior to the expiration of the prior insurance policy, together with evidence that such policies are fully paid for, and that no cancellation, material change or non-renewal thereof shall be effective except upon thirty (30) days' prior written notice from the insurer to Landlord, provided that Tenant shall, upon request, deliver duplicate copies of said policies to Landlord If Tenant should fail to comply with the foregoing requirement relating to insurance, Landlord may obtain such insurance and Tenant shall pay to Landlord on demand as additional rental hereunder the premium cost thereof plus interest at the maximum contractual rate (but in no event to exceed 1-1/2% per month) from the date of payment by Landlord until repaid by Tenant.

ARTICLE 12
WAIVER OF LIABILITY, MUTUAL WAIVER OF SUBROGATION

12 1 Waiver of Liability Landlord and Landlord's agents and employees shall not be liable to Tenant, nor to Tenant's employees, agents or visitors, nor to any other person whomsoever, for any injury to person or damage to property caused by the Demised Premises or other portions of the Building becoming out of repair or by defect or failure of any structural element of the Demised Premises or of any equipment, pipes or wiring, or broken glass, or by the backing up of drains, or by gas, water, steam, electricity, or oil leaking, escaping or flowing into the Demised Premises (except where due to Landlord's willful failure to make repairs required to be made by Landlord hereunder, after the expiration of a reasonable time after written notice to Landlord of the need for such repairs), nor shall Landlord be liable to Tenant, nor to Tenant's employees, agents or visitors, nor to any other person whomsoever, for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the Building or of any other persons whomsoever, excepting only duly authorized employees and agents of Landlord Landlord shall not be held responsible in any way on account of any construction, repair or reconstruction (including widening) of any private or public roadways, walkways or utility lines

12 2 Indemnification Landlord shall not be liable to Tenant or to Tenant's employees, agents, contractors, or to any other person whomsoever, for any injury to person or damage to property on or about the Demised Premises caused by the negligence or misconduct of Tenant, its employees, agents, subtenants, invitees, customers, licensees or concessionaires, or of any other person entering the Building under express or implied invitation of Tenant, or arising out of the use of the Demised Premises by Tenant and the conduct of its business therein, or arising out of any breach or default by Tenant in the performance of its obligations under this lease, and Tenant hereby agrees to indemnify Landlord and hold Landlord harmless from any loss, expense or claims arising out of such damage or injury Furthermore, Tenant agrees to indemnify Landlord and hold Landlord harmless from and against any and all liability, claims, demands, causes of action of any kind and nature arising or growing out of or in any way connected with Tenant's use, occupancy, management or control of the Demised Premises and Tenant's operations or activities in the Building

12 3 Waiver of Subrogation Landlord and Tenant each hereby release the other from any and all liability or responsibility to the other, or to any other party claiming through or under them by way of subrogation or otherwise, for any loss or damage to property caused by a casualty which is insurable under standard fire and extended coverage insurance, provided, however, that this mutual waiver shall be applicable only with respect to a loss or damage occurring during the time when property insurance policies, which are readily available in the marketplace, contain a clause or permit an endorsement to the effect that any such release shall not adversely affect or impair the policy or the right of the insured party to receive proceeds under the policy, provided, further, that this release shall not be applicable to the portion of any damage which is not reimbursed by the damaged party's insurer because of the "deductible" in the damaged party's insurance coverage The release specified in this Section 12 3 is cumulative with any releases or exculpations which may be contained in other provisions of this lease Landlord and Tenant agree that all policies of insurance obtained by them pursuant to the terms of this lease shall contain provisions or endorsements thereto waiving the insurer's rights of subrogation with respect to claims against the other, and, unless the policies permit waiver of subrogation without notice to the insurer, each shall notify its insurance companies of the existence of the waiver and indemnity provisions set forth in this lease

ARTICLE 13.
DAMAGES BY CASUALTY

13 1 Notice Tenant shall give immediate written notice to the Landlord of any damage caused to the Demised Premises by fire or other casualty

13 2 Duty to Repair or Rebuild In the event that the Demised Premises shall be damaged or destroyed by fire or other casualty insurable under standard fire and extended coverage insurance and Landlord does not elect to terminate this lease as hereinafter provided, Landlord shall proceed with reasonable diligence and at its sole cost and expense to rebuild and repair the Demised Premises In the event (a) the building in which the Demised Premises are located is destroyed or substantially damaged by a casualty not covered by Landlord's insurance, or (b) such building is destroyed or rendered untenantable to an extent in excess of fifty percent (50%) of the first floor area by a casualty covered by Landlord's insurance, or (c) the holder of a mortgage, deed of trust or other lien on such building at the time of the casualty elects, pursuant to such mortgage, deed of trust or other lien, to require the use of all or part of Landlord's insurance proceeds in satisfaction of all or part of the indebtedness secured by the mortgage, deed of trust or other lien, or (d) the Demised Premises shall be damaged to the extent of 50%

or more of the cost of replacement, then Landlord may elect either to terminate this lease or to proceed to rebuild and repair the Demised Premises Landlord shall give written notice to Tenant of such election within sixty (60) days after the occurrence of such casualty and, if it elects to rebuild and repair, shall proceed to do so with reasonable diligence and at its sole cost and expense

13 3 Limitation Landlord's obligation to rebuild and repair under this Article 13 shall in any event be limited to restoring one of the following (as may be applicable) (a) if this lease does not include an attached exhibit describing Landlord's initial construction responsibility ("Landlord's Work"), restoring the Demised Premises to substantially the condition in which the same existed prior to such casualty, exclusive of any alterations, additions, improvements, fixtures and equipment installed by Tenant, or (b) restoring Landlord's Work, as described in the applicable exhibit attached to this lease (if such an exhibit is attached), to substantially the same condition in which the same existed prior to the casualty Tenant agrees that promptly after completion of such work by Landlord, Tenant will proceed with reasonable diligence and at Tenant's sole cost and expense to restore, repair and replace all alterations, additions, improvements, fixtures, signs and equipment installed by Tenant, or, if an exhibit describing Tenant's Work is attached hereto, all items of Tenant's Work as described in such exhibit, as the case may be

13 4 Operations During Repair Tenant agrees that during any period of reconstruction or repair of the Demised Premises, it will continue the operation of its business within the Demised Premises to the extent practicable During the period from the occurrence of the casualty until Landlord's repairs are completed, the Base Rent shall abate in an amount proportionate to the portion of the premises rendered untenantable by the casualty, however, there shall be no abatement of the charges provided for herein

13 5 Damage During Last Twelve Months of Term Notwithstanding anything to the contrary contained in this Article 13 Landlord shall not have any obligation whatsoever to repair or restore the Demised Premises when the damage resulting from any casualty covered under this Article 13 occurs during the last twelve (12) months of the lease Term, or any extension thereof, if Tenant shall elect to exercise any option which it may then have to extend the lease Term hereof provided, however, that Landlord shall give Tenant notice of such intent within thirty (30) days of the occurrence of such casualty, whereupon this lease shall terminate effective as of the date of such casualty and Landlord shall refund to Tenant the Rent theretofore paid for any period of time subsequent to such date

ARTICLE 14
EMINENT DOMAIN

14 1 Termination If any of the floor area of the Demised Premises should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof, this lease shall terminate and the rent shall be abated during the unexpired portion of this lease, effective on the date physical possession is taken by the condemning authority

14 2 Intentionally Deleted

14 3 Compensation All compensation awarded for any taking (or the proceeds of private sale in lieu thereof of the Demised Premises shall be the property of Landlord, and Tenant hereby assigns its interest in any such award to Landlord, provided, however, Landlord shall have no interest in any award

made to Tenant for Tenant's moving and relocation expenses or for the loss of Tenant's fixtures and other tangible personal property if a separate award for such items is made to Tenant as long as such separate award does not reduce the amount of the award that would otherwise be awarded to Landlord

14 4 Sole Remedy The rights contained in this Article 14 shall be Tenant's sole and exclusive remedy in the event of a taking or condemnation

14 5 Substantial Taking Notwithstanding anything to the contrary, Landlord may terminate the lease with no further liability to Tenant if (i) 50% or more of the gross leasable area of the Building is taken or (ii) if following any taking Landlord's mortgagee elects to require Landlord to apply all or a portion of such award to the outstanding indebtedness

ARTICLE 15
ASSIGNMENT AND SUBLETTING

15 1 Assignment Tenant shall not assign or in any manner transfer this lease or any estate or interest therein, or sublet the Demised Premises or any part thereof, or grant any license, concession or other right of occupancy of any portion of the Demised Premises without the prior written consent of Landlord Landlord agrees that it will not withhold consent in a wholly unreasonable and arbitrary manner (as further explained in Section 24 4 of this lease), however, in determining whether or not to grant its consent, Landlord shall be entitled to take into consideration factors such as Landlord's desired tenant mix, the reputation and net worth of the proposed transferee, and the then current market conditions (including market rentals) In addition, Landlord shall also be entitled to charge Tenant a reasonable fee for processing Tenant's request Consent by Landlord to one or more assignments or sublettings shall not operate as a waiver of Landlord's rights as to any subsequent assignments and sublettings In all events, Landlord can refuse to consent to an assignment or sublease if there shall exist any uncured default of Tenant or a matter which will become a default with the passage of time

15 2 Change in Ownership of Tenant If Tenant is a corporation, partnership or other entity and if at any time during the term of this lease the person or persons who own a majority of either the outstanding voting rights or the outstanding ownership interests of Tenant at the time of the execution of this lease cease to own a majority of such voting rights or ownership interests (except as a result of transfers by devise or descent), the loss of a majority of such voting rights or ownership interests shall be deemed an assignment of this lease by Tenant and, therefore, subject in all respects to the provisions of Section 15 1 above The previous sentence shall not apply, however, if at the time of the execution of this lease, Tenant is a corporation and the outstanding voting shares of capital stock of Tenant are listed on a recognized security exchange or over-the-counter market

15 3 Assumption of Obligations Notwithstanding anything to the contrary contained herein, and without prejudice to Landlord's right to require a written assumption from each assignee, any person or entity to whom this lease is assigned including, without limitation, assignees pursuant to the provisions of the Bankruptcy Code, 11 U S C Section 101 et seq (the "Bankruptcy Code") shall automatically be deemed, by acceptance of such assignment or sublease or by taking actual or constructive possession of the Demised Premises, to have assumed all obligations of Tenant arising under this lease effective as of the earlier of the date of such assignment or sublease or the date on which the assignee or sublessee obtains possession of the Demised Premises In the event this lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or

delivered to Landlord and shall remain the exclusive property of Landlord and not constitute the property of Tenant or Tenant's estate within the meaning of the Bankruptcy Code All such money or other consideration not paid or delivered to Landlord shall be held in trust for the benefit of Landlord and shall be promptly paid or delivered to Landlord

15 4 Tenant's Continuing Responsibility, Excess Rent Notwithstanding any assignment or subletting, Tenant and any guarantor of Tenant's obligations under this lease shall at all times remain fully responsible and liable for the payment of the rent herein specified and for compliance with all of its other obligations under this lease (even if future assignments and sublettings occur subsequent to the assignment or subletting by Tenant, and regardless of whether or not Tenant's approval has been obtained for such future assignments and sublettings) Moreover, in the event that the rental due and payable by a sublessee (or a combination of the rental payable under such sublease plus any bonus or other consideration therefor or incident thereto) exceeds the rental payable under this lease (plus any commissions paid by Tenant to obtain the sublessee plus any tenant improvements required by sublessee), or if with respect to a permitted assignment, permitted license or other transfer by Tenant permitted by Landlord, the consideration payable to Tenant by the assignee, licensee or other transferee exceeds the rental payable under this lease (plus any commissions paid by Tenant to obtain the sublessee plus any tenant improvements required by sublessee), then Tenant shall be bound and obligated to pay Landlord all such excess rental and other excess consideration within ten (10) days following receipt thereof by Tenant from such sublessee, assignee, licensee or other transferee, as the case may be Finally, in the event of an assignment or subletting, it is understood and agreed that all rentals paid to Tenant by an assignee or sublessee shall be received by Tenant in trust for Landlord, to be forwarded immediately to Landlord without offset or reduction of any kind, and upon election by Landlord such rentals shall be paid directly to Landlord as specified in Section 4 2 of this lease (to be applied as a credit and offset to Tenant's rental obligation)

15 5 No Encumbrances Tenant shall not mortgage, pledge or otherwise encumber its interest in this lease or in the Demised Premises

15 6 Landlord's Assignment In the event of the transfer and assignment by Landlord of its interest in this lease and in the building containing the Demised Premises to a person expressly assuming Landlord's obligations under this lease, Landlord shall thereby be released from any further obligations hereunder, and Tenant agrees to look solely to such successor in interest of the Landlord for performance of such obligations Any security given by Tenant to secure performance of Tenant's obligations hereunder may be assigned and transferred by Landlord to such successor in interest and Landlord shall thereby be discharged of any further obligation relating thereto

15 7 Recapture Notwithstanding anything to the contrary contained herein, Landlord shall have the option, in its sole discretion, in the event of any proposed subletting or assignment, to terminate this lease, or in the case of a proposed subletting of less than the entire Demised Premises, to recapture the portion of the Demised Premises to be sublet, as of the date the subletting or assignment is to be effective The option shall be exercised by Landlord giving Tenant written notice within sixty (60) days following Landlord's receipt of Tenant's written notice as required above If this lease shall be terminated with respect to the entire Demised Premises, the Term shall end on the date stated in Tenant's notice as the effective date of the sublease or assignment as if that date had been originally fixed in this lease for the expiration of the Term If Landlord recaptures only a portion of the Demised Premises, the Base Rent during the unexpired Term shall abate, proportionately, based on the Base Rent due as of the date immediately prior to such recapture

ARTICLE 16.
SUBORDINATION, ATTORNMENT, ESTOPPELS

16 1 Subordination to Landlord's Mortgagee Tenant accepts this lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter placed upon the Building, and to any renewals, modifications and extensions thereof and this subordination shall be self operative and no further instrument of subordination is needed Tenant agrees that any mortgagee shall have the right at any time to subordinate its mortgage, deed of trust or other lien to this lease, provided, however, notwithstanding that this lease may be (or is made to be) superior to a mortgage, deed of trust or other lien, the mortgagee shall not be liable for prepaid rentals, security deposits and claims accruing during or with respect to Landlord's ownership, any amendment or modification made to this lease without its prior written consent or any offsets or claims against Landlord, further provided that the provisions of a mortgage, deed of trust or other lien relative to the right of the mortgagee with respect to proceeds arising from an eminent domain taking (including a voluntary conveyance by Landlord) and provisions relative to proceeds arising from insurance payable by reason of damage to or destruction of the Demised Premises shall be prior and superior to any contrary provisions contained in this instrument with respect to the payment or usage thereof Landlord is hereby irrevocably vested with full power and authority to subordinate this lease to any mortgage, deed of trust or other lien hereafter placed upon the Demised Premises or the Building as a whole, and Tenant agrees upon demand to execute such further instruments subordinating this lease as Landlord may request If the holder of any mortgage, indenture or deed of trust or similar instrument (each a Mortgagee") succeeds to Landlord's interest in the Demised Premises, Tenant shall, upon request of any such Mortgagee, automatically become the tenant of and attorn to and recognize such Mortgagee as the landlord under this lease and will pay to it all rents and other amounts payable by Tenant under this lease, in accordance with the applicable terms of this lease Notwithstanding that the foregoing provisions of this Section are self-operative, upon request of Landlord or any Mortgagee, Tenant shall execute and deliver to Landlord and to such Mortgagee a subordination and attornment agreement in recordable form confirming the foregoing and otherwise in form and substance acceptable to Landlord and such Mortgagee In such event, Landlord shall use commercially reasonable efforts to secure a non-disturbance agreement for Tenant's benefit from such Mortgagee

16 2 Notice of Landlord's Default Tenant may not exercise any remedies for default by Landlord hereunder unless and until Landlord and the holder(s) of any indebtedness secured by mortgage, deed of trust or other lien on the Demised Premises shall have received written notice of such default and a reasonable time (not less than 30 days) shall thereafter have elapsed without the default having been cured

16 3 Estoppel Certificates

16 3 1 Landlord's Request Upon Landlord's written request, Tenant shall execute, acknowledge and deliver to Landlord a written statement certifying (i) that none of the terms or provisions of this lease have been changed (or if they have been changed, stating how they have been changed), (ii) that this lease has not been canceled or terminated and is in full force and effect, (iii) the amount of the current Base Rent, (iv) the last date of payment of the Base Rent and other charges and the time period covered by such payment (v) the amount of any Security Deposit paid and the validity of any charges made thereto by Landlord (or, if Tenant contests the validity of any such changes, stating why), (vi) that the lease has not been subleased or assigned, or if it has been so subleased or assigned, the identity of the sublessee or assignee and (vii) that Landlord is not in default under this lease (or, if

Landlord is claimed to be in default, stating why) Tenant shall deliver such statement to Landlord within ten (10) business days after Landlord's request Any such statement by Tenant may be given by Landlord to any prospective purchaser or encumbrancer of the Demised Premises or the Building Such purchaser or encumbrancer may rely conclusively upon such statement as true and correct

16 3 2 Failure to Deliver If Tenant does not deliver such statement to Landlord within such ten (10) day period, Landlord, and any prospective purchaser or encumbrancer of the Demised Premises or the Building, may conclusively presume and rely upon the following facts (i) that the terms and provisions of this lease have not been changed except as otherwise represented by Landlord, (ii) that this lease has not been canceled or terminated and is in full force and effect, except as otherwise represented by Landlord, (iii) that the current amounts of the Rent and Security Deposit are as represented by Landlord, (iv) that any charges made against the Security Deposit are uncontested and valid, (v) that there have been no subleases or assignments of the lease, (vi) that not more than one month's Rent or other charges have been paid in advance, and (vii) that Landlord is not in default under the lease In such event, Tenant shall be estopped from denying the truth of such facts

ARTICLE 17
TENANT'S INDEMNIFICATION

17 1 Indemnification Tenant shall indemnify, defend and hold harmless Landlord, Landlord's asset manager, Landlord's subasset manager, Landlord's partners, any subsidiary or affiliate of Landlord and the officers, directors, shareholders, partners, employees, managers, independent contractors, attorneys and agents of any of the foregoing (collectively, the "Indemnitees") from and against any and all claims, demands, causes of action, judgments, costs and expenses, and all losses and damages (including consequential and punitive damages) arising from Tenant's use of the Demised Premises or from the conduct of its business or from any activity, work, or other acts or things done, permitted or suffered by Tenant in or about the Demised Premises, and shall further indemnify, defend and hold harmless the Indemnitees from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this lease, or arising from any act, omission or negligence or willful or criminal misconduct of Tenant, or any officer, agent, employee, independent contractor, guest, or invitee thereof, and from all costs, attorneys' fees and disbursements, and liabilities incurred in the defense of any such claim or any action or proceeding which may be brought against, out of or in any way related to this lease Upon notice from Landlord, Tenant shall defend any such claim, demand, cause of action or suit at Tenant's expense by counsel satisfactory to Landlord in its reasonable discretion As a material part of the consideration to Landlord for this lease, Tenant hereby assumes all risk of damage to property or injury to persons in, upon or about the Demised Premises from any cause, and Tenant hereby waives all claims with respect thereto against landlord Tenant shall give immediate notice to Landlord in case of casualty or accidents in the Demised Premises The provisions of this Article 17 shall survive the expiration or sooner termination of this lease

17 2 Risk of Loss All personal property of Tenant, including goods, wares, merchandise, inventory, trade fixtures and other personal property of Tenant, shall be stored at the sole risk of Tenant Landlord or its agents shall not be liable for any loss or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Building or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface or from any other places resulting from dampness or any other cause whatsoever, or from the act or negligence of any other tenant or any officer, agent, employee, contractor or guest of any such tenant,

except personal injury caused by or due to the gross negligence or willful misconduct of Landlord. Landlord or its agents shall not be liable for interference with the electrical service, ventilation, or for any latent defect in the Demised Premises

ARTICLE 18
DEFAULT BY TENANT AND REMEDIES

18 1 Events of Default. The following events shall be deemed to be events of default by Tenant under this lease

(a) Tenant shall fail to pay any installment of rental or any other obligation under this lease involving the payment of money and such failure shall continue for a period of ten (10) days after such payment shall become due and payable

(b) Tenant shall fail to comply with any provision of this lease, other than as described in subsection (a) above, and either shall not cure such failure within fifteen (15) days after written notice thereof to Tenant (or if cure is possible but cannot be completed within said fifteen (15) days, shall not commence cure within fifteen (15) days and thereafter pursue it diligently to completion), or shall cure that particular failure but shall again fail to comply with the same provision of the lease within three (3) months after Landlord's written notice

(c) Tenant or any guarantor of Tenant's obligations under this lease shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors

(d) Tenant or any guarantor of Tenant s obligations under this lease shall file a petition under any section or chapter of the federal Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof, or Tenant or any guarantor of Tenant's obligations under this lease shall be adjudged bankrupt or insolvent in proceedings filed against Tenant or any guarantor of Tenant's obligations under this lease thereunder

(e) A receiver or Trustee shall be appointed for the Demised Premises or for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligations under this lease

(f) Tenant shall do or permit to be done anything which creates a lien upon the Demised Premises or upon all or any part of the Building

(g) The default of any guarantors of Tenant's obligations hereunder under any guaranty of this lease, or the attempted repudiation or revocation of any such guaranty

18 2 Remedies upon Default Upon the occurrence of any such event of default, Landlord shall have the option to pursue any one or more of the following remedies to the extent permitted by law

(a) Without any further notice or demand whatsoever, Tenant shall be obligated to reimburse Landlord for the damages suffered by Landlord as a result of the event of default, plus interest on such amount at the maximum contractual rate which could legally be charged in the event of a loan of such amount to Tenant (but in no event to exceed 1-1/2% per month), and Landlord may pursue a monetary recovery from Tenant

(b) Without any further notice or demand whatsoever, Landlord may take any one or more of the actions permissible at law to insure performance by Tenant of Tenant's covenants and obligations under this lease In this regard, and without limiting the generality of the immediately preceding sentence, it is agreed that if Tenant fails to open for business as required in this lease or, having opened for business, deserts or vacates the Demised Premises, Landlord may enter upon and take possession of such premises in order to protect them from deterioration and continue to demand from Tenant the monthly rentals and other charges provided in this lease, without any obligation to relet, however, if Landlord does, at its sole discretion, elect to relet the Demised Premises, such action by Landlord shall not be deemed as an acceptance of Tenant's surrender of the Demised Premises unless Landlord expressly notifies Tenant of such acceptance in writing pursuant to this subsection (b), Tenant hereby acknowledging that Landlord shall otherwise be reletting as Tenant's agent and Tenant furthermore hereby agreeing to pay to Landlord on demand any deficiency that may arise between the monthly rentals and other charges provided in this lease and that actually collected by Landlord In the event that Landlord shall elect to relet, then rentals received by Landlord from such reletting shall be applied first, to the payment of any indebtedness (other than rent) due hereunder from Tenant to Landlord, second, to the payment of any cost of such reletting (including brokerage commissions), third, to the payment of the cost of any alterations and repairs to the Demised Premises, fourth, to the payment of rent due and unpaid hereunder, and the residue, if any, shall be held by Landlord and applied in payment of future rent as the same may become due and payable hereunder Should reletting, during any month to which such rent is applied, result in the actual payment of rentals at less than the rent payable during that month by Tenant hereunder, then Tenant shall pay such deficiency to Landlord immediately upon demand therefor by Landlord Such deficiency shall be calculated and paid monthly Tenant shall also pay to Landlord as soon as ascertained, any costs and expenses incurred by Landlord in such reletting or in making such alterations and repairs not covered by the rentals received from such reletting Finally, it is agreed that in the event of any default described in subsection (g) of Section 18 1 of this lease, Landlord may pay or bond around such lien, whether or not contested by Tenant, and in such event Tenant agrees to reimburse Landlord on demand for all costs and expenses incurred in connection with any such action, with Tenant further agreeing that Landlord shall in no event be liable for any damages or claims resulting from such action No action or inaction by Landlord including, without limitation, the re-entry or taking of possession of the Demised Premises by Landlord pursuant to this Section 18 2 shall be construed as an election to terminate this lease or as interference with Tenant's rights of possession, assignment or subletting unless a written notice of such election shall be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction Notwithstanding any reletting without termination by Landlord, Landlord may, at any time after such reletting, elect to terminate this lease for any such default

(c) Landlord may terminate this lease by written notice to Tenant, in which event Tenant shall immediately surrender the Demised Premises to Landlord In the event that Landlord shall elect to so terminate this lease, then Landlord may recover from Tenant

(1) The worth at the time of award of any unpaid rent which had been earned at the time of such termination, plus

(2) 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 Tenant proves reasonably could have been avoided, plus

(3) 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 reasonably could be avoided, plus

(4) Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this lease or which in the ordinary course would be likely to result therefrom, plus

(5) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law

As used in subparagraphs (i) and (ii) above, the ' worth at the time of award" is computed by allowing interest at the maximum rate permitted by law As used in subparagraph (iii) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%)

Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default Tenant hereby waives for Tenant and for all those claiming under Tenant all right now or hereafter existing to redeem by order or judgment of any court or by any legal process or writ, Tenant's right of occupancy of the Demised Premises after any termination of this lease

18 3 Definition It is expressly agreed that in determining "the monthly rentals and other charges provided in this lease," as that term is used throughout subsections 18 2(c)(1) and 18 2(c)(2) above, there shall be added to the Base Rent (as specified in Sections 1 1(l) and 4 1 of this lease) a sum equal to the Additional Rent

18 4 Expenses It is further agreed that, in addition to payments required pursuant to subsections 18 2(b) and 18 2(c) above, Tenant shall compensate Landlord for all expenses incurred by Landlord in repossession (including, among other expenses, any increase in insurance premiums caused by the vacancy of the Demised Premises), all expenses incurred by Landlord in reletting (including, among other expenses, repairs, remodeling, replacements, advertisements and brokerage fees), all concessions granted to a new tenant upon relctting (including, among other concessions, renewal options), all losses incurred by Landlord as a direct or indirect result of Tenant's default (including, among other losses, any adverse reaction by Landlord s mortgagee or by other tenants or potential tenants of the Building) and a reasonable allowance for Landlord's administrative efforts, salaries and overhead attributable directly or indirectly to Tenant's default and Landlord's pursuing the rights and remedies provided herein and under applicable law

18 5 Injunctive Relief Landlord may restrain or enjoin any breach or threatened breach of any covenant, duty or obligation of Tenant herein contained without the necessity of proving the inadequacy of any legal remedy or irreparable harm The remedies of Landlord hereunder shall be deemed cumulative and not exclusive of each other

18 6 Attorneys Fees If either party shall commence an action on account of any breach or default hereunder, the prevailing party shall be entitled to reasonable attorneys' fees and costs incurred in such connection

18 7 Compliance with Bankruptcy Code

(a) In the event of any default described in subsection (d) of Section 18 1 of this lease, any assumption and assignment must conform with the requirements of the Bankruptcy Code and, in order to provide Landlord with the assurances contemplated by the Bankruptcy Code, Tenant must fulfill the following obligations, in addition to any other reasonable obligations that Landlord may require, before any assumption of this lease is effective (i) all defaults under subsection (a) of Section 18 1 of this lease must be cured within ten (10) days after the date of assumption, (ii) all other defaults under Section 18 1 of this lease other than under subsection (d) of Section 18 1 must be cured within fifteen (15) days after the date of assumption, (iii) all actual monetary losses incurred by Landlord (including, but not limited to, reasonable attorneys' fees) must be paid to Landlord within ten (10) days after the date of assumption, and (iv) Landlord must receive within ten (10) days after the date of assumption a security deposit in the amount of six (6) months Base Rent (using the Base Rent in effect for the first full month immediately following the assumption) and an advance prepayment of Base Rent in the amount of three (3) months Base Rent (using the Base Rent in effect for the first full month immediately following the assumption), both sums to be held by Landlord in accordance with Section 4 3 above and deemed to be rent under this lease for the purposes of the Bankruptcy Code as amended and from time to time in effect

(b) In the event this lease is assumed in accordance with the requirements of the Bankruptcy Code and this lease, and is subsequently assigned, then, in addition to any other reasonable obligations that Landlord may require and in order to provide Landlord with the assurances contemplated by the Bankruptcy Code, Landlord shall be provided with (i) a financial statement of the proposed assignee prepared in accordance with generally accepted accounting principles consistently applied, though on a cash basis, which reveals a net worth in an amount sufficient, in Landlord's reasonable judgment, to assure the future performance by the proposed assignee of Tenant's obligations under this lease, or (ii) a written guaranty by one or more guarantors with financial ability sufficient to assure the future performance of Tenant's obligations under this lease, such guaranty to be in form and content satisfactory to Landlord and to cover the performance of all of Tenant's obligations under this lease

ARTICLE 19
SURRENDER OF DEMISED PREMISES, REMOVAL OF PROPERTY

19 1 Holding Over Tenant shall vacate the Demised Premises upon the expiration or earlier termination of this lease Tenant shall reimburse Landlord for and indemnify, defend and hold Landlord harmless against all damages, liabilities and costs, including, but not limited to, attorneys' fees, incurred by Landlord from any delay by Tenant in vacating the Demised Premises If Tenant remains in possession of all or any part of the Demised Premises after the expiration of the term hereof, with or without the express or implied consent of Landlord, such tenancy shall be from month-to-month only and not a renewal hereof or an extension for any further term, and in such case, Base Rent then in effect shall be increased by fifty percent (50%) and other monetary sums due hereunder shall be payable in the amount and at the time specified in this lease and such month-to-month tenancy shall be subject to every other term, covenant and agreement contained herein, except that the month-to month tenancy will be terminable on thirty (30) days notice given at any time by either party

19 2 Surrender of Demised Premises

19 2 1 Surrender of Lease not Merger A surrender of this lease by Tenant, a cancellation of this lease by mutual agreement between Landlord and Tenant, or a termination of this lease for any reason shall not automatically work a merger After such a surrender, cancellation or termination Landlord may (a) terminate any or all then existing subleases or subtenancies and/or (b) treat such surrender, cancellation or termination as effecting an assignment to Landlord of any or all such subleases or subtenancies

19 2 2 Condition of Demised Premises Upon the expiration or earlier termination of the lease Term, Tenant shall surrender possession of the Demised Premises to Landlord in the same order, condition, and repair as when received by Tenant or as thereafter improved by Landlord or Tenant excepting only reasonable wear and tear which Tenant was not otherwise obligated to remedy under any provision of this lease In such event, Tenant shall, at its expense, promptly remove or cause to be removed from the Demised Premises all debris, rubbish, furniture, equipment, business and trade fixtures, freestanding cabinet work, shelving, movable partitions, and other articles of personal property owned by Tenant or installed or placed by Tenant at its expense in the Demised Premises (exclusive of any items described in Subsection 19 2 4), and all similar articles of any other persons claiming under Tenant, unless Landlord exercises its option to have any subleases or subtenancies assigned to it Tenant shall also repair, at its expense, all damages which removals from or restoration of the Demised Premises may cause

19 2 3 Abandoned Property Any property of Tenant not removed by Tenant upon the expiration of the lease Term (or within two (2) days after a termination by reason of Tenant's default) shall be considered abandoned, and Landlord may remove any or all such items and dispose of the same in any manner or store the same in a public warehouse or elsewhere for the account of and at the expense and risk of Tenant If Tenant shall fail to pay the cost of storing any such property after it has been stored for a period of thirty (30) days or more, Landlord may sell any or all of such property at public or private sale, in such manner and at such times and places as Landlord, in its sole discretion, may deem proper without notice to or demand upon Tenant Landlord shall apply the proceeds of such sale to the amounts due Landlord from Tenant under this lease and for the costs of storage and the sale

19 2 4 Affixed Improvements All fixtures equipment, alterations, additions, improvements, and/or appurtenances attached to or built into the Demised Premises prior to or during the lease Term, whether at the expense of Landlord, at the expense of Tenant, or at the expense of both, shall be and remain part of the Demised Premises and shall not be removed by Tenant at the end of the lease Term, unless otherwise expressly provided for in the lease or by separate written agreement of the parties

ARTICLE 20
NOTICES

20 1 Notices Wherever any notice is required or permitted hereunder, such notice shall be in writing Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered when actually received by the designated addressee or, if earlier and regardless of whether actually received or not, when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the parties hereto at the respective addresses set out in Section 1 1 above

(or at Landlord's option, to Tenant at the Demised Premises), or at such other addresses as they have theretofore specified by written notice

20 2 Multiple Parties If and when included within the term "Landlord" as used in this instrument there are more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such notice specifying some individual at some specific address for the receipt of notices and payments to the Landlord, if and when included within the term "Tenant" as used in this instrument there are more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such a notice specifying some individual at some specific address for the receipt of notices and payment to Tenant All parties included within the terms "Landlord ' and "Tenant," respectively, shall be bound by notice and payments given in accordance with the provisions of this Article to the same effect as if each had received such notice or payment. In addition, Tenant agrees that actions by Landlord and notices to Tenant hereunder may be taken or given by Landlord's attorney, property manager or other agent

ARTICLE 21
COMMISSIONS

Landlord shall pay to the Agent (as set forth in Section 1 1(g) hereof) a commission for negotiating this lease, in accordance with the Property Management Agreement between Landlord and CB Commercial Real Estate Group, Inc Tenant and Landlord warrant that they have had no dealings with any broker or agent in connection with this lease, other than Agent, whose commission shall be paid as hereinabove provided Landlord and Tenant covenant to pay, hold harmless and indemnify each other from and against any and all cost, expense or liability for any compensation, commissions or charges claimed by any broker or agent utilized by the indemnitor with respect to this lease or the negotiation hereof

ARTICLE 22.
REGULATIONS

22 1 Governmental Regulations Landlord and Tenant acknowledge that there are now in effect and may hereafter be enacted or go into effect federal, state, county and municipal laws, orders, rules, directives and regulations relating to or affecting the Demised Premises or the Building, concerning the impact on the environment of construction, land use, maintenance and operation of structures toxic or otherwise hazardous substances, and the conduct of business, including, without limitation the Americans With Disabilities Act of 1990 and the Clean Air Act and regulations issued thereunder (all of the foregoing, as amended from time to time, being herein called the "Regulations") Tenant will not cause or permit to be caused, any act or practice, by negligence, omission or otherwise, that would adversely affect the environment or do anything or permit anything to be done that would violate any of said Regulations Moreover, Tenant shall have no claim against Landlord by reason of any changes Landlord may make in the Building or the Demised Premises pursuant to said Regulations or any charges imposed upon Tenant, Tenant's customers or other invitees pursuant to same

22 2 Americans with Disabilities Act Tenant acknowledges that it will be wholly responsible for any accommodations or alterations which need to be made to the Demised Premises to accommodate disabled employees and customers of Tenant, including without limitation, the requirements under the Americans with Disabilities Act and any equivalent State law Any alterations made to the Demised

Premises in order to comply with either statute must be made solely at Tenant's expense and in compliance with all terms and requirements of the lease If a complaint is received by Landlord from either a private or government complaint regarding disability access to the Building, Landlord reserves the right to mediate, contest, comply with or otherwise respond to such complaint as Landlord deems to be reasonably prudent under the circumstances If Landlord decides to make alterations to the Building in response to any such complaints or in response to legal requirements Landlord considers to be applicable to the Building, the cost of such alterations shall be included in the Landlord's expenses pursuant to Section 4 2 hereof Landlord and Tenant agree that so long as the governmental entity or entities charged with enforcing such statutes have not expressly required Landlord to take specific action to effectuate compliance with such statutes, Landlord shall be conclusively deemed to be in compliance with such statutes Tenant agrees to provide Landlord with written notice should Tenant become aware of a violation of such statutes with respect to the Building In the event Landlord is required to take action to effectuate compliance with such statutes, Landlord shall have a reasonable period of time to make the improvements and alterations necessary to effectuate such compliance, which period of time shall be extended by any time necessary to cause any necessary improvements and alterations to be made

ARTICLE 23.
HAZARDOUS MATERIALS

23 1 Compliance with Laws During the term of this lease, Tenant shall comply with all Environmental Laws and Environmental Permits (each as defined in Section 23 7 hereof) applicable to the operation or use of the Demised Premises, will cause all other persons occupying or using the Demised Premises to comply with all such Environmental Laws and Environmental Permits, will immediately pay or cause to be paid all costs and expenses incurred by reason of such compliance, and will obtain and renew all Environmental Permits required for operation or use of the Demised Premises

23 2 Prohibited Activities Tenant shall not generate, use, treat, store, handle, release or dispose of, or permit the generation, use, treatment, storage, handling, release or disposal of Hazardous Materials (as defined in Section 23 7 herein) on the Demised Premises, or the Building, or transport or permit the transportation of Hazardous Materials to or from the Demised Premises or the Building except for limited quantities used or stored at the Demised Premises and required in connection with the routine operation and maintenance of the Demised Premises, and then only upon the written consent of Landlord and in compliance with all applicable Environmental Laws and Environmental Permits

23 3 Landlord's Right to Environmental Assessment At any time and from time to time during the term of this lease, Landlord may perform, at Tenant's sole cost and expense, an environmental site assessment report concerning the Demised Premises, prepared by an environmental consulting firm chosen by Landlord, indicating the presence or absence of Hazardous Materials caused or permitted by Tenant and the potential cost of any compliance, removal or remedial action in connection with any such Hazardous Materials on the Demised Premises Tenant shall grant and hereby grants to Landlord and its agents access to the Demised Premises and specifically grants Landlord an irrevocable non-exclusive license to undertake such an assessment, and the cost of such assessment shall be immediately due and payable on demand

23 4 Notice of Claims Tenant will immediately advise Landlord in writing of any of the following (1) any pending or threatened Environmental Claim (as defined in Section 23 7 hereof) against Tenant relating to the Demised Premises or the Building, (2) any condition or occurrence on the

Demised Premises or the Building that (a) results in noncompliance by Tenant with any applicable Environmental Law, or (b) could reasonably be anticipated to form the basis of an Environmental Claim against Tenant or Landlord or the Demised Premises, (3) any condition or occurrence on the Demised Premises or any property adjoining the Demised Premises that could reasonably be anticipated to cause the Demised Premises to be subject to any restrictions on the ownership, occupancy, use or transferability of the Demised Premises under any Environmental Law, and (4) the actual or anticipated taking of any removal or remedial action by Tenant in response to the actual or alleged presence of any Hazardous Material on the Demised Premises or the Building All such notices shall describe in reasonable detail the nature of the claim, investigation, condition, occurrence or removal or remedial action and Tenant's response thereto In addition, Tenant will provide Landlord with copies of all communications regarding the Demised Premises with any government or governmental agency relating to Environmental Laws, all such communications with any person relating to Environmental Claims, and such detailed reports of any such Environmental Claim as may reasonably be requested by Landlord

23 5 Change in Use Tenant will not change or permit to be changed the present use of the Demised Premises unless Tenant shall have notified Landlord thereof in writing and Landlord shall have determined, in its sole and absolute discretion, that such change will not result in the presence of Hazardous Materials on the Demised Premises except for those described in Section 23 2 above

23 6 Indemnification

(a) Tenant agrees to defend, indemnify and hold harmless the Indemnitees (as defined in Section 17 1) from and against all obligations (including removal and remedial actions), losses, claims, suits, judgments, liabilities, penalties, damages (including consequential and punitive damages), costs and expenses (including attorneys' and consultants' fees and expenses) of any kind or nature whatsoever that may at any time be incurred by, imposed on or asserted against such Indemnitees directly or indirectly based on, or arising or resulting from (a) the actual or alleged presence of Hazardous Materials on the Building which is caused or permitted by Tenant and (b) any Environmental Claim relating in any way to Tenant's operation or use of the Demised Premises (the "Hazardous Materials Indemnified Matters") The provisions of this Article 23 shall survive the expiration or sooner termination of this lease

(b) To the extent that the undertaking in the preceding paragraph may be unenforceable because it is violative of any law or public policy, Tenant will contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Hazardous Materials Indemnified Matters incurred by the Indemnitees

(c) All sums paid and costs incurred by Landlord with respect to any Hazardous Materials Indemnified Matter shall bear interest at the lesser of (i) eighteen (18%) percent per annum, or (ii) the maximum legal rate of interest allowed by the state in which the Building is located, from the date so paid or incurred until reimbursed by Tenant, and all such sums and costs shall be immediately due and payable on demand

23 7 Definitions

(a) "Hazardous Materials" means (i) petroleum or petroleum products, natural or synthetic gas, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, and radon gas, (ii) any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," 'hazardous materials," 'extremely hazardous wastes," "restricted hazardous

wastes," "toxic substances," "toxic pollutants," "contaminants" or "pollutants," or words of similar import, under any applicable Environmental Law, and (iii) any other substance exposure to which is regulated by any governmental authority

(b) "Environmental Law" means any federal, state or local statute, law, rule, regulation, ordinance, code, policy or rule of common law now or hereafter in effect and in each case as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the environment, health, safety or Hazardous Materials, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U S C §§ 9601 et seq., the Resource Conservation and Recovery Act, 42 U S C §§ 6901 et seq., the Hazardous Materials Transportation Act, 49 U S C §§ 1801 et seq., the Clean Water Act, 33 U S C §§ 1251 et seq., the Toxic Substances Control Act, 15 U S C §§ 2601 et seq., the Clean Air Act, 42 U S C §§ 7401 et seq., the Safe Drinking Water Act, 42 U S C §§ 300f et seq., the Atomic Energy Act, 42 U S C §§ 2011 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U S C §§ 136 et seq., the Occupational Safety and Health Act, 29 U S C §§ 651 et seq.

(c) "Environmental Claims" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation investigations, proceedings, consent orders or consent agreements relating in any way to any Environmental Law or any Environmental Permit, including without limitation (i) any and all Environmental Claims by governmental or regulatory authorizes for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law and (ii) any and all Environmental Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment

(d) "Environmental Permits" means all permits, approvals, identification numbers, licenses and other authorizations required under any applicable Environmental Law

23 8 Landlord's Representation Landlord represents and warrants that to the best of its knowledge there are no Hazardous Materials in the Building, and that no Hazardous Materials shall be stored, handled or disposed of in the Building during the term of the Lease The representations and warranties of the parties herein and in the Lease regarding the absence of Hazardous Materials shall exclude from their scope Hazardous Materials which are used in the ordinary course of the operation of business within the Premises or other space in the Building, and which are stored, used and disposed of in accordance with all applicable laws and ordinances, and for which any necessary permits have been obtained Landlord shall indemnify Tenant from and against any and all liabilities, claims, penalties, forfeitures, suits, costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorney's fees) which Tenant may incur, related to the presence of any Hazardous Materials in the Building, excluding materials which are introduced into the Building by Tenant, or Tenant's employees, agents, invitees or representatives

ARTICLE 24
MISCELLANEOUS

24 1 No Agency Nothing in this lease shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture

between the parties hereto, it being understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant

24 2 Independent Obligations Tenant shall not for any reason withhold or reduce Tenant's required payments of rentals and other charges provided in this lease, it being agreed that the obligations of Landlord under this lease are independent of Tenant's obligations except as may be otherwise expressly provided The immediately preceding sentence shall not be deemed to deny Tenant the ability of pursuing all rights granted it under this lease or at law, however, at the direction of Landlord, Tenant's claims in this regard shall be litigated in proceedings different from any litigation involving rental claims or other claims by Landlord against Tenant (i e , each party may proceed to a separate judgment without consideration, counterclaim or offset as to the claims asserted by the other party)

24 3 Limitation on Landlord's Liability The liability of Landlord, any agent of Landlord, or any of their respective officers, directors, shareholders, or employees to Tenant for or in respect of any default by Landlord under the terms of this lease or in respect of any other claim or cause of action shall be limited to the interest of Landlord in the Building, and Tenant agrees to look solely to Landlord's interest in the Building for the recovery and satisfaction of any judgment against Landlord, any agent of Landlord or any of their respective officers, directors, shareholders, and employees Any action based upon such liabilities shall be commenced within six (6) months following the date of said assignment of this lease by Landlord and no such action shall be brought thereafter

24 4 Consents In all circumstances under this lease where the prior consent of one party (the "consenting party"), whether it be Landlord or Tenant, is required before the other party (the "requesting party") is authorized to take any particular type of action, such consent shall not be withheld in a wholly unreasonable and arbitrary manner, however, the requesting party agrees that its exclusive remedy if it believes that consent has been withheld improperly (including, but not limited to, consent required from Landlord pursuant to Section 15 1) shall be to institute litigation either for a declaratory judgment or for a mandatory injunction requiring that such consent be given (with the requesting party hereby waiving any claim for damages, attorneys' fees or any other remedy unless the consenting party refuses to comply with a court order or judgment requiring it to grant its consent)

24 5 Force Majeure Whenever a period of time is herein prescribed for action to be taken by Landlord, Landlord shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the reasonable control of Landlord

24 6 Severability If any provision of this lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this lease shall not be affected thereby

24 7 Governing Law The laws of the State of Minnesota shall govern the interpretation, validity, performance and enforcement of this lease Venue for any action under this lease shall be the county in which rentals are due pursuant to Section 4 1 and Section 1 1 of this lease

24 8 Captions The captions used herein are for convenience only and do not limit or amplify the provisions

24 9 Number, Gender Whenever herein the singular number is used, the same shall include the plural, and words of any gender shall include each other gender

24 10 Successors and Assigns All covenants and obligations contained within this lease shall bind and inure to the benefit of Landlord, its successors and assigns, and shall be binding upon Tenant, its permitted successors and assigns

24 11 Entire Agreement This lease contains the entire agreement between the parties, and no rights are created in favor of either party other than as specified or expressly contemplated in this lease No brochure, rendering, information or correspondence shall be deemed to be a part of this agreement unless specifically incorporated herein by reference In addition, no agreement shall be effective to change, modify or terminate this lease in whole or in part unless such is in writing and duly signed by the party against whom enforcement of such change, modification or termination is sought

24 12 Waiver No waiver of any of the terms, covenants, provisions, conditions, rules and regulations imposed by this lease, and no waiver of any legal or equitable relief or remedy, shall be implied by the failure of Landlord to assert any rights, declare any forfeiture, or for any other reason No waiver of any of the terms, provisions, covenants, conditions, rules and regulations shall be valid unless it shall be in writing signed by Landlord No waiver by Landlord or forgiveness of performance by Landlord for one or more Tenants shall constitute a waiver or forgiveness of performance in respect to Tenant Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval under this lease shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act of Tenant No act or thing done by Landlord or Landlord's agents during the Term of this lease shall be deemed an acceptance of a surrender of the Demised Premises, unless in writing signed by Landlord The delivery of the keys to any employee or agent of Landlord shall not operate as a termination of the lease or a surrender of the Demised Premises The acceptance of any rent by Landlord following a breach of this lease by Tenant shall not constitute a waiver by Landlord of such breach or any other breach unless such waiver is expressly stated in a writing signed by Landlord

24 13 No Recordation Tenant shall not record this lease Without the prior written consent of Landlord, Tenant shall not record any memorandum of this lease, short form or other reference to this lease

24 14 Effectiveness The submission of this lease for examination does not constitute a reservation of or option for the Demised Premises or any other space in the Building, and shall not vest any right in Tenant This lease shall become effective as a lease only upon its execution and delivery by the parties

24 15 WAIVER OF TRIAL BY JURY LANDLORD AND TENANT HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS LEASE OR ANY DOCUMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HEREWITH OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY ARISING OUT OF OR RELATED IN ANY MANNER WITH THE DEMISED PREMISES (INCLUDING WITHOUT LIMITATION, ANY ACTION TO RESCIND OR CANCEL THIS LEASE OR ANY CLAIMS OR DEFENSES ASSERTING THAT THIS LEASE WAS FRAUDULENTLY INDUCED OR IS OTHERWISE VOID OR VOIDABLE) THIS WAIVER IS A MATERIAL INDUCEMENT FOR LANDLORD TO ENTER AND ACCEPT THIS LEASE

24 16 Execution If Tenant is a corporation (including any form of professional association), then each individual executing or attesting this lease on behalf of such corporation covenants, warrants and represents that he is duly authorized to execute or attest and deliver this lease on behalf of such corporation If Tenant is a partnership (general or limited) or limited liability company, then each individual executing this lease on behalf of the partnership or company hereby covenants, warrants and represents that he is duly authorized to execute and deliver this lease on behalf of the partnership or company in accordance with the partnership agreement or membership agreement, as the case may be, or an amendment thereto, now in effect.

24 17 Landlord's Indemnity Landlord shall indemnify and hold Tenant harmless against all claims, demands, or actions, and all related costs and expenses (including attorney's fees) for injury, death or disability of any person, or damage to property, which result from the negligence or intentional misconduct of Landlord or Landlord's employees to the extent not covered by applicable insurance

24 18 Early Termination Notwithstanding anything to the contrary herein, Tenant shall have the option to terminate this Lease effective the third anniversary of the Commencement Date Tenant shall exercise its option by delivery to Landlord not less than six (6) months prior to the effective date of termination, (i) written notice of its exercise of its option, together with (ii) a Termination Fee equal to (a) Landlord's unamortized expenses in connection with this Lease, estimated at $43,180 45, plus (b) three months gross Rent

24 19 Contents of Agreement This lease consists of twenty-four Articles and Exhibits "A" through "D" In the event any provision of an exhibit shall be inconsistent with a provision in the body of the lease, the provision as set forth in the exhibit shall be deemed to control

EXECUTED as of the latest date accompanying a signature by Landlord or Tenant below

LANDLORD

SC 79TH STREET, INC ,
a Delaware corporation

By GE CAPITAL INVESTMENT ADVISORS, INC ,
its investment advisor

By Carol J Miles
Name Carol J Miles
Title V P

Date of Signature 7/13/98

Taxpayer Identification No 68-0370206

TENANT

GREEN TREE FINANCIAL SERVICING CORPORATION

By _____

Name Joel Gottesman

Title Senior Vice President and Secretary

Date of Signature 7-6-98

Taxpayer Identification No _____

AGENT

CB RICHARD ELLIS

By _____

Name NICK GONZEMIUS

Title SENIOR ASSOCIATE

Date of Signature 7-7-98

TOBIN REAL ESTATE COMPANY

By _____

Name Thomas P. Sexton

Title Vice President

Date of Signature 6/25/98

EXHIBIT "A"

DESCRIPTION OF LANDLORD'S PROPERTY

Lot 1, Block 1
Summit State Bank Addition
Hennepin County, Minnesota

EXHIBIT "B"

DEMISED PREMISES

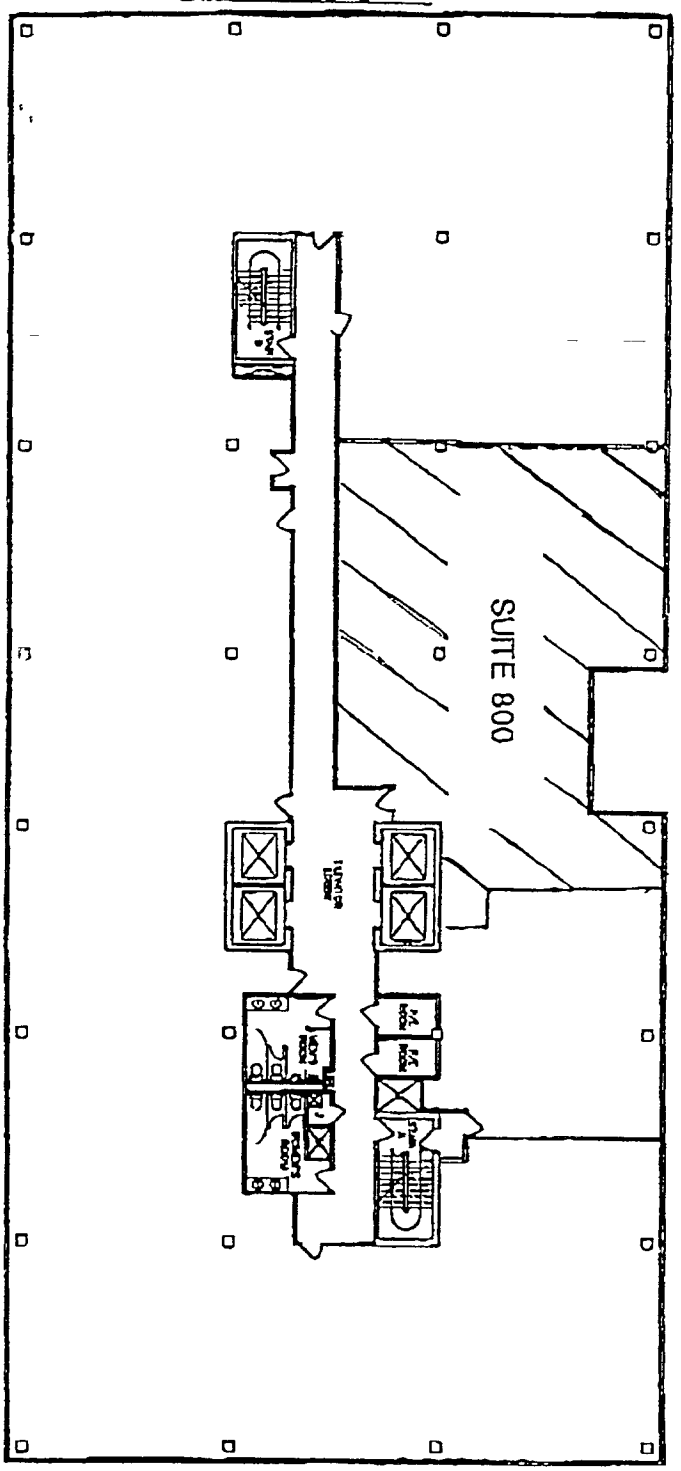

EXHIBIT "C"

WORK LETTER FOR TENANT IMPROVEMENTS

1 Defined Terms All defined terms referred to in this Exhibit "C shall have the same meaning as defined in the Lease to which this Exhibit is a part, except where expressly defined to the contrary

2 Construction of the Tenant Improvements Landlord shall construct the Tenant Improvements in accordance with this Work Letter and the construction contract to be executed by Landlord and its contractor(s) Landlord shall use reasonable diligence to Substantially Complete (as hereinafter defined) the Tenant Improvements by August 1, 1998 In all events, this lease shall not commence until Substantial Completion of the Tenant Improvements, Tenant Delay and force majeure excepted as hereafter provided

3 Additional Definitions Each of the following terms shall have the following meaning

3 1 1 Construction Plans - The plans and specifications prepared by Green Tree Financial dated April 3, 1998 for the construction of the Tenant Improvements

3 1 2 Force Majeure Delays - Any delay, other than a Tenant Delay, by Landlord in completing the Tenant Improvements by the Commencement Date by reason of strike, other labor trouble, governmental preemption of priorities or other controls in connection with a national or other public emergency, or shortages of fuel, supplies or labor resulting therefrom, or any other cause, whether similar or dissimilar to the above, beyond Landlord s reasonable control, but excluding any financial exigency of Landlord The time for performance of any obligation of Landlord to construct the Tenant Improvements under this Work Letter or the Lease shall be extended at Landlord's election by the period of any delay caused by any of the foregoing events

3 1.3 Substantial Completion, Substantially Complete Substantially Completed - The terms Substantial Completion, Substantially Completed and Substantially Complete shall mean when the following have occurred or would have occurred but for Tenant Delays

(a) Landlord and Tenant have stipulated in writing that the Demised Premises have been Substantially Completed in accordance with the Construction Plans, except for any punch list items which may be completed without materially impairing Tenant's use of the Demised Premises or a material portion thereof, provided, however, that if Tenant unreasonably withholds its stipulation of Substantial Completion, Landlord may, on forty-eight (48) hours written notice unilaterally declare that the Tenant Improvements are Substantially Completed, and

(b) Landlord has obtained from the appropriate governmental authority a conditional (provided that the terms of the same will not impede the conduct of Tenant's business in the Demised Premises) or final certificate of occupancy (or equivalent) for the Demised Premises permitting occupancy of the Demised Premises by Tenant

3 1 4 Tenant Delay - Any delay incurred by Landlord in the completion of the Tenant Improvements which delays the Commencement Date due to (i) a delay by Tenant, or by any person

employed or engaged by Tenant (excluding Landlord, its Contractor and its architect), in approving or delivering to Landlord any plans or schedules, (ii) a delay in the performance of work in the Demised Premises by Tenant or any person employed by Tenant, (iii) any changes requested by Tenant in or to previously approved work or in the Construction Plans, or (iv) delays in delivery of any materials, other than those contained in the Construction Plans, specified by Tenant through change orders Landlord shall endeavor promptly to notify Tenant of an occurrence of Tenant Delay, but Landlord's failure to so notify Tenant shall not affect whether such a Tenant Delay has occurred

3 1 5 Tenant Improvements - The improvements to be installed by Landlord in the Demised Premises as shown in detail on the Construction Plans

4 Building Permits Landlord, with Tenant's cooperation, shall cause to be made any change in the Construction Plans necessary to obtain the building permit

5 Changes After approval of the Construction Plans by Landlord and Tenant, any changes in the Construction Plans, including, without limitation, any changes required by any applicable law, rule, regulation or ordinance, shall require the prior written consent of Landlord Any such changes requested by Tenant and Landlord shall be prepared by Landlord's architect, engineer or contractor Except for changes required pursuant to Section 4 above, the cost of such changes, including the cost to revise the Construction Plans, obtain any additional permits and construct any additional improvements required as a result thereof, and the cost for materials and labor, and all other additional costs incurred by Landlord due to delays in completing the Tenant Improvements as a result thereof, shall be paid by Tenant, at its sole cost and expense, to Landlord within ten (10) days after Tenant's receipt of notice from Landlord If Landlord does not receive such payment within said ten (10) day period, Landlord shall have the right, in addition to any other rights or remedies available under the Lease, at law or in equity, to (i) discontinue all or any portion of the work until it receives said payment, (ii) proceed with the other work not affected by such change until such payment is received, (iii) proceed with the work contemplated with such change, or (iv) proceed with the work without making such change, in which case the commencement or completion of such work shall not be deemed a waiver of Tenant's obligation to pay for same or any additional costs or expenses incurred as a result thereof Any Tenant Delay shall not cause the Commencement Date of the Lease to be extended, but Tenant shall be obligated to pay Base Rent for the Demised Premises based on the date Landlord's architect or contractor determines the Commencement Date would have occurred but for such delays, notwithstanding that Tenant will not be able to occupy such portion of the Demised Premises The cost of a change order and any resulting delay in connection and additional cost incurred as a result thereof shall be determined by Landlord's architect, which determination shall be binding upon the parties

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LANDLORD CM

TENANT

EXHIBIT "D"

TENANT CONSTRUCTION RULES AND REGULATIONS

ARTICLE I GENERAL

Prior to any modification of the existing premises, Tenant shall adhere to the following

ARTICLE II PRE-CONSTRUCTION OBLIGATIONS

A Plans, diagrams, schedules and other data relating to work to be performed by Tenant must be furnished by Tenant to Landlord complete, sufficient to obtain a building permit, and ready for Landlord's consideration and final approval Without limiting the generality of the immediately preceding sentence, Tenant's submissions must include a floor plan, a reflected ceiling plan, a plumbing plan, elevations of walls and a fixture plan All drawings shall be at scale of either 1/8" or 1/4" Tenant shall reimburse Landlord for any loss or extra cost which may result to Landlord by reason of failure on the part of Tenant to submit any such plans, diagrams, schedules, specifications and/or other data

B Tenant shall secure Landlord's written approval of all designs, plans, specifications, materials, contractors and contracts for work to be performed by Tenant before beginning the work (including following whatever "work letter" instructions, if any, which Landlord may deliver to Tenant in connection with the work), and shall secure all necessary licenses and permits to be used in performing the work Tenant's finished work shall be subject to Landlord's approval and acceptance

C The insurance requirements under Article 11 of the lease and the indemnity requirements under Article 12 of the lease shall apply during the construction contemplated in this exhibit, and Tenant shall provide evidence of appropriate insurance coverage prior to beginning any of Tenant's work Tenant shall provide Landlord with evidence of insurance covering both Tenant and Tenant's contractor against damage to their personal property, as well as against third-party liability and workers' compensation claims arising out of all construction and associated activities All policies of insurance shall be subject to Landlord's prior approval and shall be endorsed showing Landlord as an additional named insured (or if permitted by Landlord, may provide a waiver of subrogation against Landlord)

ARTICLE III DESCRIPTION OF TENANT'S WORK

A Utilities All meters or other measuring devices in connection with utility services shall be provided by Tenant All service deposits shall be made by Tenant at Tenant's expense

B All work undertaken by Tenant shall be Tenant's expense and shall not damage the building or any part thereof Tenant shall also be responsible for obtaining and paying for professional inspections of any structural work (including, without limitation, any roof work or concrete work)

C All work undertaken by Tenant shall be awarded to Landlord's contractor unless, before any construction begins, Tenant chooses and receives Landlord's written approval for another contractor to complete Tenant's work

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LANDLORD CM

TENANT JHG

LINDQUIST & VENNUM PLLP

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80 SOUTH EIGHTH STREET
MINNEAPOLIS MN 55402 2274
TELEPHONE 612 371 3211
FAX 612 371 3207

IN ST PAUL
444 CEDAR STREET SUITE 1700
ST PAUL MN 55101 3157
TELEPHONE 651 312 1300
FAX 651 223 5332

IN DENVER
600 17TH STREET SUITE 1800 SOUTH
DENVER COLORADO 80202 5441
TELEPHONE 303 573 5900
FAX 303 573 1956

ATTORNEYS AT LAW

www lindquist com

GEORGE H SINGER
612 371 2493
gsinger@lindquist com

ADMITTED IN MINNESOTA
NORTH DAKOTA AND WISCONSIN

May 20, 2003

Bankruptcy Management Corporation
Attn Conseco, Inc Claims
1330 East Franklin Avenue
El Segundo, CA 90245

Re Conseco Finance Servicing Corp
Bky Court No 02-49676 - CAD

Dear Sir/Madam

Enclosed for filing please find a Proof of Claim in the above-referenced matter

If you have any questions regarding this, please contact me

Very truly yours,

LINDQUIST & VENNUM PLLP

George H Singer

GHS mad
Enclosure

Doc# 1766765\1