

GROUND LEASE

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GROUND LEASE

This Ground Lease ("Lease") is made this 1st day of August, 1979, by and between JESSIE M. DUC, a widow, EUGENE DUC, a married man and CHARLOTTE KIRCHEN, a single woman (collectively "Lessor") and FRANK WOOLSEY and CHARLES L. HERMANSEN (collectively "Lessee").

WITNESSETH

I. In consideration of the rent hereinafter to be paid by Lessee and of the performance by Lessee of all the covenants and conditions and agreements herein contained to be kept and performed by Lessee, Lessor does hereby lease unto Lessee, and Lessee leases from Lessor that certain real property (the "Property"), situated in the City of Huntington Beach, County of Orange, State of California, more particularly described as Parcel 1 on a Map filed on April 2, 1979, in Book 131, Page 34 of Parcel Maps, County of Orange, California.

II. Term

A. Initial Term.

The term of this Lease shall be for approximately forty-seven (47) years, commencing on the date hereof ("Commencement Date") and ending on August 31, 2026.

B. Option.

Lessee shall have the option and absolute right to extend the term of this Lease for an additional fifteen (15) years by giving written notice to that effect to Lessor no later than six (6) months prior to the expiration of the original term hereof.

C. Right to First Refusal to Lease on Expiration of Term.

In the event Lessor again decides to lease the Property at the expiration of the original lease term, or any extension thereof, Lessor shall give six (6) months notice ("Notice") in writing to Lessee to that effect. The Notice shall be given at least six (6) months before the expiration of the original lease term, or any extension thereof, and shall contain the terms of the new lease and the name and address of the proposed new lessee and may incorporate by reference provisions of this Lease. Lessee shall be entitled to accept the new lease on the terms contained in the Notice by giving written notice to that effect to Lessor within ninety (90) days after Lessee's receipt of the Notice. If Lessee fails to accept the new lease as provided herein, Lessor may lease the Property to any person, provided that the terms of any such lease must be no less favorable to Lessor than the terms disclosed in the Notice.

III. Rent, Other Payments, Security

A. Minimum Rent:

Lessee shall pay without abatement, deduction or off set, the following sums:

1. For the full term hereof as his minimum rent, the sum of Three Thousand and No/100 Dollars (\$3,000.00) per month, payable on the first day of each month, commencing on the first day of the month following the Commencement Date. Lessor acknowledges receipt of the minimum rent for the last two (2) months of the term hereof. Rent to be divided one-third (1/3rd) to JESSIE M. DUC, one-third (1/3rd) to EUGENE DUC, and one-third (1/3rd) to CHARLOTTE KIRCHEN.

B. Adjustments to Minimum Rent:

1. Upon expiration of the second (2nd) year of the term of this Lease and every fifth (5th) year thereafter, the minimum rent hereunder shall be increased by Two Hundred Seventy-Nine and 50/100 Dollars (\$279.50) per month.

2. Taxes.

(a) Lessee shall pay or cause to be paid, all real and personal property taxes, general and special assessments and other charges of every description levied on or set against the Property, improvements located on the Property, personal property on or in the land or improvements, the leasehold estate or any subleasehold estate, to the full extent of installments falling due during the term, whether belonging to or chargeable to Lessor or Lessee. Lessee shall make all such payments direct to the charging authorities at least ten (10) days before delinquency, and before any fine, interest or penalty shall become due or be imposed by operation of the law for their payment. If, however, the law expressly permits the payment of any or all of the above items installments (whether or not interest accrues on the unpaid balance) Lessee may, at Lessee's election, pay the permitted installment with any interest before delinquency.

(b) Prorations.

All payments of taxes or assessments or both, shall be prorated for the year in which the Lease expires.

(c) Proof of Payment of Taxes.

Lessee shall furnish to Lessor at least seven (7) days before the date when any taxes, assessments or charges would become delinquent, receipts or other appropriate evidence of their payment. Lessee may comply with this requirement by retaining a tax service to notify Lessor whether the taxes have been paid.

3. Utilities.

Lessee shall pay during the term hereof all charges for water, electricity, gas, sewers and telephone, and any and every other charge or expense incurred or payable in connection fees.

4. No Adjustment Diminishes Minimum Rent.

None of the adjustments to minimum rent shall be construed to diminish, nor apply towards minimum rent.

IV. Improvements

A. Condition of Use of Property-Lessor's Non-Responsibility/Notice to Lessor.

At least fifteen (15) days before any work of any kind to or for the benefit of the Property and before any work of construction, alteration or repair is commenced on the Property, and before any building materials have been delivered to the Property by Lessee or under Lessee's authority, Lessee shall notify Lessor in writing of the same. The notice shall specify the approximate location, cost and nature of the intended improvements and benefits. Lessor shall have the right to post and maintain on the Property notices of non-responsibility.

B. Conditions of Major Construction.

1. Place of Construction.

All improvements shall be constructed within the Property, provided that required work outside the Property on utilities, access and conventional use requirements shall be permitted. On completion of a work of improvement Lessee shall deliver to Lessor a copy of the plans and specifications for Lessor's use, if any, at the expiration of this Lease.

2. Completion Bond.

Before any major work of construction, alteration or repair is commenced on the Property, Lessee shall furnish Lessor a completion bond as herein described. The bond shall be that of a responsible Surety Company, licensed to do business in California in an amount not less than the cost of construction and shall remain in effect until the entire cost of the work shall have been paid in full and the new improvement shall have been insured as provided in this Lease. The bond shall state the following:

(a) That it is conditioned to secure the completion of the proposed construction free from all liens and claims of contractors, subcontractors, mechanics, laborers and material men;

(b) That the construction shall be effected by Lessee, the general contractor, or on their default, the Surety;

(c) That in default of such completion and payment, such part of the amount of the bond as shall be required to complete the work shall be paid to Lessor as liquidated damages for the non-performance of Lessee's agreements, it being agreed that the exact amount of Lessor's damages is difficult and impossible to ascertain;

(d) That the Surety will defend and indemnify Lessor against all loss, costs, damage, expense and liability arising out of or connected with the work of improvement.

3. Governmental Permits.

Lessee shall comply with all applicable codes, ordinances, regulations and requirements for permits and approvals, including, without limitation, a grading permit, building permit, zoning and planning requirements, and approvals from various governmental agencies and bodies having jurisdiction.

4. Builder's Risk and Other Insurance.

Lessee shall deliver to Lessor: (1) certificates of insurance evidencing coverage for "builder's risk", (2) evidence of worker's compensation insurance covering all persons employed in connection with the work and with respect to whom death or bodily injury claims could be asserted against Lessor or the Property, and (3) evidence that Lessee has paid, or caused to be paid, all premiums for the coverage described above. Lessee shall maintain and keep in force all insurance above at all times during which such work is in progress.

5. Completion-Protection of Lessor Against Costs or Claims.

Lessee shall pay or cause to be paid the total cost and expense of all work of improvement, as that phrase is defined in Mechanics' Lien Law of the State of California. No such payments shall be construed as rent. Lessee shall not suffer or permit to be enforced against the Property or any part of it, any mechanics' or materialmen's lien arising from any work or improvement, however it may arise. However, Lessee may in good faith and at Lessee's own expense contest the validity of any such asserted lien, claim or demand, provided Lessee has furnished the bond required in California Civil Code Section 3143, (or any comparable statutes hereafter enacted for providing a bond freeing the Property from the effect of such a lien claim).

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

6. Lessee's Right To Grant Easement.

Lessor grants to Lessee the right to grant to public entities or public service corporations, for the purpose of serving only the Property, rights of way or easements on or over the Property, for telephone, electricity, water, sanitary or storm sewers or both and for other utilities and municipal or special district services.

7. Dedication, Zone Changes, Variance.

The Property is now zoned R2. Lessee may apply for and obtain any zone changes and variances he may desire and the widening of either Heil Avenue or Bolsa Chica, or both, but all expenses, costs and fees shall be borne by Lessee. Lessor's only obligation hereunder is to join in the application and the dedication of the land for the widening of Heil Avenue, but not to exceed twenty (20) feet, and the widening of Bolsa Chica, but not to exceed thirty (30) feet. No dedication will be made by Lessor at 16583 Bolsa Chica, which is already widened, nor for any other or additional location.

8. Diligent Prosecution to Completion.

Once the work is begun, Lessee shall with reasonable diligence prosecute to completion all construction, improvements, additions or alterations.

9. Lessor's Right to Discharge Lien.

If Lessee does not cause to be recorded the bond described in California Civil Code Section 3143 or otherwise protect the Property under any alternative or successor statute and a final judgment has been rendered against Lessee by a court of competent jurisdiction for the foreclosure of a mechanics' or materialmen's lien claim and if Lessee fails to stay the execution of the judgment by lawful means or to pay the judgment, Lessor shall have the right but not the duty to pay, or otherwise discharge, stay or prevent the execution of any such judgment or lien or both. Lessee shall reimburse Lessor for all sums paid by Lessor under this paragraph together with all Lessor's reasonable attorney fees and costs, plus interest on those sums, fees and costs at the rate of eight percent (8%) per year from the date of payment until the date of reimbursement.

10. Notice of Completion.

On completion of any substantial work of improvement during the term Lessee shall file or cause to be filed a notice of completion. Lessee hereby appoints Lessor as Lessee's attorney in fact to file the notice of completion on Lessee's failure to do so after the work of improvement has been substantially completed.

11. Ownership at Termination.

Lessor disclaims any interest in, or ownership of, any improvements from time to time constructed installed or placed by Lessee on the Property during the term of this Lease. All improvements on the Property at the expiration of the term or sooner termination of this Lease shall, without compensation to Lessee, then become Lessor's property, free and clear of all claims to or against them by Lessee or any third person. Lessee shall defend and indemnify Lessor against all liability and loss arising from such claim or from Lessor's exercise of the rights conferred by this paragraph.

V. Maintenance: Repairs, Alterations, Reconstruction

A. Lessee Required to Maintain the Property.

Throughout the term, Lessee shall, at no cost or expense to Lessor, maintain, or cause to be maintained, the Property and all improvements in first-class condition and repair and in accordance with all applicable laws, rules, ordinances, orders and regulations (1) federal, state, county, municipal and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus and officials; (2) the Insurance Underwriting Board or Insurance Inspection Bureau having or claiming jurisdiction, and (3) all insurance companies insuring all or any part of the Property or improvements or both. Lessee shall promptly and diligently perform, or cause to be performed, any necessary repair, restoration and replacement required to comply with the provisions hereof.

B. Right to Contest Government Order.

Lessee has the right to contest by appropriate judicial or administrative proceedings without cost or expense to Lessor the validity or application of any law, ordinance, order, rule, regulation or requirement (hereafter called law) that Lessee repair, maintain, alter or replace the improvements in whole or in part, and Lessee shall not be in default for failing to do such work until a reasonable time following final determination of Lessee's contest. If Lessor gives notice of request, Lessee shall first furnish Lessor a bond satisfactory to Lessor in form, amount and insurer guaranteeing compliance by Lessee with the contested law and indemnifying Lessor against all liability that Lessor may sustain by reason of Lessee's failure or delay in complying with the law.

VI. Encumbrance, Assignment and Subletting

A. Financing.

Lessor and Lessee acknowledge that Lessee may from time to time encumber Lessee's leasehold estate hereunder as to all or any portion of the Property by the lien of a mortgage, deed of trust or other instrument (herein referred to as "encumbrances") given by Lessee as security for indebtedness. Lessor agrees, from time to time if requested by Lessee, to execute its written consent to an assignment of Lessee's interest under this Lease by one or more encumbrances in favor of any "institutional lender" (including any bank, life insurance company, savings and loan association or other lending institution) as security for sums borrowed from time to time for the development of the Property as a residential Condominium project and the construction of improvements thereon as provided in this Lease, provided, however, that such assignment shall be subject to each and all of the covenants, conditions and restrictions as set forth in this Lease and to all the rights and interests of the Lessor hereunder, and in the event of any conflict between the provisions of this Lease and the provisions of any such encumbrances, the provisions of this Lease shall control.

For the express benefit of any such approved mortgagee, beneficiary under a deed of trust or other secured party (hereinafter referred to as "Lender"), Lessor and Lessee agree as follows:

1. Upon default by Lessee under any of the terms of an approved encumbrance, the Lender shall furnish Lessor copies of any Notice of Default sent to Lessee and Lender may exercise any rights provided in such approved encumbrance; provided that before any sale of the leasehold, whether under power of sale or foreclosure, the Lender shall give to Lessor notice of the same character and duration as is required to be given to Lessee by either or both such encumbrance or the laws of the State of California.

2. If Notice of Default shall be given and any default shall continue, Lessor, prior to sale of the leasehold or any fractional part thereof under power of sale or foreclosure, shall have the right to correct such default and initiate action to terminate this Lease, provided, that prior to any termination hereunder, Lessor shall either (1) pay to the encumbrancer the amount of the principal and accrued interest which remains unpaid or (2) execute to the encumbrancer a new promissory note for the balance of the approved encumbrance, payable upon the same terms and conditions as originally provided by the approved encumbrance. In the event that such new promissory note is executed, such note shall be secured by a new encumbrance approved by Lessor on the leasehold estate and any improvements thereon upon which the approved encumbrance is a lien, and Lessor shall deliver to the encumbrancer a policy of title insurance in the amount of the balance of the encumbrance, issued by a reputable title insurance company, and insuring that the new encumbrance is a first encumbrance on such property, subject only to current taxes and to conditions, restrictions and reservations of record at the time of recording the approved encumbrance, and subject, further, to any agreements for utility lines entered into by Lessee and rights-of-way lawfully granted by Lessor in connection with the development of the Property pursuant to this Lease.

3. This Lease shall not be modified without the prior written consent of any Lender which has given notice to Lessor in accordance with this Lease.

4. The execution of any encumbrance, or the foreclosure thereof or sale thereunder either by judicial proceedings or through any power reserved therein, or conveyance by Lessee in lieu of foreclosure, or the exercise of any right, power or privilege reserved therein, shall not constitute a violation of any of the terms or conditions of this Lease or an assumption by Lender, personally of the obligations of Lessee under this Lease except as provided in Subparagraph 6 below.

5. Lender, at its option, may at any time before termination of this Lease, perform any of the covenants and conditions required to be performed hereunder by Lessee, to the extent that such covenants and conditions are applicable and pertain to and affect the portion of the Property encumbered by such lien, and such performance by Lender shall be as effective to prevent the termination of this Lease as to the portion of the Property so encumbered as the same would have been if done and performed by Lessee.

6. Should Lender acquire Lessee's leasehold estate hereunder as to the portion of the Property encumbered by such lien by sale under power of sale, foreclosure or other appropriate proceedings in the nature thereof or as the result of any other action or remedy provided for by the encumbrance, or by a proper conveyance or assignment in lieu of foreclosure from Lessee, Lender shall take Lessee's leasehold estate subject to all of the provisions of this Lease, and shall, so long as and only so long as it shall be the owner of such estate, assume those obligations of Lessee which can be met by the expenditure of monies.

7. Should Lender acquire Lessee's leasehold estate hereunder as to the portion of the Property encumbered by such lien by any of the means enumerated in Subparagraph 4 above, Lender may sublease such portion for any period or periods within the term of this Lease, or assign Lessee's leasehold estate hereunder as to such portion by sale or otherwise, upon giving Lessor thirty (30) days notice in writing in advance of such assignment or sublease, subject to the right of Lessor to terminate as provided in Paragraph IX, so long as said right to terminate is exercised prior to any such assignment or subleasing by Lender; provided, however, that any assignee or purchaser of said leasehold estate of any person taking through any other means and their respective successors in interest, shall take said leasehold estate subject to all of the covenants and conditions herein contained on the part of Lessee to be kept, observed and performed, and shall, as a condition of such assignment, purchase or other taking, assume and agree to perform all such obligations, covenants and conditions of Lessee hereunder.

8. The acquisition of the interest of Lessee by the Lender as provided herein shall require the Lender, or its assignee to thereafter pay directly to Lessor, as full payment for use of the Property so acquired, the total rent due under this Lease, subject to the provisions of Subparagraph 6 above requiring the expenditure of monies. Notwithstanding the foregoing, no such foreclosure, assignment, sale, hypothecation, or subleasing of Lessee's leasehold estate hereunder as to the portion of the Property encumbered by such lien, nor the acceptance of rent by Lessor from any such assignee, purchaser, sublessee or any other person, shall relieve, release or in any manner affect the liability of Lessee hereunder.

9. Upon the occurrence of an alleged default by Lessee under Paragraph IX, Lessor agrees that Lessor shall, before pursuing any remedy authorized under this Lease, give notice of default to Lessee and to all qualifying Lenders whose names and addresses were previously given to Lessor in a notice or notices from Lessee or any qualifying Lender stating that the notice was for the purpose of notice under this provision. A qualifying Lender is an institutional Lender as hereinabove defined, under a mortgage then existing under the provisions of this Lease relating to purchase or construction of improvements on the Property. Each notice of default shall specify in detail the alleged event of default and the intended remedy. Each Lender under an encumbrance then existing, under provisions of this Lease permitting encumbrances relating to purchase or construction of improvements shall have sixty (60) days after service of notice of default within which to:

a. Cure such default if the same can be cured by the payment or expenditure of money provided to be paid under the terms of this Lease, or, if such default is not so curable, cause the trustee under the trust deed or other encumbrance to commence and thereafter to diligently pursue to completion steps and proceedings for deed in lieu of foreclosure or for the foreclosure by sale, or by exercise of a power of sale pursuant to the encumbrance in the manner provided by law; and

b. Keep and perform all of the covenants and conditions of this Lease requiring the payment or expenditure of money by Lessee until such time as the leasehold interest in the Property shall be sold upon foreclosure, or by exercise of a power of sale, pursuant to the encumbrance or shall be released or reconveyed thereunder; provided, however, that if the Lender fails or refuses to comply with any and all of the conditions of this Paragraph with respect to a default as to which notice of intention to terminate this Lease has been given to the Lender, then and thereupon Lessor shall be released from all covenants of forbearance contained in this Lease with respect to such breach or default. If, and so long as, Lender is prevented by any process or injunction issued by any court, having jurisdiction of any bankruptcy or insolvency proceeding involving Lessor or Lessee from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, Lender shall not be deemed for that reason to have failed to commence such proceedings or to have failed diligently to prosecute said proceedings; provided, however, that Lender shall use reasonable efforts to contest and appeal the issuance of any such process or injunction.

10. Lender shall give written notice to Lessor of its address and the existence and nature of its encumbrance. Failure to give such notice shall constitute a waiver of Lender's right to receive written notices hereunder. Any notice to Lender provided for in this paragraph may be given concurrently with or after Lessor's notice of default to Lessee as provided in Paragraph IX. Whenever the Lender shall so request, Lessor shall provide the Lender with current information as to the status of this Lease.

11. Lessor and Lessee also acknowledge that each holder of a Condominium, deriving title mediately or immediately from Lessee, may from time to time encumber its Condominium as to all or any portion of said Condominium by the lien of an encumbrance given the Lender as security for indebtedness. Lessor and Lessee agree that any such Lender holding an approved encumbrance as provided herein shall, in respect of any default of Lessee hereunder, have the rights of Lender set forth herein.

12. Should the encumbrance executed by Lessee provide that failure to pay rent is a default under said encumbrance, and in the event a Notice of Default in the payment of such rent is filed under any encumbrance encumbering the leasehold estate created by this Lease or any fractional portion thereof, Lender shall pay to Lessor any past due or current rent to Lessor. Upon the acquisition of said interest, Lender shall further be obligated to pay rent thereafter until such Lender assigns the interest in the leasehold so acquired as provided in this article or relinquishes the interest so acquired to Lessee. Notwithstanding the foregoing, bankruptcy, receivership, or insolvency of Lessee shall not obligate any Lender to pay any monies to cure or terminate the bankruptcy, receivership or insolvency and the Lender shall be required to do no more than is required of said Lender by the terms of this Lease. It is understood that the Lender shall not be required to cure any type of default which can be construed to be noncurable or which because of its nature is not feasible or practical to cure; provided, however, the Lender shall keep and perform all other covenants and conditions of this Lease.

13. Upon and immediately after the recording of any encumbrance, Lessee, at its expense, shall cause to be recorded in the office of the Recorder of Orange County a written request executed and acknowledged by Lessor for a copy of any Notice of Default and of any Notice of Sale under the encumbrance as provided by the statutes of the State of California relating thereto. Lessee shall furnish to Lessor a complete copy of the encumbrance and the note secured thereby, together with the name and address of the holder thereof.

14. By the execution of this Lease, or any amendments thereto, Lessee agrees that the Lender shall not be liable to said Lessee for any adverse effect which any provisions required by the Lender may have upon said Lessee. No amendment to this Lease which affects the rights of any Lender under an approved encumbrance shall be effective as to said Lender without said Lender's written consent. In the event there is a conflict between the provisions of this paragraph and any other provision of this Lease, this paragraph shall control as to the rights of the Lender, assignees or sublessees of the Lender, or purchasers at any foreclosure sale.

B. Assignment.

1. Lessee's Right to Assign.

In addition to Lessee's rights in Paragraph VI.A above, Lessee shall have the absolute right to assign or otherwise transfer Lessee's interest in this Lease and the estate created by this Lease to a permitted Assignee or Successor, defined as follows:

(a) An assignee whose net worth on the date of assignment is equal to or greater than Lessee's net worth on the Commencement Date. Net worth shall mean the amount by which the total of all assets shall exceed the total of all liabilities, as determined by an independent certified public accountant in accordance with generally accepted accounting principles.

(b) A successor defined as:

(1) Any corporation that controls or is controlled by Lessee.

(2) Any successor of all or substantially all of Lessee's business or assets unless the assignment would otherwise be prohibited by provisions of this Lease pertaining to bankruptcy.

2. Conditions Precedent to Assignment.

The following conditions are precedent to Lessee's right of assignment:

(a) Lessee shall give Lessor reasonable notice of the proposed assignment with appropriate documentation as evidence that the proposed assignee qualifies as a permitted assignee.

(b) Except as otherwise provided in this Lease for a permitted mortgagee, the proposed assignee shall, in recordable form, expressly assume all the covenants and conditions of this Lease.

3. Exception for Encumbrances.

Notwithstanding the foregoing, without the prior written consent of Lessor, Lessee may (a) encumber or assign for security purposes its leasehold estate hereunder in all or any portion of the Property in accordance with Paragraph VI.A and (b) together with Lessor, convey leasehold Condominiums in all or any portion of the Property or the improvements thereon for residential purposes, which Condominiums may be freely sold, transferred, assigned, encumbered, or assigned for security purposes by the owners thereof.

4. Right to Sublet.

Lessee shall have the absolute right to sublet all or any part or parts of the Property or the improvements or both, and to assign, encumber, extend or renew any sublease, provided the following provisions are complied with:

(a) Each sublease shall contain a provision satisfactory to the Lessor and to each leasehold mortgagee having an interest at the time the sublease is executed, requiring Sublessee to attorn to Lessor or, in the event of any proceeding to foreclose any leasehold mortgage, to the leasehold mortgagee, or any person designated in a notice from leasehold mortgagee, if Lessee defaults under this Lease and if the Sublessee is notified of Lessee's default and instructed to make Sublessee's rental payments to Lessor or leasehold mortgagee or other designated person as provided herein.

(b) Lessee shall, promptly after the execution of each Sublease, notify Lessor of the name and mailing address of the Sublessee and shall, on demand, permit Lessor to examine and copy the Sublease.

(c) Lessee shall not accept more than three (3) months prepaid rent under any Sublease.

VII. Insurance

A. Fire and Extended Coverage.

Throughout the term, at no cost or expense to Lessor, Lessee shall keep, or cause to be kept, insured all improvements located on or appurtenant to the Property against loss or damage by fire and such other risks as are now or hereafter included in an extended coverage endorsement in common use for commercial structures, including vandalism and malicious mischief. The amount of the insurance shall be sufficient to prevent either Lessor or Lessee from becoming a co-insurer under the provisions of the policy, but in no event shall the amount be less than ninety percent (90%) of the then actual replacement cost. Lessor shall not carry any insurance the effect of which would be to reduce the protection or payment to Lessee under any insurance that this Lease obligates Lessee to carry. If there is any dispute as to whether the amount of insurance carried complies with the above which cannot be resolved by agreement, Lessor may, but no more frequently than once every twelve (12) months, request the carrier of the insurance then in force to determine the full insurable value as defined in this provision, and the resulting determination shall be conclusive between the two parties for the purpose of this Paragraph. Lessee may include the holder of any mortgage on the leasehold or other person, as a loss payee, so long as the amount payable to Lessor hereunder is not reduced thereby.

B. Proceeds of Fire and Extended Coverage Insurance.

Lessor shall, at no cost and expense to Lessor, cooperate fully with Lessee to obtain the largest possible recovery. All policies of fire and extended coverage insurance required by Paragraph A shall provide that the proceeds shall be paid to Lessor, Lessee or any mortgagee, as their interests may appear. Subject to any other conditions contained in this Lease, the proceeds from any policy insuring a casualty to the improvements shall first be used for the repair, restoration, alteration or reconstruction of the improvements. Any insurance proceeds remaining after complying with the provisions of this Lease relating to maintenance, repair or reconstruction of improvements shall be paid to Lessee or to Lessee's designee.

C. Builders Risk Coverage.

Before commencement of any demolition or construction Lessee shall procure and shall maintain in force until completion and acceptance of the work "all risks" Builders risk insurance, in an amount not less than the cost of demolition or construction, including vandalism and malicious mischief in form and with a company reasonably acceptable to Lessor, covering improvements in place and all material and equipment at the job site furnished under contract, but excluding contractors', subcontractors' and construction manager's tools and equipment and property owned by contractors' or subcontractors' employees.

D. Other Insurance and Indemnification.

1. Public Liability Insurance.

Throughout the term of this Lease, at no cost and expense to Lessor, Lessee shall keep, or cause to be kept, in force for the mutual benefit of Lessor and Lessee comprehensive broad form general public liability insurance against claims and liability for personal injury, death, or property damage arising from the use, occupancy, disuse or condition of the Property, improvements or adjoining areas or ways providing protection of at least One Million Dollars (\$1,000,000.00) for bodily injury or death to any one person and at least Ten Million Dollars (\$10,000,000.00) for any one accident or occurrence and at least Five Hundred Thousand Dollars (\$500,000.00) for property damage. Every time there is an increase in the minimum rent under the terms of Paragraph III.B.1 hereof, there shall be a proportionate increase in the liability insurance coverage.

2. Other Insurance.

Lessee shall procure and keep in force in form and coverage reasonably satisfactory to Lessor insurance in amounts from time to time reasonably required by Lessor, against other insurable risks, if at the time they are commonly insured against for premises similarly situated and containing comparable improvement.

E. Policy Form, Contents, Insurer.

All insurance required by express provisions of this Lease shall be carried only with reasonable insurance companies licensed to do business in the State of California. All such policies shall be nonassessable and shall contain language, to the extent obtainable, to the effect that (1) any loss shall be payable notwithstanding any act or negligence of Lessor that might otherwise result in a forfeiture of the insurance, (2) the insurer waives the right of subrogation against Lessor and against Lessor's agents and representatives, (3) the policies are primary and noncontributing with any insurance that may be carried by Lessor and (4) they cannot be cancelled or materially changed except after ten (10) days notice by the insurer to Lessor or Lessor's designated representative. Lessee shall furnish Lessor with copies of all such policies promptly on receipt of them or with certificates evidencing the insurance. Lessee shall furnish Lessor with binders representing all insurance required by this Lease. At the expiration of the term of this Lease, Lessor shall reimburse Lessee prorata for all prepaid premiums on insurance required to be maintained by Lessee, and Lessee shall assign all Lessee's right, title and interest to Lessor. Lessee may effect for its own account any insurance not required under this Lease. Lessee may provide by blanket insurance covering the Property and any other location any insurance required or permitted under this Lease provided it is acceptable to any mortgagees of all or part of the Property.

F. Failure to Maintain Insurance, Proof of Compliance.

Lessee shall deliver to Lessor in the manner required for Notices, copies or certificates of all insurance policies required by this Lease, together with evidence satisfactory to Lessor of payments required for procurement and maintenance of the policies.

If Lessee fails or refuses to procure or to maintain insurance as required by this Lease, or fails or refuses to furnish Lessor with required proofs that the insurance has been procured and is in force and paid for, Lessor shall have the right, at Lessor's election and without notice to procure and maintain such insurance. The premiums paid by Lessor shall be treated as added rent due from Lessee with interest at eight percent (8%) per annum, to be paid on the first (1st) day of the month following the date on which the premiums were paid. Lessor shall give prompt notice of the payment of such premiums, stating the amounts paid and the names of the insurer or insurers. Interest shall run from the date of said notice.

G. Lessor's Non-Liability.

Lessor shall not be liable, and Lessee shall defend and indemnify Lessor against all liability and claims of liability, for damage or injuries to person or property on or about the Property arising out of Lessee's negligence or Lessee's use of the Property, or any fire thereon or nuisance made or suffered thereon, or any use or occupancy of the Property by Lessee or any person claiming by, through or under Lessee.

VIII. Condemnation

A. Definitions.

The following definitions apply in construing provisions of this Lease relating to a taking of, or damage to, all or any part of the Property or improvements or any interest in them by eminent domain or inverse condemnation;

1. "Taking" means the taking or damaging, including severance damage, by eminent domain or by inverse condemnation or for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation, in avoidance of an exercise of eminent domain, or while condemnation proceedings are pending. The taking shall be considered to take place as of the date actual physical possession is taken by the condemning authority.

2. "Total taking" means the taking of the fee title to all the Property and the improvements on the Property, which shall be considered to include any offsite improvement effected by Lessee to serve the Property or the improvements on the Property.

3. "Substantial taking" means the taking of so much of the Property or improvements or both that the remaining Property would not be economically suitable for a residential Condominium project.

4. "Partial taking" means any taking of the fee that is neither a total nor a substantial taking.

5. "Improvements" means all products of skill, artifice, plan or design for construction on, modification of, or planned use of existing structures, or natural or cultivated or earth contours on the Property.

6. "Notice of Intended Taking" means any notice or notification on which a reasonably prudent man would rely and which he would interpret as expressing an existing intention of taking as distinguished from a mere preliminary inquiry or proposal. It includes but is not limited to the service of a condemnation summons and complaint on a party to this Lease. The notice is considered to have been received when a party to this Lease receives from the condemning agency or entity a notice of intent to take in writing, containing a description or map of the taking reasonably defining the extent of the taking.

7. "Award" means compensation paid for the taking whether pursuant to judgment or by agreement or otherwise.

B. Notice of Other Party.

The party receiving any notice of the kind specified below shall promptly give the other party notice of the receipt, content and the date of the notice received:

1. Notice of intended taking.
2. Service of any legal process relating to condemnation of the premises or improvements.
3. Notice in connection with any proceedings negotiations with respect to such a condemnation, or
4. Notice of intent or willingness to make or negotiate a private purchase, sale or transfer in lieu of condemnation.

C. Representation of each Party.

Lessor, Lessee, and all persons and entities holding under Lessee shall each have the right to represent his, or its respective interest in each proceeding or negotiation with respect to a taking or intended taking and to make full proof of his or its claims. No agreement, settlement, sale or transfer to or with condemning authority shall be made without consent of Lessor and Lessee. Lessor and Lessee each agree to execute and deliver to the other any instruments that may be required to effectuate or facilitate the provisions of this Lease relating to condemnation.

D. Total Taking.

On a total taking, Lessee's obligation to pay rents shall terminate on the date of taking but Lessee's interest in the leasehold shall continue until the taking is completed by deed, contract or final order of condemnation.

E. Substantial Taking.

If Lessee determines the taking to be a substantial taking, Lessee shall give written notice to that effect to Lessor within sixty (60) days after Lessee receives notice of intended taking. If Lessee does not so notify Lessor, the taking shall be deemed a partial taking. If Lessee gives such notice and Lessor gives Lessee notice disputing Lessee's contention within thirty (30) days following receipt of Lessee's notice, the dispute shall be promptly determined by arbitration. If Lessor gives no such notice, the taking shall be treated as a substantial taking. A substantial taking shall be treated as a total taking if (1) Lessee delivers possession to Lessor within thirty (30) days after the arbitrator's determination that the taking was a substantial taking, or, if the matter is not submitted to arbitration, within one-hundred-twenty (120) days after Lessee receives notice of intended taking, and (2) Lessee is not in default under the Lease and has complied with all its provisions concerning apportionment of the award. If these conditions are not met, the taking shall be treated as a partial taking.

F. Early Delivery of Possession.

Lessee may continue to occupy the Property and improvements until the condemning authority takes physical possession. However, at any time following notice of intended total taking, or within the time limit specified for delivering possession in the provision on substantial taking, Lessee may elect to deliver possession of the Property to Lessor before the actual taking. The election shall be made by notice declaring the election and covenanting to pay all rents required under this Lease to the date of taking. Lessee's right to apportionment of or compensation from the award shall then accrue as of the date that Lessee goes out of possession.

G. Apportionment, Distribution of Award for Total Taking.

In the event the Property, or any part thereof, is condemned, Lessor shall be entitled to and shall receive that portion of any award made with respect to the Property, and Lessee shall be entitled to that portion of any such award which is attributable to the value of the improvements which have been constructed or installed on the Property by Lessee, if any, which are condemned as part of the real property. In no event shall the amount payable to Lessee exceed the appraisal of the condemning authority or judgment, if any, with respect to the amount of any such award allocable to such improvements, and in no event shall said amount be less than the amount of any indebtedness secured by a lender's first deed of trust. In the absence of such appraisal or agreement between Lessor and Lessee as to such amounts, each shall appoint an appraiser and the two shall select a third appraiser and all three shall appraise the Property. The average of the three appraisals shall constitute the value of Lessee's improvements.

H. Partial Taking.

1. Effect on Rent, Terms.

On a partial taking, this Lease shall remain in full force and effect covering the portion of the Property not taken, except that the net rent shall be reduced in the same ratio as the percentage of the area of the ground taken bears to total area of the Property.

2. Restoration of Improvements.

Promptly after partial taking, at Lessee's expense and in the manner specified in the provisions of this Lease relating to maintenance, repairs and alterations, Lessee shall repair, alter, modify or reconstruct the improvements so as to make them an operable whole. Lessee shall further have the right to claim and recover from the condemning authority such compensation as may be separately recoverable by Lessee in Lessee's own right for any damages to the Lessee's operations on the Property or for any cost or loss to Lessee in altering any improvements thereon or in removing and relocating Lessee's equipment and fixtures therefrom by reason of such taking.

IX. Default Remedies

A. Default by Lessee.

Each of the following events shall be a default by Lessee and a breach of this Lease:

1. Failure to Perform Lease Covenants.

Abandonment or surrender of the premises or of the leasehold estate, or the failure or refusal to pay when due any installment of rent, or any other sum required by this Lease to be paid by Lessee, or to perform any other covenant or condition of this Lease.

2. Attachment or Other Levies.

The subjecting of any right or interest of Lessee to attachment, execution, or other levy, or to seizure under legal process if not released within thirty (30) days, provided that the foreclosure of any mortgage permitted by provisions of this Lease shall not be construed as a default within the meaning of this Paragraph.

3. Appointment of Receiver.

The appointment of a receiver to take possession of the Property or improvements or of Lessee's interest in the Leasehold estate or of Lessee's operations on the Property or for any reason, including receivership (a) pursuant to administration of the estate of any deceased or incompetent lessee or of any deceased or incompetent individual member of any lessee or (b) pursuant to any mortgage permitted by provisions of this Lease relating to purchase or construction of improvements or (c) instituted by Lessor, the event of default being not the appointment of a receiver at Lessor's instance but the event justifying the receivership, if any.

4. Insolvency, Bankruptcy.

An assignment by Lessee for the benefit of creditors or the filing of a voluntary or involuntary petition by or against Lessee under any law for the purpose of adjudicating Lessee a bankrupt; or for extending time for payment, adjustment or satisfaction of Lessee's liabilities or for reorganization, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency; unless the assignment or proceeding, and all consequent orders, adjudications, custodies and supervisions are dismissed, vacated or otherwise permanently stayed or terminated within ninety (90) days after the assignment, filing or other initial event.

B. Notice of Default (to Lessee, Mortgagees and Sublessees).

As a precondition to pursuing any remedy for an alleged default by Lessee, Lessor shall, before pursuing any remedy, give notice of default to Lessee and to all qualifying sublessees and mortgagees whose names and addresses were previously given to Lessor in a notice or notices from Lessee or any qualifying mortgagee stating that the notice was for the purpose of notice under this provision. A qualifying sublessee is a sublessee in possession under an existing sublease permitted under this Lease. A qualifying mortgagee is a mortgagee under a mortgage then existing permitted under the provisions of this Lease. Each notice of default shall specify in detail the alleged event of default and the intended remedy.

C. Lessee's Right to Cure Default.

If the alleged default is non-payment of rent, taxes or other sums to be paid by Lessee as provided in the Paragraph on rent, or elsewhere in this Lease directed to be paid as rent, Lessee shall have ten (10) days after notice is given to cure the default. For the cure of any other default, Lessee shall promptly and diligently after the notice commence curing the default and shall have thirty (30) days after notice is given to complete the cure, plus any additional period that is reasonably required for the curing of the default.

D. Lessor's Remedies.

If any default by Lessee shall continue uncured following notice of default as required by this Lease for the period applicable to the default under the applicable provision of this Lease, Lessor has the following remedies in addition to all other rights and remedies provided by law or equity, to which Lessor may resort cumulatively or in the alternative:

1. Termination.

Lessor may, at Lessor's election, terminate this Lease by giving Lessee notice of termination. On the giving of the notice, all Lessee's rights in the Property and in all improvements shall terminate. Promptly after notice of termination, Lessee shall surrender and vacate the Property and all improvements in broom clean condition and Lessor may reenter and take possession of the Property and all remaining improvements and eject all parties in possession or eject some and not others, or eject none, provided that no qualifying sublessee shall be ejected. Termination under this Paragraph shall not relieve Lessee from the payment of any sum then due to Lessor or from any claim of damages previously accrued or then accruing against Lessee.

2. Re-Entry without Termination.

Lessor may, at Lessor's election, reenter the Property and, without terminating this Lease, at any time and from time to time, retake the Property and improvements and any part or parts of them for the account and in the name of the Lessee or otherwise. Lessor may, at Lessor's election, eject all persons or eject some and not others or eject none, provided that no qualifying sublessee shall be ejected. Lessor shall apply all rent from reletting as in the provision on assignment of subrents. Any reletting may be for the remainder of the term or for a longer or shorter period. Lessor shall be entitled to all rents from the use, operation or occupancy of the Property or improvements or both. Lessee shall nevertheless pay to Lessor on the due date specified in this Lease the equivalent of all sums required of Lessee under this Lease plus Lessor's expenses reasonably incurred in the reletting, less the avails of any reletting or attornment. No act by or on behalf of Lessor under this provision shall constitute a termination of this Lease unless Lessor gives Lessee notice of termination.

3. Lessee's Personal Property.

Lessor may, at Lessor's election, use Lessee's personal property and trade fixtures, or any of such property or fixtures without compensation and without liability for use or damage or store them for the account and at the cost of Lessee. The election of one remedy for any one item shall not foreclose an election of any other remedy for another item or for the same item at a later time.

4. Monetary Remedy.

a. Recovery of Rent.

Lessor shall be entitled at Lessor's election to each installment of rent or to any combination of installments, for any period before termination, plus interest at the rate of eight percent (8%) per year from the due date of each installment. Avails of reletting or attorned sub-rents shall be applied when received as follows: (1) to Lessor, to the extent that the avails for the period covered do not exceed the amount due from and chargeable to Lessee for the same period and (2) the balance to Lessee.

Even though Lessee has breached this Lease and abandoned the Property, Lessor may elect to continue this Lease in effect for so long as Lessor does not terminate Lessee's right to possession, and Lessor may enforce all Lessor's rights and remedies under this Lease, including the right to recover the rent as it becomes due, pursuant to Section 1951.4 of the California Civil Code or any similar statute hereafter enacted.

b. Recovery by Lessor Upon Termination of Lease.

In addition to any other remedies upon termination of the Lease because of breach by Lessee, Lessor shall be entitled at Lessor's election to the following sums:

1. All amounts that would have fallen due as rent between the time of termination of this Lease and the time of the claim, judgment, or other award, less the amount of any such rental loss which Lessee proves could reasonably have been avoided, plus interest on the balance at eight percent (8%) per year, and

2. The "worth" at the time of the claim, judgment or other award of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the then fair rental value of the Property at the higher of: (a) the fair rental value as then encumbered by the Lease and improvements, or (b) the fair rental value unencumbered by the lease and improvements. "Worth" as used in this provision is computed by discounting the total amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the claim, judgment, or award plus one percent (1%).

E. Assignment of Sub-rents.

Lessee assigns to Lessor all sub-rents and other sums falling due from sublessees, licensees and concessionaires (herein called sublessees) during any period in which Lessor has the right under this Lease whether exercised or not to re-enter the Property for Lessee's default, and Lessee shall not have any right to such sums during that period. This assignment is subject and subordinate to any and all assignments of the same sub-rents and other sums made, before the default in question, to a mortgagee under any mortgage permitted by provisions of this Lease, relating to purchase or construction of improvements. Lessor may, at Lessor's election, re-enter the Property and improvements with or without process of law, without terminating this Lease, and either collect these sums or bring action for the recovery of the sums directly from such obligors, or both. Lessor shall receive and collect all sub-rents and avails from reletting, applying them as follows:

First: To the payment of reasonable expenses including attorney fees or broker commissions or both paid or incurred by or on behalf of Lessor in recovering possession, placing the Property and improvements in good condition, preparing the Property or improvements for re-renting and securing new Lessees;

Second: To the fulfillment of Lessee's covenants to the end of the term of this Lease and;

Third: The balance, if any, to Lessee. Lessee shall nevertheless pay to Lessor on the due dates specified in this Lease the equivalent of all sums required of Lessee under this Lease, plus Lessor's expenses, less the avails of the sums assigned and actually collected under this provision. Lessor may proceed to collect either the assigned sums or Lessee's balances or both, or any installment or installments of them, either before or after expiration of the term, but the period of limitations shall not begin to run on Lessee's payments until the due date of the final installment to which Lessor is entitled, nor shall it begin to run on the payments of the assigned sums until the due date of the final installment due from the respective obligors.

F. Waiver of Default.

No waiver of any default shall constitute a waiver of any other breach of default, whether of the same or any other covenant or condition. No waiver, benefit, privilege or service voluntarily given or performed by either party shall give the other any contractual right by custom, estoppel or otherwise. The subsequent acceptance of rent pursuant to this Lease shall not constitute a waiver of any preceding default by Lessee other than default in the payment of the particular rental payment so accepted, regardless of Lessor's knowledge of the preceding breach at the time of accepting the rent, nor shall acceptance of rent or any other payment after termination constitute a reinstatement, extension or renewal of the Lease or revocation of any notice or other act by Lessor.

G. Attorney's Fees.

If either party brings any action or proceeding to enforce, protect, or establish any right or remedy the prevailing party shall be entitled to recover reasonable attorneys' fees and costs and expenses of litigation.

X. General Conditions, Miscellaneous Provisions.

A. Notice.

All notices must be in writing. Notice is considered given either (a) when delivered in person to the recipient named below, or (b) on the date when said notice is deposited in the U.S. mail in a sealed envelope or container, either registered or certified mail, return receipt requested, postage and postal charges prepaid, addressed by name and address to the party or person intended as follows:

If to Lessor, at

Eugene Duc
745 Renwick Road
Glendora, California 91740

and if to Lessee, at

Frank Woolsey
15052-A Springdale Street
Huntington Beach, California 92649

Each party may, by notice given at any time, or from time to time, require subsequent notice to be given to another individual person, whether a party or officer or representative, or to a different address or both, providing such other party is an individual. Notices given before actual receipt of notice change shall not be invalidated by the change.

B. Estoppel Certificates.

At any time and from time to time within thirty (30) days after notice of request by either party, the other party shall execute, acknowledge, and deliver to the requesting party or to such other recipients as the notice shall direct, a statement certifying that this Lease is unmodified and in full force and effect, or if there have been modifications, that it is in full force and effect as modified in the manner specified in the statement. The statement shall also state the dates to which the rent and any other charges have been paid in advance. The statement shall be such that it can be relied on by any auditor, creditor, commercial banker and investment banker of either party and by any prospective purchaser or encumbrancer of the Property, or improvement, or both, or of all or any part or parts of Lessee's or Lessor's interest under this Lease. Lessee's failure to execute, acknowledge and deliver on request a certified statement described as above within the specified time shall constitute acknowledgement by Lessee to all persons entitled to rely on the statement that this Lease is unmodified and in full force and effect and that the rent and other charges have been duly and fully paid to and including the respective due dates immediately preceding the date of the notice of request and shall constitute a waiver, with respect to all persons entitled to rely on the statement, of any defaults that may exist before the date of the notice.

C. Entire Agreement.

This Lease contains the entire agreement between the parties with respect to the Lease of the Property and supersedes any prior or contemporaneous agreement with respect thereto. No promise, representation, warranty or covenant not included in this Lease has been or is to be relied on by either party.

D. Successors.

Subject to the provisions of this Lease on assignment and subletting, each and all the covenants and conditions of this Lease shall be binding on and shall inure to the benefit of the heirs, successors, executors, administrators, assignees and personal representatives of the respective parties.

XI. Expiration - Termination

A. Lessee's Duty to Surrender.

At the expiration or earlier termination of this Lease, Lessee shall surrender to Lessor the possession of the Property and the improvements thereon except for all removable personal property which may be removed and retained by Lessee. Lessee shall leave the surrendered Property and any other property in good and broom-clean condition except as provided to the contrary in provisions of this Lease on maintenance, repair and improvements. All properties that Lessee is not required to surrender but that Lessee does abandon shall, at Lessor's election, become Lessor's property at termination. If Lessee fails to surrender the Property at the expiration or termination of this Lease, Lessee shall defend and indemnify Lessor from all liability and expense resulting from the delay or failure to surrender, including without limitation, claims made by any succeeding tenant founded on or resulting from Lessee's failure to surrender.

B. Holding Over.

This Lease shall terminate without further notice at expiration of the term. Any holding over by Lessee after expiration shall not constitute a renewal or extension or give Lessee any right in or to the Property except as otherwise expressly provided in this Lease.

XII. Right of First Refusal to Purchase Fee

In the event Lessor decides, either during the term hereof or effective at the end of the term, to sell Lessor's fee title to the Property, Lessor shall give six (6) months notice ("Notice") in writing to Lessee to that effect. The Notice shall contain the terms of the sale and the name and address of the proposed purchaser. Lessee shall be entitled to purchase the Property on the terms contained in the Notice by giving written notice to that effect to Lessor within ninety (90) days after Lessee's receipt of the Notice. If Lessee fails to do so notify Lessor, Lessor may sell the Property to any person, provided that the terms of any such sale must be no less favorable to Lessor than the terms disclosed in the Notice.