



**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Mark Danaj, City Manager

**FROM:** Andy Sywak, Economic Vitality Manager

**SUBJECT:** Additional Information Regarding Assignment of Manhattan Village Park City Parking Area Ground Lease

**DATE:** May 11, 2017

---

## **SUPPLEMENTAL REPORT**

As stated in the staff report for Agenda Item No. 12 on the City Council Regular Meeting Agenda for May 16, 2017, The Bay Club Company LLC (dba Bay Club Manhattan Club LLC) is purchasing the leases and improvements for the Manhattan Country Club from 1334 Partners LP. The total purchase price is for \$73 million dollars with \$57.5 million allocated to the Tennis Club (Attachment 1 – Tennis Complex Ground Lease) and \$15.5 million allocated to the Office Building (Attachment 2 – Office Building Ground Lease). Although the assignment of the Parking Lot lease is a part of the transaction, the Bay Club Manhattan Club is not paying 1334 Partners LP for assignment of this lease. Moreover, there is no language in the Parking Lot Lease indicating that a transfer fee be paid to the Lessor (the City) to assign this lease.

However, Article XVI in both leases indicates that the City has the right to condition its consent to any lease assignment pursuant to the payment of a 1% transfer fee of the total sales price. Should the Council approve the assignment of the parking lot lease, the deal is expected to close by Wednesday, May 31, 2017, with the City receiving a one-time payment of \$730,000.

### **Attachments:**

Attachment 1 – Tennis Complex Ground Lease

Attachment 2 – Office Building Ground Lease

Note: Parking Lot Lease is attached to Agenda Item No. 12 of the City Council Regular Meeting Agenda for May 16, 2017.

**ATTACHMENT 1 -  
TENNIS COMPLEX GROUND LEASE**

MANHATTAN BEACH  
AMENDED AND RESTATED GROUND LEASE  
[TENNIS COMPLEX]

*dated*  
10/20/03  
Tennis  
1330-1332  
Parkview

THIS AMENDED AND RESTATED GROUND LEASE [TENNIS COMPLEX] (the "Lease") is made and entered into as of October 20, 2003, by and between the CITY OF MANHATTAN BEACH, a municipal corporation, hereinafter referred to as "Lessor", and 1334 PARTNERS, L.P., a California limited partnership, hereinafter referred to as "Lessee", with reference to the following facts:

A. Lessor and Lessee's predecessor-in-interest entered into that certain Ground Lease dated October 16, 1981 (a memorandum of which was recorded March 3, 1982 in the Los Angeles County Recorder's Office as Instrument No. 82-230183), as amended by that certain First Amendment to Ground Lease dated November 25, 1981 and recorded March 3, 1982 in the Los Angeles County Recorder's Office as Instrument No. 82-230184, Second Amendment to Ground Lease dated December 15, 1981, Third Amendment to Ground Lease dated April 5, 1983 and recorded April 18, 1983 in the Los Angeles County Recorder's Office as Instrument No. 83-424473 (the "Third Amendment") and Fourth Amendment to Ground Lease dated September 28, 1988 and recorded October 5, 1988 in the Los Angeles County Recorder's Office as Instrument No. 88-1606015 (collectively the "Ground Lease"). Lessee received an assignment of its predecessor's interest in the Ground Lease by way of that certain Assignment dated September 28, 1988 and recorded October 5, 1988 in the Los Angeles County Recorder's Office as Instrument No. 88-1606016.

B. The Ground Lease covered certain improved real property used as a tennis club, including commercial office space contained within the tennis clubhouse building (collectively the "Tennis Complex"), plus a separate commercial office building (the "Office Building"), and parking areas therefor, all as indicated on the site plan attached hereto as Exhibit "A".

C. Lessor and Lessee now wish to bifurcate the Ground Lease into two (2) separate ground leases, with the Tennis Complex being the subject of this Lease, and the Office Building being the subject of a separate ground lease, and with Lessor and Lessee concurrently entering into that certain Declaration of Reciprocal Easement and Parking Agreement.

D. This Lease restates and completely supersedes and cancels the Ground Lease in its entirety. Upon the full execution of this Lease and the new and separate ground lease pertaining to the Office Building and the Declaration of Reciprocal Easement and Parking Agreement, and the recordation in the Los Angeles County Recorder's Office of a memorandum of this Lease and the new Office Building ground lease, the Ground Lease shall be of no further force or effect and shall be superseded and canceled. The lien of this Lease shall at all times be subordinate to and junior in priority to the Declaration of Reciprocal Easement and Parking Agreement.

IN CONSIDERATION of the mutual covenants and agreements herein contained, Lessor does hereby lease unto Lessee, and Lessee does hereby lease from Lessor, the "Premises"

(hereinafter defined), to have and to hold, for the term and rental hereinafter provided and upon the conditions and agreements hereinafter set forth.

**ARTICLE I**

**DEMISED PREMISES**

The demised premises (the "Premises") are legally described on Exhibit "B" attached hereto, together with all buildings, structures and improvements erected thereon and comprising the Tennis Complex. The Tennis Complex encroaches on certain property of Lessor not originally included as part of the "Premises" as demised by the Ground Lease, which encroachments are set forth on Exhibit "C" to the Third Amendment and incorporated herein by this reference. Lessor hereby grants to Lessee and Lessee's permitted successors and assigns for a period of time commencing the date hereof and ending concurrently with the termination of the "Lease Term" (as such term is defined in Section 3.2 below) an exclusive easement to maintain the encroachments set forth on Exhibit "C" to the Third Amendment. The easement for encroachments herein granted is limited to the encroachments as they exist as of the date of the Third Amendment, and shall terminate and be of no force and effect in the event Lessee shall augment in a material way either the scope or limited use of such easement as granted herein. The within granted easement and its use by Lessee shall be subject to each and all of the terms and conditions of this Lease and the term "Premises" shall be deemed to include said easement.

**ARTICLE II**

**CONDITION OF LEASED LAND**

2.1. Lessor warrants that it owns fee title to the Premises, free and clear of all liens and encumbrances. Lessor further warrants that the control and administration of this Lease is under the jurisdiction of the City Council of Manhattan Beach (the "City Council"), except that the approval or consent of Lessor whenever required in this Lease shall mean the approval or consent of the City Manager unless otherwise specified, without need for further resolution by the City Council.

**ARTICLE III**

**TERM**

3.1. The original term of this Lease (the "Original Term") shall begin on the date hereof and end on December 31, 2043.

3.2. Lessee shall have two (2) consecutive options to extend the Original Term, each for a period of fifteen (15) years (collectively the "Extension Periods"). The Extension Periods shall be upon all the terms and provisions applicable to the Original Term, including periodic rent

1293

readjustments pursuant to Article IV below. Lessee shall exercise each such option by giving to Lessor written notice of exercise thereof at least six (6) months but not more than one (1) year before the expiration of the Original Term or the prior Extension Period, as the case may be. As used in this Lease, the term "Lease Term" shall mean the Original Term as extended by the Extension Periods, to the extent that Lessee exercises any of the corresponding options.

3.3. As used in this Lease, the term "Lease Year" shall mean a calendar year.

#### ARTICLE IV

#### RENTAL

Lessee agrees to pay to Lessor as rental for the use and occupancy of the Premises to be paid by Lessee during the Lease Term, the following sums:

4.1. Basic Rental: During the Lease Term Lessee shall pay a basic annual rental ("Basic Rental") of One Hundred Eighty-Seven Thousand Six Hundred Five Dollars and Twenty-Four Cents (\$187,605.24) per annum in equal monthly installments of Fifteen Thousand Six Hundred Thirty-Three Dollars and Seventy-Seven Cents (\$15,633.77), payable each and every month in advance.

4.2. Percentage Rental: During the Lease Term, Lessee shall pay Lessor, in addition to the Basic Rental, the following percentages of gross annual revenue received by Lessee ("Percentage Rental"):

Eight percent (8%) of the gross revenues attributable to tennis tournaments and other athletic competitions or exhibitions conducted upon the Premises for which an admission charge is made.

Five percent (5%) of the gross revenues attributable to rentals received by Lessee from sublessees of Lessee of the retail and office spaces within the Premises.

Two percent (2%) of the gross revenues attributable to the sale of all food and beverages upon or from the Premises.

The term "gross revenues", as used herein, shall, subject to the exceptions and authorized deductions as hereinafter set forth, mean the gross amounts received by Lessee from all sales, both for cash and on credit:

(i) With respect to tennis tournaments and other athletic competitions or exhibitions conducted upon the Premises, all gate receipts and other admissions charges received by Lessee in connection with said tournaments and related activities, and promotional moneys received by Lessee from third parties and sponsors (including media) in excess of prize money paid to participants; and

100-3513

100-3514

(ii) With respect to the sale of food and beverages, receipts for all sales thereof received by Lessee in connection with the sale in or from the Premises by Lessee, its subtenants, licensees and concessionaires, excluding: (a) vending machine receipts from items including, but not limited to, candy, cigarettes and soft drinks to the extent such receipts do not exceed two percent (2%) of the overall gross revenues from food sales; (b) sales to employees of Lessee, its licensees and concessionaires; and (c) all sales made and delivered to the consumer from any premises other than the Premises.

With respect to all of the foregoing, the term "gross revenues" shall exclude: (a) gross revenues from any other activities whatsoever conducted upon the Premises; (b) the amount of any Federal, State or local sales taxes, excise taxes, or any other similar tax assessments or levy; and (c) amounts paid by subtenants, licensees and concessionaires as payment or reimbursement of real property taxes, insurance, and other "pass-through" expenses such as, without limitation, management fees, the costs of maintenance, repair, replacement, parking and security, and utilities, incurred by Lessee in the operation of the Premises, which costs are allocated and billed to subtenants, licensees and/or concessionaires, respectively, in addition to the base rent paid by such parties.

The amount of the Percentage Rental payable by Lessee to Lessor for each Lease Year shall be computed by Lessee, and one-twelfth (1/12th) of the annual payment as reasonably estimated by Lessee shall be paid to Lessor on a monthly basis, concurrently with Lessee's monthly payment to Lessor of Basic Rental. Within forty-five (45) days following the close of each Lease Year, Lessee shall calculate the actual Percentage Rental for the prior Lease Year and prepare a statement reconciling the actual Percentage Rental versus Lessee's estimated monthly payments; if the reconciliation indicates that Lessee underpaid the Percentage Rental for the prior Lease Year, Lessee shall pay to Lessor the amount of the underpayment concurrently with providing its statement of reconciliation to Lessor, and if the reconciliation indicates that Lessee overpaid the Percentage Rental for the prior Lease Year, Lessee shall be entitled to a credit against the next monthly payment(s) of Percentage Rental until the overpayment is fully credited or, if the term of this Lease has expired, then the overpayment will be paid to Lessee within thirty (30) days following Lessor's receipt of Lessee's statement of reconciliation.

Lessee shall keep full, complete and proper books, records and accounts of the revenues attributable to each activity described in this Section 4.2; such books, records and accounts, including any sales tax reports that Lessee may be required to furnish to any governmental agency, shall at all reasonable times be open to inspection of Lessor, Lessor's auditor or other authorized representative or agent.

Lessor may, upon reasonable notice, cause an audit of Lessee's gross revenues attributable to each business activity described in this Section 4.2 to be made by an independent certified public accountant of Lessor's own selection, whose remuneration in respect to such audit shall not be contingent to any extent upon the outcome thereof, and if the statement of revenues previously made by Lessee shall be found to be more than two percent (2%) less than the amount of Lessee's revenues shown by such audit, then, subject to Lessee's right to challenge the findings of said audit hereinafter set forth, Lessee shall immediately pay the reasonable costs of such audit as well as the additional Percentage Rent herein shown to be payable by Lessee to

Lessor. Any information gained by Lessor from the statement of revenues, inspection of Lessee's records, or audit, as provided herein, shall, except to the extent permitted by law or in connection with any arbitration or litigation between Lessor and Lessee, be confidential and shall not be disclosed and shall be used only to carry out the purposes hereof.

4.3. Rent Payments: The rent during the Lease Term shall be payable to the Office of the City Treasurer of the City of Manhattan Beach, unless otherwise directed in writing by Lessor.

4.4. CPI Adjustments: The Basic Rental for the Lease Term shall be adjusted upward effective October 1st of each Lease Year, beginning October 1, 2004, in the same proportion as the Consumer Price Index, published by the Bureau of Labor Statistics, for the Los Angeles/Anaheim/Riverside area, All Urban Consumers, All Items, 1982-84=100, for the month of July of the then current Lease Year (the "Current Index") increases as compared to such Index for the month of July of the immediately prior Lease Year (the "Base Period Index"), as follows:

The Base Period Index shall be compared with the Current Index in each Lease Year, and if the Current Index is higher than the Base Period Index, the Basic Rental shall increase by the identical percentage, commencing effective October 1st of the then current Lease Year. Notwithstanding the foregoing, the adjusted Basic Rental effective October 1st of each Lease Year shall not increase over the Basic Rental for the immediately preceding twelve (12) months by more than five percent (5%), nor shall the adjusted Basic Rental effective as of any October 1st be less than the Basic Rental during the prior twelve (12) month period.

For example, if the Basic Rental for the twelve (12) month period ending September 30, 2004 is \$187,605.24, and the Current Index (ie. for July 2004) increased by 4% over the Base Period Index (ie. for July 2003), the Basic Rental for the twelve (12) month period beginning October 1, 2004 would be \$195,109.44; however, if the Current Index were to increase by 6% over the Base Period Index, the Basic Rental for the twelve (12) month period beginning October 1, 2004 would be \$196,985.50.

If the appropriate Index is not available at the commencement of the new Lease Year, then the calculation shall be made by Lessor when such Index becomes available and any adjustment in rental already paid for such Lease Year shall be as follows:

If Lessee is entitled to a credit for overpayment, such credit shall apply to the next rent payment or payments due; if a balance is due from Lessee, such sum shall be paid with Lessee's next regular monthly installment of rent.

If the above described Index should be discontinued or changed in any material respect, the parties shall select a substitute index or procedure which reasonably reflects and monitors consumer prices.

4.5. Additional Payments: In addition to the rental payments set forth above, the following shall be the responsibility of Lessee during the Lease Term:

4.5.1. All real property taxes and assessments, general and special, ordinary and extraordinary, of any kind or nature whatsoever on the Premises, all as hereinafter set forth.

4.5.2. All premiums of fire, casualty, extended coverage insurance and liability insurance as set forth in Articles XII and XIII hereof, excluding fire rental insurance, but including the holding harmless endorsements required to indemnify the City, its elected officials, appointed personnel and employees, on the Premises, all as set forth hereinafter.

4.5.3. Except as specifically provided herein, this is a net, net, net lease, and Lessee shall pay all costs and expenses in respect to the Premises, and Lessor shall be obligated for no portion thereof.

4.6. Guaranteed Percentage Rental: Upon the acquisition of Lessee's leasehold interest herein by a leasehold mortgagee or its designee or assignee, or any other purchaser at a foreclosure sale, or otherwise, as provided in Article XXII of this Lease, in addition to the Basic Rental as provided in Section 4.1 of this Lease (subject to annual adjustment as provided in Section 4.4) the Percentage Rental as provided in Section 4.2 shall be subject to the following guaranteed minimum amounts irrespective of the gross annual revenues:

(1) For the 12-month period succeeding such acquisition, the Guaranteed Percentage Rental shall be \$12,000.00;

(2) For the next succeeding 12-month period, the Guaranteed Percentage Rental shall be \$24,000.00;

(3) For the next succeeding 12-month period, the Guaranteed Percentage Rental shall be \$36,000.00;

(4) For the next succeeding 12-month period, the Guaranteed Percentage Rental shall be \$48,000.00; and

(5) For the next succeeding 12-month period, the Guaranteed Percentage Rental shall be \$60,000.00; and for each succeeding year thereafter for the balance of the Lease Term, the Guaranteed Percentage Rental shall be subject to an annual adjustment as provided in Section 4.4 in like manner as the annual adjustment in the Basic Rental.

In addition to the Guaranteed Percentage Rental, as hereinabove set forth, there shall be payable annually to Lessor, as provided in Section 4.2 of this Lease, Percentage Rental to the extent, and only to the extent, that such Percentage Rental exceeds the Guaranteed Percentage Rental for that Lease Year.

Any person subject to the requirement of this Section 4.6 to pay Guaranteed Percentage Rental may be relieved of its obligations to do so, provided such person shall make application to Lessor, pursuant to Article XVI of this Lease, for the approval of such person as an assignee of Lessee, and Lessor shall consent in writing to the transfer of Lessee's interests in this Lease to such person and approve such person as having the financial capability and overall



competence to successfully operate the Premises. From the date such consent and approval has been given, such person shall have no further obligation for the payment of Guaranteed Percentage Rental and such person's obligations to pay Percentage Rental shall be governed solely by Section 4.2.

4.7. Change in Taxation Laws: If at any time during the Lease Term the laws concerning the methods of real property taxation are changed so that a tax or excise on rents or any other such tax, however described, is levied or assessed against Lessor as a direct substitution in whole or in part for any real property tax, Lessee shall pay before delinquency (but only to the extent that it can be ascertained that there has been a substitution to real property taxes and not an addition) the substitute tax or excise on rents.

4.8. Due Date: Any rent, additional rent or other regular monthly payment due to Lessor pursuant to this Lease (other than Percentage Rental) shall be due and payable on or before the first (1st) day of each month. Percentage Rental shall be payable as herein provided. In the event Lessee fails to pay any such amount within ten (10) days after the date on which it is due, then, in addition to the amount due, Lessee shall pay a late charge equal to five percent (5%) of the amount due from the due date, and Lessor shall so notify Lessee. In the event Lessee's failure to pay shall continue for ten (10) days after the date Lessee receives such notice, Lessee shall be deemed to be in default under this Lease.

4.9. Returned Checks: In the event Lessee tenders a check to Lessor as payment of rent and said check is returned for insufficient funds by the bank, all rent payments due during the next twelve (12) months following return of the check by the bank shall be made by certified or cashier's check.

## ARTICLE V

[Intentionally Deleted].

## ARTICLE VI

### USE

6.1. The primary use for which Lessee shall continuously during the entire Lease Term occupy, use and enjoy the Premises shall be the conduct and operation thereon of a tennis court complex, which shall include tennis courts, indoor exercise facilities, locker rooms, pro shop, squash and racquetball courts, a pool, grandstands, snack shop, restaurant and banquet and meeting and administrative facilities, and related facilities as approved thereon by Lessor, and such other improvements and such other uses as are incidental to the operation of a tennis club recreational facility or other commercial recreational facility as shall from time to time receive the prior written approval of the City Council, which shall not be unreasonably withheld or conditioned. Lessee shall not be allowed or permitted to use the Premises for any other use than the uses set forth above without such approval first obtained. The approval of the City Council

shall conclusively be deemed given if not denied in writing, with reasons therefor, within thirty (30) days after the City Council's receipt of Lessee's written request for such approval.

Lessor hereby expressly agrees that such incidental uses include, but shall not necessarily be limited to, uses by sublessees of a portion of the Premises for any retail uses including without limitation a travel agency, a sports equipment and clothing store, physical therapy facility, restaurant, and barber/beauty salon business, and the subleasing of office space not to exceed in the aggregate 11,500 net leasable square feet. All rents paid by third party sublessees shall be at competitive and reasonable prevailing market rates. Lessee shall submit to Lessor summaries of all subleases and amendments thereto setting forth the sublessee's name, the sublease term and all charges payable by the sublessee, amongst other material sublease terms, within ten (10) days from the date such subleases or amendments are executed by Lessee. Lessee shall not be allowed or permitted to use the Premises for any other use than the uses set forth above without the express written permission and consent of Lessor first obtained, which shall not be unreasonably withheld or conditioned. Lessor herein, as agent of the City Council, approves all current uses of the Premises and the particular subtenants therein, subject to the conditions of such subleasing herein contained.

## ARTICLE VII

### TAXES AND ASSESSMENTS

7.1. Lessee's Obligations. Lessee agrees to pay all taxes and assessments upon the Premises which are assessed during the Lease Term. All of said taxes shall be paid prior to delinquency. All taxes assessed during or prior to, but payable in whole or in installments after the Lease Term, shall be adjusted and prorated so that Lessor shall pay its prorated share for the period prior to and for the period subsequent to the Lease Term. Lessor agrees that it shall promptly use its best efforts in order to cause the Tax Assessor of the County of Los Angeles, State of California, to assess the Premises as an independent parcel of real property.

7.2. In connection with any and all taxes and assessments that Lessee has agreed to pay by the terms hereof, Lessee may, if it shall so desire, endeavor to contest the validity of any such tax or assessments, or obtain a lowering of the assessed valuation of the Premises or any portion thereof, for the purpose of reducing any such tax or assessment. In such event, Lessor shall offer no objection and, at the request of Lessee, without expense to Lessor, will cooperate with Lessee. If requested by Lessee, Lessor will execute any document which may be necessary and proper for any such proceeding. All costs and expenses incurred in connection with such proceeding shall be borne and paid for by Lessee, including a bond required by Lessor to insure payment of said taxes; and Lessee agrees to indemnify and save harmless Lessor from and against any and all liability in connection with such proceedings. Any refund shall be the property of Lessee to the extent to which it may be based upon a payment of any tax or assessments made by Lessee.

7.3. Lessee shall pay before delinquency all taxes and assessments on the fixtures and equipment and on all other personal property of Lessee at the time situated on or installed in the Premises.

## ARTICLE VIII

### UTILITIES

During the Lease Term, Lessee shall pay all charges for water, gas, sewer, electricity, telephone service, air conditioning and all other utilities and services, supplied to the Premises by or at the request of Lessee, its sublessees, agents and representatives. Lessee also shall be obligated to pay for all hook-up and connection costs, drainage fees, if any, and fees and charges which are assessed or charged at any time during the Lease Term for said services supplied to the Premises.

## ARTICLE IX

### OWNERSHIP OF BUILDINGS, STRUCTURES AND IMPROVEMENTS

All buildings, structures and improvements constructed on the Premises and all subsequent additions thereto and alterations therein and replacements thereof, except for trade fixtures and equipment installed by Lessee, shall become and remain a part of the Premises upon the completion of the Lease Term, subject to the use and occupancy of Lessee hereunder. Upon the expiration of the Lease Term or any earlier termination of the Lease Term, all of said improvements shall become the property of Lessor, except for such trade fixtures and equipment installed by Lessee, free of all claims or interest of Lessee without payment of any consideration therefor.

Lessor and Lessee agree that all fences, tennis court posts and permanent stands shall become the property of Lessor at the expiration or termination hereof, but that all nets and portable stands shall be considered trade fixtures of Lessee which shall remain the property of Lessee at the expiration or termination hereof.

## ARTICLE X

### ALTERATION AND REPLACEMENT OF BUILDINGS, STRUCTURES AND/OR IMPROVEMENTS

At any time during the continuance of this Lease, Lessee may, subject to applicable City building and related ordinances, remove or add to the existing buildings, structures or improvements or any other buildings, structures and improvements then upon the Premises, or rebuild all or any part thereof, provided that all of the following terms and conditions are met:

10.1. Lessee is not in default in the performance of any of its obligations under this Lease, after Lessee's receipt of written notice of default and the expiration of all applicable cure periods.

10.2. Any of such work shall be done and completed with all reasonable diligence in a first-class manner in each particular according to complete and detailed plans and specifications therefor under the supervision and control of licensed and qualified architects and engineers employed by Lessee.

10.3. Any alteration, addition, replacement or removal of building structures or improvements on the Premises (other than internal alterations, additions, replacements or removals that do not affect the exterior appearance of the existing structures or improvements) shall be subject to the following controls and conditions:

10.3.1 Lessor shall have the right to approve the plans and specifications of said buildings, structures and improvements, including but not limited to elevation, exterior design and materials of the building to be erected, such approval not to be unreasonably withheld.

10.3.2 Lessee shall have the sole and exclusive right of selecting any architect, contractor, engineer, subcontractor, materialmen, suppliers or other persons or companies necessary for the construction in question.

10.3.3 The improvements shall be constructed in strict accordance with all applicable laws, ordinances and regulations, and Lessee shall obtain at its own expense all applicable permits that may be required.

10.3.4 If any work is reasonably estimated to cost in excess of Two Hundred Fifty Thousand Dollars (\$250,000), Lessee shall provide performance, material, labor and completion bonds in an amount equal to one hundred percent (100%) of the contract price. The form and substance of any bond provided by Lessee shall be subject to Lessor's approval, which shall not be unreasonably withheld.

10.3.5 The approvals required herein of Lessor shall be deemed to have been made by Lessor at such time as Lessor, and its subagencies, as a municipal authority, approves the plans, specifications, etc., and issues the building permits and other approvals in connection with the construction in question.

## ARTICLE XI

### WAIVER

Lessee, as a material part of the consideration to be rendered to Lessor, hereby waives all claims against Lessor, for damages to goods, wares and merchandise in, upon or about the Premises and for injuries to persons in or about the Premises, from any cause arising at any time, except for any willful or negligent act or omission of Lessor, its agents or employees, and Lessee will hold Lessor exempt and harmless from any damage or injury to any person, or to the goods, wares and merchandise of any person, arising from the use of the Premises by Lessee, or from the failure of Lessee to keep the Premises in good condition and repair, as provided herein, except for any willful or negligent act or omission of Lessor, its agents or employees.

## ARTICLE XII

### LIABILITY INSURANCE

At all times during the Lease Term, at its sole expense, and as a part of the consideration for this Lease, Lessee agrees to maintain or cause to be maintained for the benefit of Lessee and Lessor, general public liability insurance against claims for bodily injury, death, or property damage occurring upon or in any buildings, structures or improvements or upon any part of the Premises, such insurance to afford protection to limits of not less than Two Million Dollars (\$2,000,000) for any one accident, and Five Hundred Thousand Dollars (\$500,000) in property damage. Said insurance shall be issued by an insurance company having a Best's rating of at least A-VII. A certificate or endorsement as set forth in Section 4.5.2 above shall be promptly deposited with Lessor. Each policy of insurance shall be accompanied by evidence of the payment of premiums therefor in form reasonably satisfactory to Lessor, and shall provide for notification in writing to Lessor thirty (30) days prior to cancellation.

Not more frequently than once every two (2) years, Lessor may notify Lessee it wishes to increase the maximum limits of insurance discussed above. The amount of such increase shall be determined by an independent and impartial insurance risk appraiser or broker mutually agreed upon by Lessor and Lessee acting in good faith.

## ARTICLE XIII

### FIRE, CASUALTY AND EXTENDED COVERAGE INSURANCE

Lessee shall further during the Lease Term obtain and keep in effect fire, casualty and extended coverage insurance by one or more responsible insurance companies authorized to do business in the State of California on the improvements, namely the buildings on the Premises, in the full cost of said improvements, excluding foundations, architect's fees and other uninsurable items. Lessor shall be named as an additional named insured on any such insurance policies. Lessee agrees to deliver to Lessor certificates of insurance evidencing the existence in full of such insurance herein provided for and such insurance certificates or policies shall provide that such insurance will not be canceled unless thirty (30) days' prior written notice thereof is first given to Lessor. Lessee, at Lessee's sole cost and expense, will pay the cost of procuring and maintaining fire, casualty and extended coverage insurance, and in the event Lessee fails to keep same in full force and effect during the Lease Term or pay the premiums therefor, Lessor may procure the same and pay the premiums therefor, and Lessor may declare this to be a breach of this Lease. Lessor, at its sole cost and expense, may obtain fire rental insurance in such amount and for such duration as Lessor may desire. The damage to or destruction or a partial destruction by any cause whatever of any buildings, structures or improvements upon the Premises shall not terminate this Lease or release Lessee therefrom or from any of its obligations hereunder, except as provided for in Article XV hereof.

If Lessee is required or elects to rebuild the Premises, all proceeds of such insurance shall be held in trust to be used solely for the repair or replacement of the buildings and improvements so insured.

Lessee shall obtain annual certified statements of full insurable replacement cost of those items to be insured hereunder from the insurance company or companies providing the coverages herein required. Lessee shall provide such certificates to Lessor within ten (10) days of receipt of same and shall concurrently therewith provide Lessor with certificates of insurance evidencing the existence of coverage in not less than such amounts.

Lessee and Lessor each hereby waive: (i) any rights of recovery against the other for injury or loss to persons and to real and personal property, including loss of use thereof, covered by insurance required to be carried by either party under this Lease; and (ii) on behalf of their respective insurance companies, any right of subrogation that either may have against the other. Any policies of insurance that Lessee or Lessor obtains under this Lease shall include a clause or endorsement denying the insurer any right of subrogation against the other. Such requirement for waivers shall be in effect so long as such waivers are obtainable from insurance companies without charge or at commercially reasonable additional cost.

#### ARTICLE XIV

#### LIENS AND CLAIMS

14.1. Lessee agrees to pay for or to cause prompt payment to be made for all labor done or materials furnished for any work of construction, repair, maintenance or alteration done by or for Lessee in, upon or about the Premises and to keep and hold the Premises free, clear and harmless of and from all liens arising by reason of any such work, and that at all times Lessee will protect and indemnify Lessor against all materialmen's liens or mechanic's liens or claims which might ripen into such liens and against all costs and expenses, including reasonable attorneys' fees, which might accrue or be incurred by reason or on account of any such lien or claim.

14.2. Should Lessee fail to pay and fully discharge any such lien or claim within sixty (60) days after written notice from Lessor of the existence thereof, unless Lessee has notified Lessor of its intention to contest such lien or claim or has commenced a contest thereof, Lessor may, but need not, pay, adjust or compromise the same, or any portion thereof, and in so doing shall be the sole judge of the advisability of paying, compromising, or adjusting it, or in lieu thereof, Lessor may demand of Lessee that Lessee post a security bond in an amount provided by the California Civil Code. Lessee covenants to repay to Lessor all moneys that Lessor pays out in discharge of such claim, lien or judgment, or to redeem the Premises from any sale thereunder and costs and expenses, including reasonable attorneys' fees, accruing or incurred by reason of or on account of any failure by Lessee to perform its obligations under this Section, together with interest at the rate of ten percent (10%) per annum from the time of payment by Lessor until repayment by Lessee, repayment to Lessor to be made on or before thirty (30) days from service by Lessor upon Lessee of written notice of such payment by Lessor. As between the parties

hereto, the payment, adjustment or compromise by Lessor of any such claim or lien or the making of such redemption shall be conclusive evidence of the validity and of the advisability thereof.

14.3. Lessor or its agents shall have at all reasonable times the right to go upon the Premises and also to post and keep posted thereon notices provided for by Section 3094 of the Civil Code of the State of California, or by any other law which Lessor deems to be for the protection of itself and of the property from materialmen's or mechanic's liens or other liens of a similar nature.

## ARTICLE XV

### MAINTENANCE, REPAIRS AND UPKEEP

Lessor shall not be obligated to make any repairs, alterations, additions or improvements in or upon the Premises, including the buildings and improvements located thereupon. Lessee hereby expressly waives any and all right to make repairs at the expense of Lessor under or pursuant to the provisions of Section 1942 of the Civil Code of the State of California. At all times during the Lease Term and at its sole cost and expense, Lessee shall keep and maintain all buildings, structures and improvements on the Premises in good order and repair, and in a clean, sanitary and neat condition. In addition, Lessee shall maintain and repair all facilities and other improvements which may be required at any time by law upon or in connection with or for the use of the Premises, or any part thereof, and Lessee shall make any and all additions to or alterations in any building or structure upon the Premises which may be required by or shall otherwise observe and comply with any and all such laws, ordinances and regulations applicable to the Premises.

In the event the improvements constructed on the Premises shall be damaged by fire, the elements or other casualty during the Lease Term from a risk which is covered by insurance, Lessee shall promptly commence the work of repair, reconstruction and restoration of said improvements and shall diligently prosecute the same to completion. All rent payable by Lessee shall be abated from the date of damage or destruction until the first to occur between the restoration and repair of the Premises or the expiration of twelve (12) months from the date of damage or destruction, but only to the extent Lessor receives proceeds of rental interruption insurance, the premiums for which are paid by Lessee. Notwithstanding the above, if the improvements shall be damaged or destroyed in the last five (5) years of the Lease Term, and Lessee gives written notice of its election not to rebuild to Lessor within sixty (60) days of such damage or destruction, then Lessee shall have no obligation to repair or rebuild said improvements, all insurance proceeds arising from such damage and destruction shall be the property of Lessor, and this Lease shall terminate as of the date of damage or destruction.

In the event the improvements constructed on the Premises are materially damaged or destroyed by any casualty during the Lease Term from a risk not required by this Lease to be covered by insurance, Lessee shall have the option to terminate this Lease. Lessee shall exercise this option by delivering to Lessor written notice of Lessee's election to terminate within sixty

(60) days of the date of such damage or destruction. If Lessee so elects, this Lease shall terminate as of the date of such damage or destruction. If Lessee does not elect to terminate this Lease, Lessee shall be required to restore and rebuild the improvements.

## ARTICLE XVI

### ASSIGNMENT AND SUBLETTING

Lessee, with Lessor's prior written consent, may assign this Lease or any interest herein and may sublease any portion of the Premises to an assignee or sublessee which has the financial capability and overall competence to successfully operate the Premises or subleased portion thereof. The consent of Lessor will not be unreasonably withheld. This Lease and any interest herein shall not be assignable by operation of law without the written consent of Lessor. Any assignment of this Lease shall not relieve Lessee of liability hereunder unless, at the time of such assignment, Lessor agrees to eliminate Lessee's liability hereunder.

Any approval of any assignment or sublease shall be conditioned upon the assignee or sublessee agreeing in writing that they will assume the rights and obligations thereby assigned or subleased and that they will keep and perform all covenants, conditions and provisions of this Lease which are applicable to the rights acquired.

Notwithstanding the above provisions, Lessee may, without Lessor's consent, enter into subleases with any barber/beauty shop, travel agency, physical therapy facility and office sublessees referred to in Section 6.1 above and other agreements with concessionaires operating a "pro shop" and food and beverage concessionaires, including a restaurant on the Premises, which shall grant to such concessionaires the right to operate their concessions on the Premises. Lessor's consent shall be required with respect to subleases or other agreements with sublessees and concessionaires other than any barber/beauty shop, travel agency, physical therapy facility, office sublessees, "pro shop" and food and beverage concessionaires (including the restaurant on the Premises).

Lessor shall have the unrestricted right to condition its consent to an assignment requested pursuant to this Article XVI upon the payment by Lessee to Lessor of a transfer fee in the amount of one percent (1%) of the gross consideration to be received by Lessee in consideration of such assignment.

## ARTICLE XVII

### EMINENT DOMAIN

17.1. Definition of Terms. The term "Total Taking", as used in this Article, means the taking of the entire Premises (under the power of eminent domain, or by voluntary sale or transfer under threat of condemnation to a public authority which has the power of eminent domain), or a taking of so much of said land as to prevent or substantially impair the conduct of



Lessee's business thereon. The term "Partial Taking" means the taking of a portion only of said land which does not constitute a Total Taking.

17.1.1. Total Taking: If during the Lease Term there shall be a Total Taking by public authority under the power of eminent domain, then the leasehold estate of Lessee in and to the Premises shall cease and terminate as of the date the actual physical possession thereof shall be so taken.

17.1.2. Partial Taking: If during the Lease Term there shall be a taking of a portion of the Premises and the remainder of the Premises is not reasonably suited in Lessee's reasonable judgment for the uses set forth in Article VI or the conduct of Lessee's business on the Premises, or if the right of ingress or egress is taken so that the Premises will not be so reasonably suited for such uses, then Lessee shall have the right to terminate this Lease as of the date of such taking upon giving to Lessor notice in writing of such election within forty-five (45) days after Lessee is given written notice of such appropriation or taking. In the event of such termination, both parties shall thereupon be released from any liability thereafter accruing hereunder. If Lessee does not elect to terminate this Lease, then the monthly Basic Rental shall be reduced by an amount that is in the same ratio to monthly Basic Rental as the value of the portion of the Premises taken bears to the total value of the Premises before the date of taking.

17.1.3. Allocation of Award: In the case of a Partial Taking or a Total Taking, the rights of the parties with respect to the award shall be according to the laws of the State of California in effect at the time this Lease is executed. Said respective rights of the parties, at the time of such taking, shall be judicially decided in accordance with Section 1260.220 of the Code of Civil Procedure of the State of California. In the event said Section 1260.220 has been superseded at the time of said taking, said allocation of the award shall nevertheless be determined judicially pursuant to the then prevailing California statutes which supersede Section 1260.220 at the time of such taking.

17.1.4. Effect of Termination: If this Lease is terminated, in whole or in part, pursuant to any of the provisions of this Article, all rentals and other charges payable by Lessee to Lessor hereunder and attributable to the Premises taken shall cease, and the parties thereupon shall be released from all further liability in relation thereto.

## ARTICLE XVIII

### DEFAULT

18.1. Termination and Forfeiture for Default: Time is hereby declared to be of the essence of this Lease. Should Lessee fail to pay any rent, tax, assessment, insurance premium, lien, claim, charge or demand provided in this Lease to be paid by Lessee at the times and in the manner herein provided, and same be not cured for a period of ten (10) days from and after any personal service or receipt of certified letter giving notice thereof by Lessor to Lessee, or if Lessee defaults in the performance of or breach of any other covenant, condition or restriction of this Lease herein provided to be kept or performed by Lessee, and should such default or breach

(other than any breach of the restrictions against assignment as set forth herein for which immediate notice may be given) be not cured or a cure not undertaken by Lessee within a period of twenty (20) days (and, if a period of longer than twenty (20) days is reasonably required for the cure of such non-monetary default, Lessee shall not be deemed in default under this Lease provided that Lessee commences such cure within said twenty (20) day period and diligently and continuously thereafter prosecutes such cure to completion), from and after any personal service or receipt of certified letter giving notice thereof by Lessor to Lessee, then and in any of such events, Lessor may, at its option, terminate this Lease by giving Lessee written notice thereof, and thereupon this Lease shall cease and terminate and Lessee's rights in and to the Premises and all buildings and other improvements thereon shall cease, and Lessor may oust Lessee and all persons claiming under Lessee therefrom, and Lessee and all such persons shall quit and surrender possession of the Premises and all buildings and other improvements thereon to Lessor; provided, however, that such termination shall not relieve Lessee from the payment of any sums then due and payable from Lessee or any claim for damages then accrued against Lessee hereunder, and such termination shall not prevent Lessor from recovering any such sums or damages, or from enforcing such obligations or recovering damages for any default thereof, by any remedy provided by law.

18.2. Remedies: In addition to all other rights and remedies Lessor may have or as provided by law, Lessor shall have the following rights and remedies:

18.2.1. This Lease shall continue in effect so long as Lessor does not terminate Lessee's right to possession of the Premises after a breach of this Lease, and Lessor may enforce all of its rights and remedies, including the right to recover rent as it becomes due.

18.2.2. For so long as Lessor does not terminate Lessee's rights to possession of the Premises, Lessee shall have the right to assign its interest in this Lease and/or to sublet same upon the prior written consent of Lessor, which consent shall not be unreasonably withheld, all in accordance with Article XVI hereof.

18.2.3. After notice as hereinafter provided, Lessor may elect to terminate this Lease after the occurrence of an act of default, and in such event Lessor may declare this Lease and Lessee's right to possession terminated and re-enter the Premises and remove Lessee's property therefrom and store the same for Lessee's account and at Lessee's expense.

18.2.4. In the event Lessor elects to terminate this Lease and Lessee's right to possession in accordance with Section 18.2.3 above, or the same are terminated by operation of law, Lessor may recover as damages from Lessee the following:

(i) The worth at the time of award of the unpaid rent and all other sums due hereunder which had been earned at the time of termination of this Lease;

(ii) The worth at the time of award of the amount by which the unpaid rent and other sums due hereunder which would have been earned after the date of termination of this Lease until the time of award exceeds the amount of such loss of rent and other sums due that Lessee proves could have been reasonably avoided;

(iii) The worth at the time of award of the amount by which the unpaid rent and other sums due hereunder for the balance of the Lease Term at the time of award exceeds the amount of the loss of such rent and other sums that Lessee proves could be reasonably avoided; and

(iv) Any other amount, including attorneys' fees and court costs, necessary to compensate Lessor for all detriment proximately caused by Lessee's failure to perform its obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom.

18.2.5. The "worth at the time of award" of the amounts referred to in Section 18.2.4 above is computed by allowing interest at the rate of ten percent (10%) per annum from the date of termination.

18.2.6. Efforts by Lessor to mitigate the damages caused by Lessee's breach of this Lease do not waive Lessor's right to recover damages under the foregoing provisions.

18.2.7. Nothing in Sections 18.2.1 through 18.2.6 above affects the rights of Lessor to indemnification for liability arising prior to the termination of this Lease for personal injuries or property damage as may be provided elsewhere in this Lease.

18.2.8. The foregoing remedies of Lessor shall not be exclusive, but shall be cumulative and in addition to all rights and remedies now or hereinafter provided or allowed by law and specifically those provisions of Civil Code Sections 1951.2 and 1951.4.

18.3. Surrender of Premises: Lessee covenants that upon the termination of this Lease by lapse of time or at the election of Lessor after default by Lessee, or otherwise, Lessee shall surrender and deliver up to Lessor possession of the Premises peaceably and quietly.

18.4. Quitclaim: Upon the expiration of the Lease Term, or any sooner termination thereof, Lessee agrees to execute, acknowledge and deliver to Lessor a proper instrument in writing releasing and quitclaiming to Lessor all right, title and interest of Lessee in and to the Premises.

18.5. Lessor's Default: Lessor shall be in default of this Lease if it fails or refuses to perform any provision of this Lease that it is obligated to perform if the failure to perform is not cured within ten (10) days after notice of the default has been given by Lessee to Lessor. If the default cannot reasonably be cured within ten (10) days, Lessor shall not be in default of this Lease if Lessor commences to cure the default within the ten (10) day period and diligently and in good faith continues to cure the default. Lessee, at any time after Lessor commits a default, can cure the default at Lessor's cost. If Lessee at any time, by reason of Lessor's default, pays any sum or does any act that requires the payment of any sum, the sum paid by Lessee shall be due immediately from Lessor to Lessee at the time the sum is paid. If Lessor fails to reimburse Lessee as required by this Section, Lessee shall have the right to withhold from future rent due the sum Lessee has paid until Lessee is reimbursed in full for the sum.

ARTICLE XIX

BANKRUPTCY AND INSOLVENCY

If all or substantially all of Lessee's assets are placed in the hands of a trustee or a receiver, and such trusteeship or receivership continues for a period of sixty (60) days, or if Lessee makes an assignment for the benefit of creditors, or if Lessee is adjudicated a bankrupt, or if any proceedings are instituted by Lessee under the Bankruptcy Act as the same now exists or under any amendment thereof which may hereafter be enacted or under any other act relating to the subject of bankruptcy wherein Lessee seeks to be adjudicated a bankrupt, or seeks to be discharged of its debts, or to effect a plan of liquidation, or if any involuntary proceeding is filed against Lessee under any bankruptcy laws and Lessee consents thereto or acquiesces therein by pleading or default, then this Lease or any interest in and to the Premises shall not become an asset of any such proceeding and, in addition to any and all rights or remedies of Lessor hereunder or by law provided, Lessor may, at its option by written notice to Lessee, declare the Lease Term ended and re-enter the Premises and take possession thereof and remove all persons therefrom, and Lessee shall have no further claim thereon under this Lease.

ARTICLE XX

INDEMNIFICATION

Lessee agrees to indemnify and keep indemnified, and to save and hold Lessor harmless from any and all claims, losses, liabilities, demands, expenses or charges including those for personal injury, death or property damage sustained or suffered by any person or persons, including Lessee, employees, agents or business invitees, arising out of, resulting from or related or incident to the use or occupancy of the Premises by Lessee, or any of its agents, employees or business invitees, except for any willful or negligent act of Lessor, its agents and/or employees.

ARTICLE XXI

NOTICES AND PAYMENTS

Whenever in this Lease it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall be given or served in writing and delivered by personal delivery or by prepaid registered or certified mail or by reputable overnight courier service (eg. Federal Express or U.P.S.), addressed as follows:

To Lessor:     City Manager  
                  City of Manhattan Beach  
                  1400 Highland Avenue  
                  Manhattan Beach, California 90266

To Lessee:     1334 Partners, L.P.

c/o Manhattan Country Club  
1330 Park View Avenue  
Manhattan Beach, California 90266  
Attn: Mr. Keith Brackpool

For notices served personally, service shall be conclusively deemed made at the time of such personal service or refusal to accept service. For notices given by certified or registered mail, such shall conclusively be deemed made on the date of delivery shown of the receipt card, or if no delivery date is shown then the date of the postmark thereon, or on the date of refusal of receipt by the intended recipient. For notices given by reputable overnight courier service, such notices shall conclusively be deemed given on the business day next following the date of deposit of the notice with the courier service.

All payments to be made by either party to the other shall be made at the addresses set forth above.

Either party may change its address by written notice to the other, given in the manner aforesaid.

## ARTICLE XXII

### RIGHT TO ENCUMBER

22.1. Lessee's Right to Encumber Leasehold. Lessee may from time to time mortgage or otherwise encumber Lessee's leasehold estate to an institutional lender (as hereinafter defined) under one or more leasehold mortgages, and may assign this Lease as security for such mortgage or mortgages. In addition, Lessee may take back a so-called "purchase money mortgage" upon a sale and assignment of the leasehold estate and "leasehold mortgage" (hereinafter defined) shall be deemed to include such "purchase money mortgage".

#### 22.2. Notice to Lessor.

22.2.1. If Lessee shall, on one or more occasions, mortgage Lessee's leasehold estate to an institutional lender, and if the proposed leasehold mortgagee shall provide Lessor with prior notice of such proposed leasehold mortgage, together with a true copy of the proposed leasehold mortgage instrument and the name and address of the leasehold mortgagee, Lessor and Lessee agree that following receipt of such notice by Lessor, the provisions of this Article XXII shall apply with respect to each such leasehold mortgage.

22.2.2. Lessor shall, promptly upon receipt of a communication purporting to constitute the notice provided for by Section 22.2.1 above, acknowledge in writing receipt of such communication as constituting the notice provided for by Section 22.2.1 or, in the alternative, notify Lessee and the leasehold mortgagee of the rejection of such communication as not conforming with the provisions of Section 22.2.1 and specify the specific basis for such rejection.

22.2.3. After Lessor has received the notice provided for by Section 22.2.1 above, Lessee, upon being requested to do so by Lessor, shall with reasonable promptness provide Lessor with copies of the note or other obligations secured by such leasehold mortgage and of any other documents pertinent to the leasehold mortgage as specified by Lessor. If requested to do so by Lessor, Lessee shall thereafter also provide Lessor from time to time copies of each amendment or other modification or supplement to such instrument. From time to time, upon being requested to do so by Lessor, Lessee shall also notify Lessor of the date and place of recording and other pertinent recording data with respect to such instruments as have been recorded.

22.2.4. In the event of any assignment of a leasehold mortgage, or in the event of a change of address of a leasehold mortgagee, or of an assignment of such mortgage, notice of the new name and address shall be provided to Lessor.

### 22.3 Definitions.

22.3.1. The term "institutional lender", as used in this Article XXII, shall refer to a commercial bank, savings and loan association, savings bank, trust company, credit union, insurance company, college, university, real estate investment trust, pension fund, so-called "conduit" lender whose loans (or fractionalized interests therein) are rated by any recognized bond or securities rating agency, or other lenders of substance who perform functions similar to any of the foregoing and who have a net worth (as set forth in such lender's most recent certified financial statement) in excess of \$20,000,000.00.

22.3.2. The term "leasehold mortgage", as used in this Article XXII, shall include a mortgage, deed of trust, or other security instrument by which Lessee's leasehold estate is mortgaged or otherwise hypothecated to secure a debt or other obligations collateral to such debt, and shall include a purchase money mortgage taken back by a leasehold mortgagee in connection with its sale or assignment of its leasehold estate.

22.3.3. The term "leasehold mortgagee", as used in this Article XXII, shall refer to a holder of a leasehold mortgage in respect to which the notice provided for by Section 22.2 above has been given and received and to which the provisions of this Article XXII are applicable.

22.4. Consent of Leasehold Mortgagee Required. No agreement by Lessor and Lessee to cancel, surrender or modify this Lease (including without limitation pursuant to Article XV or Section 17.1.2 above) shall be effective as to any leasehold mortgagee unless consented to in writing by such leasehold mortgagee.

22.5. Default Notice. Lessor, upon providing Lessee any notice of: (a) default under this Lease; (b) termination of this Lease; or (c) a matter on which Lessor may predicate a claim of default, shall at the same time provide a copy of such notice to every leasehold mortgagee. No such notice by Lessor to Lessee shall be deemed to have been duly given to Lessee unless and until a copy thereof has been so provided to such leasehold mortgagee. From and after the date such notice has been given to a leasehold mortgagee, such leasehold mortgagee shall have the

same period, after the giving of such notice upon it, for remedying any default or acts or omissions which are the subject matter of such notice or causing the same to be remedied, as is given Lessee after the giving of such notice to Lessee, plus in each instance the additional periods of time specified in Sections 22.6 and 22.7 below, to remedy, commence remedying or cause to be remedied the defaults or acts or omissions which are specified in such notice. Lessor shall accept such performance by or at the instigation of such leasehold mortgagee as if the same had been done by Lessee. Lessee authorizes each leasehold mortgagee to take any such actions at such leasehold mortgagee's option and Lessee and Lessor hereby authorize entry upon the Premises by the leasehold mortgagee for such purpose.

#### 22.6. Notice to Leasehold Mortgagee.

22.6.1. Anything contained in this Lease to the contrary notwithstanding, if any default shall occur which entitles Lessor to terminate this Lease, Lessor shall have no right to terminate this Lease unless, following the expiration of the period of time given Lessee to cure such default or the act or omission which gave rise to such default, Lessor shall notify every leasehold mortgagee of Lessor's intent to so terminate at least thirty (30) days in advance of the proposed effective date of such termination if such default is capable of being cured by the payment of money (a "monetary default"), and at least sixty (60) days in advance of the proposed effective date of such termination if such default is not capable of being cured by the payment of money (a "non-monetary default"). In the case of a monetary default, Lessor shall accept the payment in question from any leasehold mortgagee in full and final satisfaction of Lessee's obligation, whereupon this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease. In the case of a non-monetary default reasonably susceptible of being cured by any leasehold mortgagee, the provisions of Section 22.7 below shall apply if, during such sixty (60) day period, any leasehold mortgagee shall:

- (1) Notify Lessor of such leasehold mortgagee's desire to nullify such notice; and
- (2) Commence in good faith, with reasonable diligence and continuity, to comply with all non-monetary requirements of this Lease.

22.6.2. Any notice to be given by Lessor to a leasehold mortgagee pursuant to any provision of this Article shall be deemed properly addressed if sent to the leasehold mortgagee who served the notice referred to in Section 22.2.1 unless notice of a change in mortgage ownership has been given to Lessor pursuant to Section 22.2.4.

#### 22.7. Procedure on Default.

22.7.1. If Lessor shall elect to terminate this Lease by reason of any default of Lessee, and a leasehold mortgagee shall have proceeded in the manner provided in Section 22.6 above, Lessor shall not terminate this Lease for such default provided that said leasehold mortgagee shall:

(1) Pay or cause to be paid the rent, additional rent or other monetary obligations of Lessee under this Lease as the same become due, and continue its good faith efforts to perform all of Lessee's non-monetary obligations under this Lease, excepting non-monetary defaults not reasonably susceptible of being cured by such leasehold mortgagee; and

(2) If not enjoined or stayed, take steps to acquire or sell Lessee's interest in this Lease by foreclosure of the leasehold mortgage or other appropriate means and prosecute the same to completion with due diligence; if the default shall be cured and the leasehold mortgagee shall discontinue such foreclosure proceedings, this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease.

22.7.2. If a leasehold mortgagee is complying with Section 22.7.1 above, the time for completion by such leasehold mortgagee of its cure of Lessee's defaults shall continue for so long as such leasehold mortgagee is enjoined or stayed from completing such cure and thereafter for so long as such leasehold mortgagee proceeds to complete steps to acquire or sell Lessee's interest in this Lease by foreclosure of the leasehold mortgage or by other appropriate means with reasonable diligence and continuity. Upon the acquisition of Lessee's estate herein by such leasehold mortgagee or its designee or any other purchaser at a foreclosure sale or otherwise, this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease.

22.7.3. No leasehold mortgagee shall be liable to perform Lessee's obligations under this Lease until such leasehold mortgagee acquires Lessee's rights by foreclosure or by assignment or transfer in lieu of foreclosure. After so acquiring Lessee's rights, such leasehold mortgagee shall be liable to perform Lessee's obligations only until such leasehold mortgagee assigns or transfers the leasehold as permitted by this Lease. If the buildings and improvements on the Premises shall have been or become materially damaged on, before or after the date of such purchase or transfer, the leasehold mortgagee shall be obligated to repair, replace or reconstruct the building or other improvements only to the extent of the net insurance proceeds received by the leasehold mortgagee by reason of such damage.

22.7.4. Nothing contained herein shall require any leasehold mortgagee or its designee, as a condition to exercising its rights to cure Lessee's defaults pursuant to Section 22.6 above and this Section 22.7, to cure any non-monetary default of Lessee not reasonably susceptible of being cured by a leasehold mortgagee or a purchaser at a foreclosure sale; nor shall any such leasehold mortgagee or its designee be required to discharge any lien, charge or encumbrance against Lessee's interest in this Lease or in the Premises which is junior in priority to the lien of the leasehold mortgage held by such leasehold mortgagee, excepting therefrom any claim of mechanic's lien which may attach to the reversionary rights of Lessor in the Premises.

22.7.5. Any leasehold mortgagee or other acquirer of the leasehold estate of Lessee pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings may, upon acquiring Lessee's leasehold estate, without further consent of Lessor, sell and assign the leasehold estate on such terms and to such persons and organizations as are acceptable to such leasehold mortgagee or acquirer and thereafter be relieved of all obligations under this Lease; provided, however, that such assignee has delivered to Lessor its written agreement to be bound by all of the provisions of this Lease.



22.7.6. Notwithstanding any other provisions of this Lease, any sale of this Lease and of the leasehold estate hereby created in any proceedings for the foreclosure of any leasehold mortgage, or the assignment or transfer of this Lease and of the leasehold estate hereby created in lieu of the foreclosure of any leasehold mortgage shall be deemed to be a permitted sale, transfer or assignment of this Lease and of the leasehold estate hereby created.

22.8. No Merger. So long as any leasehold mortgage is in existence, unless all leasehold mortgagees shall otherwise expressly consent in writing, the fee title to the Premises and the leasehold estate of Lessee therein created by this Lease shall not merge, but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by Lessor or by Lessee or by any third party, by purchase or otherwise.

22.9. Future Amendment. In the event on any occasion hereafter Lessee seeks to mortgage its leasehold estate, Lessor agrees to amend this Lease from time to time to the extent reasonably requested by an institutional lender proposing to make Lessee a loan secured by a first lien upon Lessee's leasehold estate, providing that such proposed amendments do not materially and adversely affect the rights of Lessor in this Lease or its interest in the Premises. All reasonable expenses incurred by Lessor in connection with any such amendment shall be paid by Lessee

22.10. Advance Payments. If any leasehold mortgagee, its designee or other purchaser has acquired the leasehold estate of Lessee pursuant to foreclosure, conveyance in lieu of foreclosure, or other proceedings, such leasehold mortgagee, its designee or other purchaser shall succeed to the rights of Lessee, if any, in and to any payment, fee, deposit or charge, including, but not limited to, an advance payment of rent, paid by Lessee to Lessor pursuant to any provisions of this Lease. In such event, Lessee shall no longer have any rights to such advance payments, and Lessor shall hold such advance payments for and on behalf of such leasehold mortgagee, its designee or other purchaser, subject to the terms of this Lease.

22.11. Estoppel Certificate. Lessor shall, without charge, at any time and from time to time hereafter, within ten (10) days after written request of Lessee to do so, execute, acknowledge and deliver to any leasehold mortgagee or proposed leasehold mortgagee or proposed leasehold assignee, sublessee or purchaser, a statement certifying the following:

- (a) As to whether this Lease has been modified or amended, and if so, the substance and manner of such modification or amendment;
- (b) As to the validity, force and effect of this Lease;
- (c) As to the existence of any default hereunder;
- (d) As to the existence of any offsets, counterclaims or defenses hereto on the part of Lessor;
- (e) As to the commencement and expiration dates of the Lease Term;

(f) As to the current Basic Rental, Percentage Rental and other amounts payable to the date to which such have been paid; and

(g) As to any other matters as may be reasonably requested.

The statement shall be such that it can be relied upon by any auditor, creditor, commercial banker, investment banker and by any prospective encumbrancer or assignee, sublessee or purchaser of Lessee's interest under this Lease, and the contents of such certificate shall be binding upon Lessor.

22.12. Notices. Notices from Lessor to a leasehold mortgagee shall be mailed to the address furnished Lessor pursuant to Section 22.2 above, and those from a leasehold mortgagee to Lessor shall be mailed to the address designated pursuant to the provisions of Article XXI hereof. Such notices, demands and requests shall be given in the manner described in Article XXI and shall in all respects be governed by the provisions of that Article.

22.13. Erroneous Payment. A leasehold mortgagee having made any payment to Lessor pursuant to Lessor's wrongful, improper or mistaken notice or demand shall be entitled to the return of any such payment or portion thereof, provided such leasehold mortgagee shall have made demand therefor not later than one (1) year after the date of payment.

22.14. Right of First Refusal. Lessor hereby agrees that any leasehold mortgagee shall have the right to exercise the right of first refusal described in Section XXIX below, in Lessee's place and stead, should Lessee fail to timely exercise any such right, provided that the leasehold mortgagee exercises such right no later than twenty (20) days following Lessee's deadline for exercising Lessee's right.

#### 22.15. New Lease.

22.15.1. In case of the termination of this Lease by reason of the happening of any event of default or in the event of rejection or disaffirmance of this Lease pursuant to bankruptcy law or other law affecting creditors' rights, Lessor shall give prompt notice thereof to any and all leasehold mortgagees. Lessor shall, on written request of any such leasehold mortgagee, made at any time within forty-five (45) days after the giving of such notice by Lessor, enter into a new lease of the Premises with such leasehold mortgagee within twenty (20) days after receipt of such request, which new lease shall be effective as of the date of such termination of this Lease for the remainder of the Lease Term, at the rent provided for herein, and upon the same terms, covenants, conditions and agreements as are herein contained; provided that such leasehold mortgagee shall: (i) pay to Lessor at the time of the execution and delivery of said new lease any and all sums for rent and other charges payable by Lessee hereunder which are then due, less the net amount of all sums received by Lessor from any sublessees in occupancy of any part or parts of any of the Premises up to the date of commencement of such new lease; and (ii) on or prior to the execution and delivery of said new lease, agree in writing that promptly following the delivery of such new lease, such leasehold mortgagee will perform or cause to be performed all of the other covenants and agreements herein contained on Lessee's part to be performed to the extent that Lessee shall have failed to perform the same prior to the date of

delivery of such new lease, except such covenants and agreements which are not reasonably susceptible of performance by such leasehold mortgagee.

22.15.2. Any new lease made pursuant to subsection 22.15.1 shall be prior to any mortgage or other lien, charge or encumbrance on the fee of the Premises, and the tenant under such new lease shall have the same right, title and interest in and to the Premises and any of the Improvements thereon as Lessee had under this Lease.

22.15.3. The provisions of this Section 22.15 shall survive the termination, rejection or disaffirmance of this Lease, and shall continue in full force and effect thereafter to the same extent as if Section 22.15 were a separate and independent contract made by Lessor, Lessee and such leasehold mortgagee and, from the effective date of such termination, rejection or disaffirmance of this Lease to the date of execution and delivery of such new lease, such leasehold mortgagee may use and enjoy said Premises without hindrance by Lessor or any person claiming by, through or under Lessor.

22.15.4. The tenant under any such new lease shall be liable to perform the obligations imposed on the Lessee by such new lease only during the period such person has ownership of such leasehold estate, subject to the possibility of exculpation set forth in subsection 22.15.1(ii) above.

22.15.5. After the termination of this Lease and during the period thereafter during which any leasehold mortgagee shall be entitled to enter into a new lease of the Premises, Lessor will not terminate any sublease, concession or license or the rights of any subtenant, concessionaire or licensee thereunder unless such subtenant, concessionaire or licensee shall be in default. During such period Lessor shall receive all base rent and other payments due from subtenants, concessionaires and licensees, including without limitation those whose attornment Lessor shall have agreed to accept pursuant to Article XXXI below, as agent of such leasehold mortgagee, and Lessor shall deposit such rents and payments in a separate and segregated account in trust for the leasehold mortgagee, but may withdraw such sums from time to time to pay necessary operating expenses of the Premises. Upon the execution and delivery of a new lease, Lessor shall account to the lessee under the said new lease for the balance, if any (after application as aforesaid), of the rents and other payments made under such subleases, concessions and licenses, and said lessee shall thereupon assign the rents and other payments due under said subleases, concessions and licenses to any leasehold mortgagees of the new lease in the same manner as such rents and other payments had been assigned to the leasehold mortgagees under this Lease. As used in this Section 22.15.5, "rents" includes all payments made under any sublease, concession or license.

22.16. Eminent Domain. Lessee's share, as provided by Article XVII of this Lease, of the proceeds arising from a Total Taking or a Partial Taking shall be disposed of as provided for by any leasehold mortgage.

22.17. Casualty Loss. A Standard Lender's Loss Payable Clause Form BFU438 (or successor form) naming each leasehold mortgagee shall be added to any and all insurance policies required to be carried by Lessee hereunder. The insurance proceeds shall be applied in

the manner specified in this Lease, subject to compliance with all conditions thereto contained in any leasehold mortgage.

### ARTICLE XXIII

#### AFFIRMATIVE ACTION

Lessee agrees to take affirmative action to improve employment opportunities of minorities and women. When applicable, Lessee agrees to abide by the Affirmative Action Program for Lessor's tenants as it now exists or is hereafter amended. A copy of the Program, effective as of the date of this Lease, is on file in the Office of the City Clerk as Document No. 0100 and by this reference is incorporated herein. Minorities are presently defined as Mexican-American, Black, Filipino, American Indian, and Asian/Oriental. The goal of this Program shall be the attainment of the employment of minorities and women in all areas of employment in a total percentage of employment approximately equal to the total level of minority and women employment as established by Lessor for its Affirmative Action Program each year.

### ARTICLE XXIV

#### NON-DISCRIMINATION

Lessee agrees not to discriminate in any manner against any person or persons on account of race, marital status, sex, religious creed, color, ancestry, national origin, physical handicap or medical condition in Lessee's use of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages and accommodations, and the obtaining and holding of employment, but the foregoing shall not be deemed to prevent Lessee from having separate men-only and women-only restrooms, locker rooms, showers, spas, saunas and steam rooms.

### ARTICLE XXV

#### LESSOR APPROVAL AND CONSENT

The approval or consent of Lessor, wherever required in this Lease, shall mean the approval or consent of the City Manager unless otherwise specified, without need for further resolution by the City Council.

**ARTICLE XXVI**

**RESERVATION OF OIL RIGHTS**

Lessor hereby reserves all right, title and interest in any and all gas, oil, minerals and water beneath the Premises. Lessor shall have the right to enter the Premises for the purpose of making repairs to municipal services. Lessor hereby reserves the right to grant and use such easements or establish and use such rights-of-way over, under, along and across the Premises for utilities; only provided, however, Lessor shall not unreasonably interfere with Lessee's use of the Premises and will reimburse Lessee for physical damages, if any, to the permanent improvements of Lessee located on the Premises resulting from Lessor's installation and maintenance of utilities. Such reimbursement shall include a reduction in the annual rent proportionate to the amount of said physical damage as reasonably determined by the parties. Lessor shall pay the costs of maintenance and repair of all utilities installed pursuant to the rights reserved herein.

**ARTICLE XXVII**

**RIGHT OF INSPECTION**

Lessor or its agents may, during normal business hours of said Lessee, enter in and upon the Premises or any part of the buildings or portions thereof to view same or to make an inspection of same.

**ARTICLE XXVIII**

**Intentionally Deleted**

**ARTICLE XXIX**

**RIGHT OF FIRST REFUSAL**

If, at any time during the Lease Term, Lessor shall receive a bona fide offer from any third person to purchase all or any part of the Premises, Lessor shall serve on Lessee and on any leasehold mortgagee a notice in writing of the price and terms of such offer from such third person and of the intention of Lessor to accept the same. Lessee shall have the right for thirty (30) days thereafter to purchase the Premises, for the purchase price and on the terms specified in said notice; and if Lessee shall not, within the said period of thirty (30) days, make a written offer to purchase the Premises upon the terms and conditions set forth in the notice hereinabove referred to, Lessor may then sell the Premises to said third person, provided the said sale is on the said terms and conditions and for the price set forth in the above-mentioned notice, and provided further that such sale shall be made subject to this Lease, including this Section, and this right of

first refusal shall be applicable to any and all subsequent offers to purchase received by Lessor or by Lessor's successors and assigns.

If Lessee purchases all of the Premises, this Lease shall terminate on the date title vests in Lessee, and Lessor shall remit to Lessee all prepaid and unearned rent. If Lessee purchases a part of the Premises, this Lease as to the part purchased shall terminate on the date title vests in Lessee, and the minimum monthly rent shall be reduced in the same ratio that the value of the Premises before the purchase bears to the value of the Premises covered by the Lease immediately after the purchase. Notwithstanding the foregoing to the contrary, however, so long as any leasehold mortgage is in existence, unless all leasehold mortgagees shall otherwise expressly consent in writing, the fee title to the Premises and the leasehold estate of Lessee therein created by this Lease shall not merge, but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by Lessee.

### ARTICLE XXX

#### RECORDATION OF MEMORANDUM

This Lease shall not be recorded; however, at Lessee's election the parties shall execute, acknowledge and record in the Office of the County Recorder of Los Angeles County, a Memorandum of Lease containing the essential terms of this Lease.

### ARTICLE XXXI

#### ATTORNMEN AND NON-DISTURBANCE

Should any subtenant, concessionaire or licensee of the Premises or any portion thereof request that Lessor attorn to and recognize its sublease, concession or license in the event of a termination of this Lease for so long as such subtenant, concessionaire or licensee is not in default after notice and the expiration of applicable cure periods, Lessor shall execute and deliver, without cost to Lessee or the subtenant, concessionaire or licensee, such instrument as may be reasonably requested to effect such attornment and non-disturbance, within fifteen (15) days after Lessor's receipt of written notice so to do. This Article XXXI shall apply only to those subtenants, concessionaires and licensees which have either been approved or deemed approved by Lessor, or as to those which such approval was not required by the terms of this Lease.

### ARTICLE XXXII

#### CITY'S CLUB MEMBERSHIP PRIVILEGE

For so long as the City of Manhattan Beach remains the Lessor, Lessor shall be entitled to designate in writing to Lessee from time to time during the Lease Term the names of a maximum of three (3) individuals at any one time (whose names may be changed by Lessor from time to

time, on advance written notice to Lessee), and such three (3) individuals shall be entitled to all privileges of tennis club membership, without payment of any initiation fees or regular base monthly dues, except that each such individual or Lessor shall be responsible for timely payment of all other amounts typically charged to tennis club members (e.g. food and beverage charges, sports desk charges, locker room fees, etc.). The three (3) individuals designated by Lessor will not be counted against any cap or maximum that the City of Manhattan Beach may impose from time to time on the number of tennis club memberships that may be issued by Lessee.

### ARTICLE XXXIII

#### GENERAL PROVISIONS

33.1. The captions of Articles in this Lease are for convenience only and are not a part of this Lease, and do not in any way limit or amplify the terms and provisions of this Lease.

33.2. The parties hereto agree that all the provisions hereof are to be construed as covenants and agreements as though the words imparting such covenants and agreements were used in each separate paragraph hereof; and that all the provisions hereof shall bind and inure to the benefit of the parties hereto, and their respective heirs, legal representatives, successors and assigns for the benefit of the Premises.

33.3. Should either party hereto institute any action or proceeding in court to enforce any provision hereof or for damages by reason of an alleged breach of any provision of this Lease, the prevailing party shall be entitled to receive from the losing party such amount as the court may adjudge to be reasonable attorneys' fees for the services rendered to the prevailing party in such action or proceeding.

33.4. The language in all parts of this Lease shall be in all cases construed simply according to its fair meaning, and not strictly for or against Lessor or Lessee.

33.5. Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between Lessor and Lessee.

33.6. The Lease and the new and separate ground lease pertaining to the Office Building and the Declaration of Reciprocal Easement and Parking Agreement referred to in Recitals of the Lease constitute all of the agreements between Lessor and Lessee, and supersede and cancel all prior oral and written agreements and understandings between the parties, including without limitation the Ground Lease.

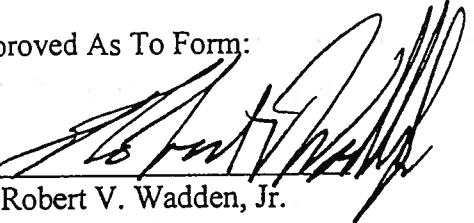
33.7. The Lease may not be modified or amended except by a way of a written instrument signed by Lessor and Lessee and any leasehold mortgagees.

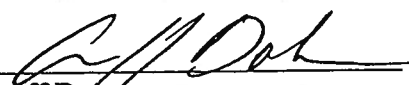
33.8. Anything in this Lease to the contrary notwithstanding, the partners comprising Lessee and their respective officers, directors, members, shareholders, agents and employees

shall have no liability under this Lease, and no assets of Lessee or of the partners comprising Lessee or their respective officers, directors, members, shareholders, agents or employees, other than the leasehold estate of this Lease, shall be subject to levy, execution or other procedures for the satisfaction of Lessor's remedies.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Lease on the date first above written.

**LESSOR:**

Approved As To Form:  
By:   
Robert V. Wadden, Jr.  
City Attorney

CITY OF MANHATTAN BEACH  
By:   
Geoff Dolan  
City Manager

**LESSEE:**

1334 PARTNERS, L.P.,  
a California limited partnership

By its general partner:

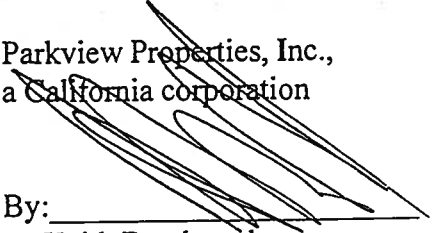
Parkview Properties, Inc.,  
a California corporation  
By:   
Keith Brackpool  
President and Secretary



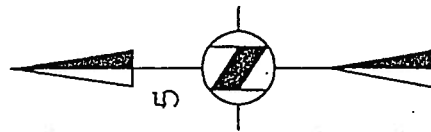
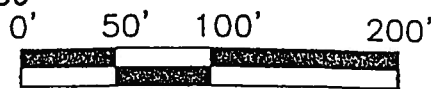
EXHIBIT "A"

SITE PLAN

[Next Page]

# EXHIBIT MAP

SCALE: 1"=100'



FD. SPK&W, RCE 8793, PER PM 12010, PMB 116-75/76.

FD. 1" IP, RCE 8793, UP 0.2' PER P.M. NO. 13910, PMB 145/23-25.

PORTION OF PARCEL 1 PER RS 93 PG 86

FD. NAIL & TIN, NO REF., ACCEPTED AS POINT ON NORTHERLY PROP. LINE PROD.

FD. 1 1/2" IP, NO TAG, NO REF., ACCEPTED AS PROPERTY CORNER.

FD. PK NAIL & WASHER PER PM 11503, PMB 145-21/22.

L=63.74', R=1372.44', Δ=239°40'  
S1725°25'E RADIAL  
17.64'  
S72°34'35"W

L=424.45', R=1397.44', Δ=17°24'10"  
P A R K V I E W  
L=317.81', R=1372.44', Δ=13°16'05"  
25.00' N0°01'15"W RADIAL  
N45°01'15"W 14.14'  
46.00' S89°58'45"W

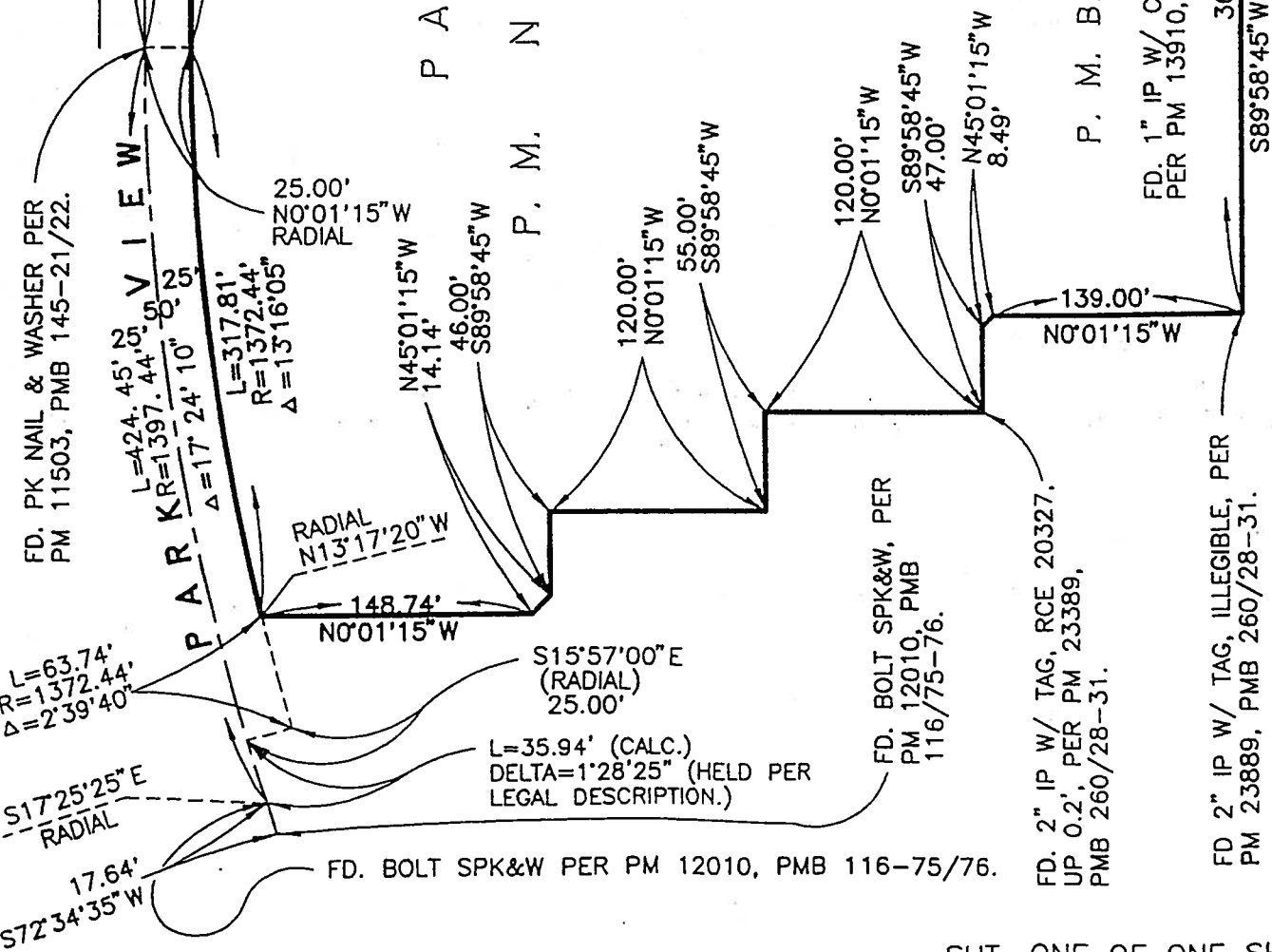
889°58'45"W 521.36' (521.23' PMB 13910) A V E N U E  
416.39' N89°58'45"E (416.25' REC'D)  
176.88' S89°58'45"W  
118.94' S0°01'15"E  
239.51' PROPERTY LINE  
N.E. CORNER PARCEL 2

104.97' 25.00' S0°01'15"E PROPERTY LINE  
N0°01'15"W 328.38'  
263.38'  
1334 PARKVIEW AVE. PARCEL

P A R C E L 2  
P. M. N O. 1 3 9 1 0

1330/1332 PARKVIEW AVE. PARCEL  
AREA = 282,608 SQ. FT.

118.00' S89°58'45"W  
AREA = 43,536' SQ. FT.



17.64' S72°34'35"W

FD. BOLT SPK&W PER PM 12010, PMB 116-75/76.

L=35.94' (CALC.)  
DELTA=1°28'25" (HELD PER LEGAL DESCRIPTION.)

FD. BOLT SPK&W, PER PM 12010, PMB 116/75-76.

FD. 2" IP W/ TAG, RCE 20327, UP 0.2', PER PM 23389, PMB 260/28-31.

FD. 2" IP W/ TAG, ILLEGIBLE, PER PM 23889, PMB 260/28-31.

FD. 1" IP W/ CAP, RCE 8793, PER PM 13910, PMB 145/23-25

P. M. B. 1 4 5 - 2

366.37' S89°58'45"W PROPERTY LINE

**HENNON**  
Surveying & Mapping, Inc.

1313 FOOTHILL BLVD., SUITE 2  
LA CANADA, CALIFORNIA 91011  
(818)790-0191 (323)664-2513  
FAX: (818)790-08084

DATE: OCT. 1, 2003
HOM. GDE: 732-13
FILE: 1411EX.DWG
PROJECT NO: 1411

EXHIBIT "B"

LEGAL DESCRIPTION OF PREMISES

[Next Page]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53

**LEGAL DESCRIPTION**  
**1330/1332 PARK VIEW AVENUE PARCEL**

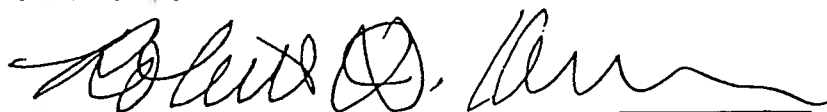
THAT PORTION OF PARCEL 2 OF PARCEL MAP NO. 13910, IN THE CITY OF MANHATTAN BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 145 PAGES 23 TO 25 INCLUSIVE OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY TOGETHER WITH THAT 7670 SQUARE FOOT PORTION OF PARCEL 1 OF SAID PARCEL MAP NO. 13910 AS SHOWN ON MAP FILED IN BOOK 93 PAGE 86 OF RECORDS OF SURVEY IN THE OFFICE OF SAID COUNTY RECORDER, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 2, THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL 2, SOUTH 89°58'45" WEST 176.88 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 0°01'15" EAST 118.94 FEET; THENCE NORTH 89°58'45" EAST 69.46 FEET; THENCE SOUTH 0°01'15" EAST 209.44 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID 7670 SQUARE FOOT PORTION OF PARCEL 1, SAID POINT BEING SOUTH 89°58'45" WEST 107.42 FEET FROM THE SOUTHEAST CORNER OF SAID PORTION OF PARCEL 1; THENCE ALONG SAID SOUTHERLY LINE TO AND ALONG THE GENERAL SOUTHERLY LINE OF SAID PARCEL 2, SOUTH 89°58'45" WEST 93.58 FEET, SOUTH 0°01'15" EAST 252.00 FEET AND SOUTH 89°58'45" WEST 366.37 FEET TO THE GENERAL WESTERLY LINE OF SAID PARCEL 2; THENCE ALONG SAID GENERAL WESTERLY LINE, NORTH 0°01'15" WEST 139.00 FEET, NORTH 45°01'15" WEST 8.49 FEET, SOUTH 89°58'45" WEST 47.00 FEET, NORTH 0°01'15" WEST 120.00 FEET, SOUTH 89°58'45" WEST 55.00 FEET, NORTH 0°01'15" WEST 120.00 FEET, SOUTH 89°58'45" WEST 46.00 FEET, NORTH 45°01'15" WEST 14.14 FEET AND NORTH 0°01'15" WEST 148.74 FEET TO A POINT IN THE NORTHERLY LINE OF SAID PARCEL 2, SAID POINT BEING IN A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 1372.44 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 13°17'20" WEST; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°16'05" AN ARC DISTANCE OF 317.81 FEET; THENCE NORTH 89°58'45" EAST 239.51 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 282,608 SQUARE FEET, MORE OR LESS.

SEE ATTACHED EXHIBIT MAP FOR INFORMATIONAL PURPOSES.

THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE PROVISIONS OF THE LAND SURVEYORS' ACT OF THE STATE OF CALIFORNIA. THIS LEGAL DESCRIPTION IS NOT TO BE USED IN VIOLATION OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA.



ROBERT D. HENNON, PLS 5573 (LIC. EXPIRES 9-30-05)

HENNON SURVEYING & MAPPING, INC.

1313 FOOTHILL BLVD., SUITE NO. 2

LA CAÑADA, CA 91011

818-790-0191 FAX 818-790-8084

FILE:1411LGL.DOC PROJECT:1411 DATE: OCTOBER 6, 2003



**ATTACHMENT 2 -  
OFFICE BUILDING GROUND LEASE**

dated  
10/20/03

MANHATTAN BEACH  
AMENDED AND RESTATED GROUND LEASE .

1334 Parkview

[OFFICE BUILDING]

THIS AMENDED AND RESTATED GROUND LEASE [OFFICE BUILDING] (the "Lease") is made and entered into as of October 20, 2003, by and between the CITY OF MANHATTAN BEACH, a municipal corporation, hereinafter referred to as "Lessor", and 1334 PARTNERS, L.P., a California limited partnership, hereinafter referred to as "Lessee", with reference to the following facts:

A. Lessor and Lessee's predecessor-in-interest entered into that certain Ground Lease dated October 16, 1981 (a memorandum of which was recorded March 3, 1982 in the Los Angeles County Recorder's Office as Instrument No. 82-230183), as amended by that certain First Amendment to Ground Lease dated November 25, 1981 and recorded March 3, 1982 in the Los Angeles County Recorder's Office as Instrument No. 82-230184, Second Amendment to Ground Lease dated December 15, 1981, Third Amendment to Ground Lease dated April 5, 1983 and recorded April 18, 1983 in the Los Angeles County Recorder's Office as Instrument No. 83-424473 (the "Third Amendment") and Fourth Amendment to Ground Lease dated September 28, 1988 and recorded October 5, 1988 in the Los Angeles County Recorder's Office as Instrument No. 88-1606015 (collectively the "Ground Lease"). Lessee received an assignment of its predecessor's interest in the Ground Lease by way of that certain Assignment dated September 28, 1988 and recorded October 5, 1988 in the Los Angeles County Recorder's Office as Instrument No. 88-1606016.

B. The Ground Lease covered certain improved real property used as a tennis club, including commercial office space contained within the tennis clubhouse building (collectively the "Tennis Complex"), plus a separate commercial office building (the "Office Building"), and parking areas therefor, all as indicated on the site plan attached hereto as Exhibit "A".

C. Lessor and Lessee now wish to bifurcate the Ground Lease into two (2) separate ground leases, with the Office Building being the subject of this Lease, and the Tennis Complex being the subject of a separate ground lease, and with Lessor and Lessee concurrently entering into that certain Declaration of Reciprocal Easement and Parking Agreement.

D. This Lease restates and completely supersedes and cancels the Ground Lease in its entirety. Upon the full execution of this Lease and the new and separate ground lease pertaining to the Tennis Complex and the Declaration of Reciprocal Easement and Parking Agreement, and the recordation in the Los Angeles County Recorder's Office of a memorandum of this Lease and the new Tennis Complex ground lease, the Ground Lease shall be of no further force or effect and shall be superseded and canceled. The lien of this Lease shall at all times be subordinate to and junior in priority to the Declaration of Reciprocal Easement and Parking Agreement.

IN CONSIDERATION of the mutual covenants and agreements herein contained, Lessor does hereby lease unto Lessee, and Lessee does hereby lease from Lessor, the "Premises" (hereinafter defined), to have and to hold, for the term and rental hereinafter provided and upon the conditions and agreements hereinafter set forth.

## ARTICLE I

### DEMISED PREMISES

The demised premises (the "Premises") are legally described on Exhibit "B" attached hereto, together with all buildings, structures and improvements erected thereon and comprising the Office Building. The Office Building encroaches on certain property of Lessor not originally included as part of the "Premises" as demised by the Ground Lease, which encroachments are set forth on Exhibit "C" to the Third Amendment and incorporated herein by this reference. Lessor hereby grants to Lessee and Lessee's permitted successors and assigns for a period of time commencing the date hereof and ending concurrently with the termination of the "Lease Term" (as such term is defined in Section 3.2 below) an exclusive easement to maintain the encroachments set forth on Exhibit "C" to the Third Amendment. The easement for encroachments herein granted is limited to the encroachments as they exist as of the date of the Third Amendment; and shall terminate and be of no force and effect in the event Lessee shall augment in a material way either the scope or limited use of such easement as granted herein. The within granted easement and its use by Lessee shall be subject to each and all of the terms and conditions of this Lease and the term "Premises" shall be deemed to include said easement.

## ARTICLE II

### CONDITION OF LEASED LAND

2.1. Lessor warrants that it owns fee title to the Premises, free and clear of all liens and encumbrances. Lessor further warrants that the control and administration of this Lease is under the jurisdiction of the City Council of Manhattan Beach (the "City Council"), except that the approval or consent of Lessor whenever required in this Lease shall mean the approval or consent of the City Manager unless otherwise specified, without need for further resolution by the City Council.

## ARTICLE III

### TERM

3.1. The original term of this Lease (the "Original Term") shall begin on the date hereof and end on December 31, 2043.

3.2. Lessee shall have two (2) consecutive options to extend the Original Term, each for a period of fifteen (15) years (collectively the "Extension Periods"). The Extension Periods shall be upon all the terms and provisions applicable to the Original Term, including periodic rent readjustments pursuant to Article IV below. Lessee shall exercise each such option by giving to Lessor written notice of exercise thereof at least six (6) months but not more than one (1) year before the expiration of the Original Term or the prior Extension Period, as the case may be. As used in this Lease, the term "Lease Term" shall mean the Original Term as extended by the Extension Periods, to the extent that Lessee exercises any of the corresponding options.

3.3. As used in this Lease, the term "Lease Year" shall mean a calendar year.

## ARTICLE IV

### RENTAL

Lessee agrees to pay to Lessor as rental for the use and occupancy of the Premises to be paid by Lessee during the Lease Term, the following sums:

4.1. Basic Rental: During the Lease Term Lessee shall pay a basic annual rental ("Basic Rental") of Thirty-Three Thousand One Hundred Six Dollars and Eighty Cents (\$33,106.80) per annum in equal monthly installments of Two Thousand Seven Hundred Fifty-Eight Dollars and Ninety Cents (\$2,758.90), payable each and every month in advance.

The Basic Rental for the Lease Term shall be adjusted upward effective October 1st of each Lease Year, beginning October 1, 2004, in the same proportion as the Consumer Price Index, published by the Bureau of Labor Statistics, for the Los Angeles/ Anaheim/Riverside area, All Urban Consumers, All Items, 1982-84=100, for the month of July of the then current Lease Year (the "Current Index") increases as compared to such Index for the month of July of the immediately prior Lease Year (the "Base Period Index"), as follows:

The Base Period Index shall be compared with the Current Index in each Lease Year, and if the Current Index is higher than the Base Period Index, the Basic Rental shall increase by the identical percentage, commencing effective October 1st of the then current Lease Year. Notwithstanding the foregoing, the adjusted Basic Rental effective October 1st of each Lease Year shall not increase over the Basic Rental for the immediately preceding twelve (12) months by more than five percent (5%), nor shall the adjusted Basic Rental effective as of any October 1st be less than the Basic Rental during the prior twelve (12) month period.

For example, if the Basic Rental for the twelve (12) month period ending September 30, 2004 is \$33,106.80, and the Current Index (ie. for July 2004) increased by 4% over the Base Period Index (ie. for July 2003), the Basic Rental for the twelve (12) month period beginning October 1, 2004 would be \$34,431.07; however, if the Current Index were to increase by 6% over the Base Period Index, the Basic Rental for the twelve (12) month period beginning October 1, 2004 would be \$34,762.14.

If the appropriate Index is not available at the commencement of the new Lease Year, then the calculation shall be made by Lessor when such Index becomes available and any adjustment in rental already paid for such Lease Year shall be as follows:

If Lessee is entitled to a credit for overpayment, such credit shall apply to the next rent payment or payments due; if a balance is due from Lessee, such sum shall be paid with Lessee's next regular monthly installment of rent.

If the above described Index should be discontinued or changed in any material respect, the parties shall select a substitute index or procedure which reasonably reflects and monitors consumer prices.



4.2. Percentage Rental: During the Lease Term Lessee shall pay Lessor, as "Percentage Rental", the sum of eight and one-quarter percent (8.25%) of the "Gross Rents" (as such term is defined below) received by Lessee from its subtenants in the Office Building; provided, however, that the minimum annual Percentage Rental payable during each year of the Lease Term shall be \$77,450, which minimum Percentage Rental shall be subject to annual adjustments as provided in Section 4.4 below.

As used herein, "Gross Rents" means the gross amounts received by Lessee from its subtenants in the Office Building, after deducting amounts paid or reimbursed by subtenants as payment or reimbursement of real property taxes, insurance, and other "pass-through" expenses typically borne by commercial office tenants such as, without limitation, management fees, costs of maintenance, repairs, replacements, parking and security, and utilities, incurred by Lessee in the operation of the Premises, which costs are allocated and billed to subtenants in addition to the basic rental paid by such subtenants.

If at any time during the Lease Term the laws concerning the methods of real property taxation are changed so that a tax or excise on rents or any other such tax, however described, is levied or assessed against Lessor as a direct substitution in whole or in part for any real property tax, Lessee shall pay before delinquency (but only to the extent that it can be ascertained that there has been a substitution to real property taxes and not an addition) the substitute tax or excise on rents.

The amount of the Percentage Rental payable by Lessee to Lessor for each Lease Year shall be computed by Lessee, and one-twelfth (1/12th) of the annual payment as reasonably estimated by Lessee shall be paid to Lessor on a monthly basis, concurrently with Lessee's monthly payment to Lessor of Basic Rental. Within forty-five (45) days following the close of each Lease Year, Lessee shall calculate the actual Percentage Rental for the prior Lease Year and prepare a statement reconciling the actual Percentage Rental versus Lessee's estimated monthly payments; if the reconciliation indicates that Lessee underpaid the Percentage Rental for the prior Lease Year, Lessee shall pay to Lessor the amount of the underpayment concurrently with providing its statement of reconciliation to Lessor, and if the reconciliation indicates that Lessee overpaid the Percentage Rental for the prior Lease Year, Lessee shall be entitled to a credit against the next monthly payment(s) of Percentage Rental until the overpayment is fully credited or, if the term of this Lease has expired, then the overpayment will be paid to Lessee within thirty (30) days following Lessor's receipt of Lessee's statement of reconciliation.

Lessee shall keep full, complete and proper books, records and accounts of the revenues attributable to each activity described in this Section 4.2; such books, records and accounts, including any sales tax reports that Lessee may be required to furnish to any governmental agency, shall at all reasonable times be open to inspection of Lessor, Lessor's auditor or other authorized representative or agent.

Lessor may, upon reasonable notice, cause an audit of Lessee's Gross Rents attributable to the Office Building to be made by an independent certified public accountant of Lessor's own selection, whose remuneration in respect to such audit shall not be contingent to any extent upon the outcome thereof, and if the statement of revenues previously made by Lessee shall be found to be more than two percent (2%) less than the amount of Lessee's revenues shown by such audit, then, subject to Lessee's right to challenge the findings of said audit hereinafter set forth,

Lessee shall immediately pay the reasonable costs of such audit as well as the additional Percentage Rent herein shown to be payable by Lessee to Lessor. Any information gained by Lessor from the statement of revenues, inspection of Lessee's records, or audit, as provided herein, shall, except to the extent permitted by law or in connection with any arbitration or litigation between Lessor and Lessee, be confidential and shall not be disclosed and shall be used only to carry out the purposes hereof.

4.3. Rent Payments: The rent during the Lease Term shall be payable to the Office of the City Treasurer of the City of Manhattan Beach, unless otherwise directed in writing by Lessor.

4.4. CPI Adjustments: The minimum annual Percentage Rental for the Lease Term shall be adjusted upward effective October 1st of each Lease Year, beginning October 1, 2004, in the same proportion as the Consumer Price Index, published by the Bureau of Labor Statistics, for the Los Angeles/ Anaheim/Riverside area, All Urban Consumers, All Items, 1982-84=100, for the month of July of the then current Lease Year (the "Current Index") increases as compared to such Index for the month of July of the immediately prior Lease Year (the "Base Period Index"), as follows:

The Base Period Index shall be compared with the Current Index in each Lease Year, and if the Current Index is higher than the Base Period Index, the minimum annual Percentage Rental shall increase by the identical percentage, commencing effective October 1st of the then current Lease Year. Notwithstanding the foregoing, the adjusted minimum annual Percentage Rental effective October 1st of each Lease Year shall not increase over the minimum annual Percentage Rental for the immediately preceding twelve (12) months by more than five percent (5%), nor shall the adjusted minimum annual Percentage Rental effective as of any October 1st be less than the minimum annual Percentage Rental during the prior twelve (12) month period.

For example, if the Minimum annual Percentage Rental for the twelve (12) month period ending September 30, 2004 is \$77,450, and the Current Index (ie. for July 2004) increased by 4% over the Base Period Index (ie. for July 2003), the Minimum annual Percentage Rental for the twelve (12) month period beginning October 1, 2004 would be \$80,548; however, if the Current Index were to increase by 6% over the Base Period Index, the Minimum annual Percentage Rental for the twelve (12) month period beginning October 1, 2004 would be \$81,322.50.

If the appropriate Index is not available at the commencement of the new Lease Year, then the calculation shall be made by Lessor when such Index becomes available and any adjustment in rental already paid for such Lease Year shall be as follows:

If Lessee is entitled to a credit for overpayment, such credit shall apply to the next rent payment or payments due; if a balance is due from Lessee, such sum shall be paid with Lessee's next regular monthly installment of rent.

If the above described Index should be discontinued or changed in any material respect, the parties shall select a substitute index or procedure which reasonably reflects and monitors consumer prices.

4.5. Additional Payments: In addition to the rental payments set forth above, the following shall be the responsibility of Lessee during the Lease Term:

4.5.1. All real property taxes and assessments, general and special, ordinary and extraordinary, of any kind or nature whatsoever on the Premises, all as hereinafter set forth.

4.5.2. All premiums of fire, casualty, extended coverage insurance and liability insurance as set forth in Articles XII and XIII hereof, excluding fire rental insurance, but including the holding harmless endorsements required to indemnify the City, its elected officials, appointed personnel and employees, on the Premises, all as set forth hereinafter.

4.5.3. Except as specifically provided herein, this is a net, net, net lease, and Lessee shall pay all costs and expenses in respect to the Premises, and Lessor shall be obligated for no portion thereof.

4.6. Due Date: Any rent, additional rent or other regular monthly payment due to Lessor pursuant to this Lease (other than Percentage Rental) shall be due and payable on or before the first (1st) day of each month. Percentage Rental shall be payable as herein provided. In the event Lessee fails to pay any such amount within ten (10) days after the date on which it is due, then, in addition to the amount due, Lessee shall pay a late charge equal to five percent (5%) of the amount due from the due date, and Lessor shall so notify Lessee. In the event Lessee's failure to pay shall continue for ten (10) days after the date Lessee receives such notice, Lessee shall be deemed to be in default under this Lease.

4.7. Returned Checks: In the event Lessee tenders a check to Lessor as payment of rent and said check is returned for insufficient funds by the bank, all rent payments due during the next twelve (12) months following return of the check by the bank shall be made by certified or cashier's check.

## ARTICLE V

[Intentionally Deleted].

## ARTICLE VI

### USE

6.1. The primary use for which Lessee shall continuously during the entire Lease Term occupy, use and enjoy the Premises shall be the conduct and operation thereon of a multi-tenant commercial office building, and such other improvements and such other uses as are incidental to the operation of a commercial office building as shall from time to time receive the prior written approval of the City Council, which shall not be unreasonably withheld or conditioned. Lessee shall not be allowed or permitted to use the Premises for any other use than the uses set forth above without the such approval first obtained. The approval of the City Council shall conclusively be deemed given if not denied in writing, with reasons therefor, within thirty (30) days after the City Council's receipt of Lessee's written request for such approval.

All rents paid by third party sublessees shall be at competitive and reasonable prevailing market rates. Lessee shall submit to Lessor summaries of all subleases and amendments thereto setting forth the sublessee's name, the sublease term and all charges payable by the sublessee, amongst other material sublease terms, within ten (10) days from the date such subleases or amendments are executed by Lessee. Lessee shall not be allowed or permitted to use the Premises for any other use than the uses set forth above without the express written permission and consent of Lessor first obtained, which consent shall not be unreasonably withheld or conditioned. Lessor herein, as agent of the City Council, approves all current uses of the Premises and the particular subtenants therein, subject to the conditions of such subleasing herein contained.

## ARTICLE VII

### TAXES AND ASSESSMENTS

7.1. Lessee's Obligations. Lessee agrees to pay all taxes and assessments upon the Premises which are assessed during the Lease Term. All of said taxes shall be paid prior to delinquency. All taxes assessed during or prior to, but payable in whole or in installments after the Lease Term, shall be adjusted and prorated so that Lessor shall pay its prorated share for the period prior to and for the period subsequent to the Lease Term. Lessor agrees that it shall promptly use its best efforts in order to cause the Tax Assessor of the County of Los Angeles, State of California, to assess the Premises as an independent parcel of real property.

7.2. In connection with any and all taxes and assessments that Lessee has agreed to pay by the terms hereof, Lessee may, if it shall so desire, endeavor to contest the validity of any such tax or assessments, or obtain a lowering of the assessed valuation of the Premises or any portion thereof, for the purpose of reducing any such tax or assessment. In such event, Lessor shall offer no objection and, at the request of Lessee, without expense to Lessor, will cooperate with Lessee. If requested by Lessee, Lessor will execute any document which may be necessary and proper for any such proceeding. All costs and expenses incurred in connection with such proceeding shall be borne and paid for by Lessee, including a bond required by Lessor to insure payment of said taxes; and Lessee agrees to indemnify and save harmless Lessor from and against any and all liability in connection with such proceedings. Any refund shall be the property of Lessee to the extent to which it may be based upon a payment of any tax or assessments made by Lessee.

7.3. Lessee shall pay before delinquency all taxes and assessments on the fixtures and equipment and on all other personal property of Lessee at the time situated on or installed in the Premises.

## ARTICLE VIII

### UTILITIES

During the Lease Term, Lessee shall pay all charges for water, gas, sewer, electricity, telephone service, air conditioning and all other utilities and services, supplied to the Premises by or at the request of Lessee, its sublessees, agents and representatives. Lessee also shall be

obligated to pay for all hook-up and connection costs, drainage fees, if any, and fees and charges which are assessed or charged at any time during the Lease Term for said services supplied to the Premises.

## ARTICLE IX

### OWNERSHIP OF BUILDINGS, STRUCTURES AND IMPROVEMENTS

All buildings, structures and improvements constructed on the Premises and all subsequent additions thereto and alterations therein and replacements thereof, except for trade fixtures and equipment installed by Lessee, shall become and remain a part of the Premises upon the completion of the Lease Term, subject to the use and occupancy of Lessee hereunder. Upon the expiration of the Lease Term or any earlier termination of the Lease Term, all of said improvements shall become the property of Lessor, except for such trade fixtures and equipment installed by Lessee, free of all claims or interest of Lessee without payment of any consideration therefor.

## ARTICLE X

### ALTERATION AND REPLACEMENT OF BUILDINGS, STRUCTURES AND/OR IMPROVEMENTS

At any time during the continuance of this Lease, Lessee may, subject to applicable City building and related ordinances, remove or add to the existing buildings, structures or improvements or any other buildings, structures and improvements then upon the Premises, or rebuild all or any part thereof, provided that all of the following terms and conditions are met:

10.1. Lessee is not in default in the performance of any of its obligations under this Lease, after Lessee's receipt of written notice of default and the expiration of all applicable cure periods.

10.2. Any of such work shall be done and completed with all reasonable diligence in a first-class manner in each particular according to complete and detailed plans and specifications therefor under the supervision and control of licensed and qualified architects and engineers employed by Lessee.

10.3. Any alteration, addition, replacement or removal of building structures or improvements on the Premises (other than internal alterations, additions, replacements or removals that do not affect the exterior appearance of the existing structures or improvements) shall be subject to the following controls and conditions:

10.3.1 Lessor shall have the right to approve the plans and specifications of said buildings, structures and improvements, including but not limited to elevation, exterior design and materials of the building to be erected, such approval not to be unreasonably withheld.

10.3.2 Lessee shall have the sole and exclusive right of selecting any architect, contractor, engineer, subcontractor, materialmen, suppliers or other persons or companies necessary for the construction in question.

10.3.3 The improvements shall be constructed in strict accordance with all applicable laws, ordinances and regulations, and Lessee shall obtain at its own expense all applicable permits that may be required.

10.3.4 If any work is reasonably estimated to cost in excess of Two Hundred Fifty Thousand Dollars (\$250,000), Lessee shall provide performance, material, labor and completion bonds in an amount equal to one hundred percent (100%) of the contract price. The form and substance of any bond provided by Lessee shall be subject to Lessor's approval, which shall not be unreasonably withheld.

10.3.5 The approvals required herein of Lessor shall be deemed to have been made by Lessor at such time as Lessor, and its subagencies, as a municipal authority, approves the plans, specifications, etc., and issues the building permits and other approvals in connection with the construction in question.

## ARTICLE XI

### WAIVER

Lessee, as a material part of the consideration to be rendered to Lessor, hereby waives all claims against Lessor, for damages to goods, wares and merchandise in, upon or about the Premises and for injuries to persons in or about the Premises, from any cause arising at any time, except for any willful or negligent act or omission of Lessor, its agents or employees, and Lessee will hold Lessor exempt and harmless from any damage or injury to any person, or to the goods, wares and merchandise of any person, arising from the use of the Premises by Lessee, or from the failure of Lessee to keep the Premises in good condition and repair, as provided herein, except for any willful or negligent act or omission of Lessor, its agents or employees.

## ARTICLE XII

### LIABILITY INSURANCE

At all times during the Lease Term, at its sole expense, and as a part of the consideration for this Lease, Lessee agrees to maintain or cause to be maintained for the benefit of Lessee and Lessor, general public liability insurance against claims for bodily injury, death, or property damage occurring upon or in any buildings, structures or improvements or upon any part of the Premises, such insurance to afford protection to limits of not less than Two Million Dollars (\$2,000,000) for any one accident, and Five Hundred Thousand Dollars (\$500,000) in property damage. Said insurance shall be issued by an insurance company having a Best's rating of at least A-:VII. A certificate or endorsement as set forth in Section 4.5.2 above shall be promptly deposited with Lessor. Each policy of insurance shall be accompanied by evidence of the

payment of premiums therefor in form reasonably satisfactory to Lessor, and shall provide for notification in writing to Lessor thirty (30) days prior to cancellation.

Not more frequently than once every two (2) years, Lessor may notify Lessee it wishes to increase the maximum limits of insurance discussed above. The amount of such increase shall be determined by an independent and impartial insurance risk appraiser or broker mutually agreed upon by Lessor and Lessee acting in good faith.

### ARTICLE XIII

#### FIRE, CASUALTY AND EXTENDED COVERAGE INSURANCE

Lessee shall further during the Lease Term obtain and keep in effect fire, casualty and extended coverage insurance by one or more responsible insurance companies authorized to do business in the State of California on the improvements, namely the buildings on the Premises, in the full cost of said improvements, excluding foundations, architect's fees and other uninsurable items. Lessor shall be named as an additional named insured on any such insurance policies. Lessee agrees to deliver to Lessor certificates of insurance evidencing the existence in full of such insurance herein provided for and such insurance certificates or policies shall provide that such insurance will not be canceled unless thirty (30) days' prior written notice thereof is first given to Lessor. Lessee, at Lessee's sole cost and expense, will pay the cost of procuring and maintaining fire, casualty and extended coverage insurance, and in the event Lessee fails to keep same in full force and effect during the Lease Term or pay the premiums therefor, Lessor may procure the same and pay the premiums therefor, and Lessor may declare this to be a breach of this Lease. Lessor, at its sole cost and expense, may obtain fire rental insurance in such amount and for such duration as Lessor may desire. The damage to or destruction or a partial destruction by any cause whatever of any buildings, structures or improvements upon the Premises shall not terminate this Lease or release Lessee therefrom or from any of its obligations hereunder, except as provided for in Article XV hereof.

If Lessee is required or elects to rebuild the Premises, all proceeds of such insurance shall be held in trust to be used solely for the repair or replacement of the buildings and improvements so insured.

Lessee shall obtain annual certified statements of full insurable replacement cost of those items to be insured hereunder from the insurance company or companies providing the coverages herein required. Lessee shall provide such certificates to Lessor within ten (10) days of receipt of same and shall concurrently therewith provide Lessor with certificates of insurance evidencing the existence of coverage in not less than such amounts.

Lessee and Lessor each hereby waive: (i) any rights of recovery against the other for injury or loss to persons and to real and personal property, including loss of use thereof, covered by insurance required to be carried by either party under this Lease; and (ii) on behalf of their respective insurance companies, any right of subrogation that either may have against the other. Any policies of insurance that Lessee or Lessor obtains under this Lease shall include a clause or endorsement denying the insurer any right of subrogation against the other. Such requirement for

waivers shall be in effect so long as such waivers are obtainable from insurance companies without charge or at commercially reasonable additional cost.

#### ARTICLE XIV

#### LIENS AND CLAIMS

14.1. Lessee agrees to pay for or to cause prompt payment to be made for all labor done or materials furnished for any work of construction, repair, maintenance or alteration done by or for Lessee in, upon or about the Premises and to keep and hold the Premises free, clear and harmless of and from all liens arising by reason of any such work, and that at all times Lessee will protect and indemnify Lessor against all materialmen's liens or mechanic's liens or claims which might ripen into such liens and against all costs and expenses, including reasonable attorneys' fees, which might accrue or be incurred by reason or on account of any such lien or claim.

14.2. Should Lessee fail to pay and fully discharge any such lien or claim within sixty (60) days after written notice from Lessor of the existence thereof, unless Lessee has notified Lessor of its intention to contest such lien or claim or has commenced a contest thereof, Lessor may, but need not, pay, adjust or compromise the same, or any portion thereof, and in so doing shall be the sole judge of the advisability of paying, compromising, or adjusting it, or in lieu thereof, Lessor may demand of Lessee that Lessee post a security bond in an amount provided by the California Civil Code. Lessee covenants to repay to Lessor all moneys that Lessor pays out in discharge of such claim, lien or judgment, or to redeem the Premises from any sale thereunder and costs and expenses, including reasonable attorneys' fees, accruing or incurred by reason of or on account of any failure by Lessee to perform its obligations under this Section, together with interest at the rate of ten percent (10%) per annum from the time of payment by Lessor until repayment by Lessee, repayment to Lessor to be made on or before thirty (30) days from service by Lessor upon Lessee of written notice of such payment by Lessor. As between the parties hereto, the payment, adjustment or compromise by Lessor of any such claim or lien or the making of such redemption shall be conclusive evidence of the validity and of the advisability thereof.

14.3. Lessor or its agents shall have at all reasonable times the right to go upon the Premises and also to post and keep posted thereon notices provided for by Section 3094 of the Civil Code of the State of California, or by any other law which Lessor deems to be for the protection of itself and of the property from materialmen's or mechanic's liens or other liens of a similar nature.

#### ARTICLE XV

#### MAINTENANCE, REPAIRS AND UPKEEP

Lessor shall not be obligated to make any repairs, alterations, additions or improvements in or upon the Premises, including the buildings and improvements located thereupon. Lessee hereby expressly waives any and all right to make repairs at the expense of Lessor under or



pursuant to the provisions of Section 1942 of the Civil Code of the State of California. At all times during the Lease Term and at its sole cost and expense, Lessee shall keep and maintain all buildings, structures and improvements on the Premises in good order and repair, and in a clean, sanitary and neat condition. In addition, Lessee shall maintain and repair all facilities and other improvements which may be required at any time by law upon or in connection with or for the use of the Premises, or any part thereof, and Lessee shall make any and all additions to or alterations in any building or structure upon the Premises which may be required by or shall otherwise observe and comply with any and all such laws, ordinances and regulations applicable to the Premises.

In the event the improvements constructed on the Premises shall be damaged by fire, the elements or other casualty during the Lease Term from a risk which is covered by insurance, Lessee shall promptly commence the work of repair, reconstruction and restoration of said improvements and shall diligently prosecute the same to completion. All rent payable by Lessee shall be abated from the date of damage or destruction until the first to occur between the restoration and repair of the Premises or the expiration of twelve (12) months from the date of damage or destruction, but only to the extent Lessor receives proceeds of rental interruption insurance, the premiums for which are paid by Lessee. Notwithstanding the above, if the improvements shall be damaged or destroyed in the last five (5) years of the Lease Term, and Lessee gives written notice of its election not to rebuild to Lessor within sixty (60) days of such damage or destruction, then Lessee shall have no obligation to repair or rebuild said improvements, all insurance proceeds arising from such damage and destruction shall be the property of Lessor, and this Lease shall terminate as of the date of damage or destruction.

In the event the improvements constructed on the Premises are materially damaged or destroyed by any casualty during the Lease Term from a risk not required by this Lease to be covered by insurance, Lessee shall have the option to terminate this Lease. Lessee shall exercise this option by delivering to Lessor written notice of Lessee's election to terminate within sixty (60) days of the date of such damage or destruction. If Lessee so elects, this Lease shall terminate as of the date of such damage or destruction. If Lessee does not elect to terminate this Lease, Lessee shall be required to restore and rebuild the improvements.

## ARTICLE XVI

### ASSIGNMENT AND SUBLETTING

Lessee, with Lessor's prior written consent, may assign this Lease or any interest herein and may sublease any portion of the Premises to an assignee or sublessee which has the financial capability and overall competence to successfully operate the Premises or subleased portion thereof. The consent of Lessor will not be unreasonably withheld. This Lease and any interest herein shall not be assignable by operation of law without the written consent of Lessor. Any assignment of this Lease shall not relieve Lessee of liability hereunder unless, at the time of such assignment, Lessor agrees to eliminate Lessee's liability hereunder.

Any approval of any assignment or sublease shall be conditioned upon the assignee or sublessee agreeing in writing that they will assume the rights and obligations thereby assigned or

subleased and that they will keep and perform all covenants, conditions and provisions of this Lease which are applicable to the rights acquired.

Lessor shall have the unrestricted right to condition its consent to an assignment requested pursuant to this Article XVI upon the payment by Lessee to Lessor of a transfer fee in the amount of one percent (1%) of the gross consideration to be received by Lessee in consideration of such assignment.

## ARTICLE XVII

### EMINENT DOMAIN

17.1. Definition of Terms. The term "Total Taking", as used in this Article, means the taking of the entire Premises (under the power of eminent domain, or by voluntary sale or transfer under threat of condemnation to a public authority which has the power of eminent domain), or a taking of so much of said land as to prevent or substantially impair the conduct of Lessee's business thereon. The term "Partial Taking" means the taking of a portion only of said land which does not constitute a Total Taking.

17.1.1. Total Taking: If during the Lease Term there shall be a Total Taking by public authority under the power of eminent domain, then the leasehold estate of Lessee in and to the Premises shall cease and terminate as of the date the actual physical possession thereof shall be so taken.

17.1.2. Partial Taking: If during the Lease Term there shall be a taking of a portion of the Premises and the remainder of the Premises is not reasonably suited in Lessee's reasonable judgment for the uses set forth in Article VI or the conduct of Lessee's business on the Premises, or if the right of ingress or egress is taken so that the Premises will not be so reasonably suited for such uses, then Lessee shall have the right to terminate this Lease as of the date of such taking upon giving to Lessor notice in writing of such election within forty-five (45) days after Lessee is given written notice of such appropriation or taking. In the event of such termination, both parties shall thereupon be released from any liability thereafter accruing hereunder. If Lessee does not elect to terminate this Lease, then the monthly Basic Rental shall be reduced by an amount that is in the same ratio to monthly Basic Rental as the value of the portion of the Premises taken bears to the total value of the Premises before the date of taking.

17.1.3. Allocation of Award: In the case of a Partial Taking or a Total Taking, the rights of the parties with respect to the award shall be according to the laws of the State of California in effect at the time this Lease is executed. Said respective rights of the parties, at the time of such taking, shall be judicially decided in accordance with Section 1260.220 of the Code of Civil Procedure of the State of California. In the event said Section 1260.220 has been superseded at the time of said taking, said allocation of the award shall nevertheless be determined judicially pursuant to the then prevailing California statutes which supersede Section 1260.220 at the time of such taking.

17.1.4. Effect of Termination: If this Lease is terminated, in whole or in part, pursuant to any of the provisions of this Article, all rentals and other charges payable by Lessee

to Lessor hereunder and attributable to the Premises taken shall cease, and the parties thereupon shall be released from all further liability in relation thereto.

## ARTICLE XVIII

### DEFAULT

18.1. Termination and Forfeiture for Default: Time is hereby declared to be of the essence of this Lease. Should Lessee fail to pay any rent, tax, assessment, insurance premium, lien, claim, charge or demand provided in this Lease to be paid by Lessee at the times and in the manner herein provided, and same be not cured for a period of ten (10) days from and after any personal service or receipt of certified letter giving notice thereof by Lessor to Lessee, or if Lessee defaults in the performance of or breach of any other covenant, condition or restriction of this Lease herein provided to be kept or performed by Lessee, and should such default or breach (other than any breach of the restrictions against assignment as set forth herein for which immediate notice may be given) be not cured or a cure not undertaken by Lessee within a period of twenty (20) days (and, if a period of longer than twenty (20) days is reasonably required for the cure of such non-monetary default, Lessee shall not be deemed in default under this Lease provided that Lessee commences such cure within said twenty (20) day period and diligently and continuously thereafter prosecutes such cure to completion), from and after any personal service or receipt of certified letter giving notice thereof by Lessor to Lessee, then and in any of such events, Lessor may, at its option, terminate this Lease by giving Lessee written notice thereof, and thereupon this Lease shall cease and terminate and Lessee's rights in and to the Premises and all buildings and other improvements thereon shall cease, and Lessor may oust Lessee and all persons claiming under Lessee therefrom, and Lessee and all such persons shall quit and surrender possession of the Premises and all buildings and other improvements thereon to Lessor; provided, however, that such termination shall not relieve Lessee from the payment of any sums then due and payable from Lessee or any claim for damages then accrued against Lessee hereunder, and such termination shall not prevent Lessor from recovering any such sums or damages, or from enforcing such obligations or recovering damages for any default thereof, by any remedy provided by law.

18.2. Remedies: In addition to all other rights and remedies Lessor may have or as provided by law, Lessor shall have the following rights and remedies:

18.2.1. This Lease shall continue in effect so long as Lessor does not terminate Lessee's right to possession of the Premises after a breach of this Lease, and Lessor may enforce all of its rights and remedies, including the right to recover rent as it becomes due.

18.2.2. For so long as Lessor does not terminate Lessee's rights to possession of the Premises, Lessee shall have the right to assign its interest in this Lease and/or to sublet same upon the prior written consent of Lessor, which consent shall not be unreasonably withheld, all in accordance with Article XVI hereof.

18.2.3. After notice as hereinafter provided, Lessor may elect to terminate this Lease after the occurrence of an act of default, and in such event Lessor may declare this Lease

and Lessee's right to possession terminated and re-enter the Premises and remove Lessee's property therefrom and store the same for Lessee's account and at Lessee's expense.

18.2.4. In the event Lessor elects to terminate this Lease and Lessee's right to possession in accordance with Section 18.2.3 above, or the same are terminated by operation of law, Lessor may recover as damages from Lessee the following:

(i) The worth at the time of award of the unpaid rent and all other sums due hereunder which had been earned at the time of termination of this Lease;

(ii) The worth at the time of award of the amount by which the unpaid rent and other sums due hereunder which would have been earned after the date of termination of this Lease until the time of award exceeds the amount of such loss of rent and other sums due that Lessee proves could have been reasonably avoided;

(iii) The worth at the time of award of the amount by which the unpaid rent and other sums due hereunder for the balance of the Lease Term at the time of award exceeds the amount of the loss of such rent and other sums that Lessee proves could be reasonably avoided; and

(iv) Any other amount, including attorneys' fees and court costs, necessary to compensate Lessor for all detriment proximately caused by Lessee's failure to perform its obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom.

18.2.5. The "worth at the time of award" of the amounts referred to in Section 18.2.4 above is computed by allowing interest at the rate of ten percent (10%) per annum from the date of termination.

18.2.6. Efforts by Lessor to mitigate the damages caused by Lessee's breach of this Lease do not waive Lessor's right to recover damages under the foregoing provisions.

18.2.7. Nothing in Sections 18.2.1 through 18.2.6 above affects the rights of Lessor to indemnification for liability arising prior to the termination of this Lease for personal injuries or property damage as may be provided elsewhere in this Lease.

18.2.8. The foregoing remedies of Lessor shall not be exclusive, but shall be cumulative and in addition to all rights and remedies now or hereinafter provided or allowed by law and specifically those provisions of Civil Code Sections 1951.2 and 1951.4.

18.3. Surrender of Premises: Lessee covenants that upon the termination of this Lease by lapse of time or at the election of Lessor after default by Lessee, or otherwise, Lessee shall surrender and deliver up to Lessor possession of the Premises peaceably and quietly.

18.4. Quitclaim: Upon the expiration of the Lease Term, or any sooner termination thereof, Lessee agrees to execute, acknowledge and deliver to Lessor a proper instrument in writing releasing and quitclaiming to Lessor all right, title and interest of Lessee in and to the Premises.

18.5. Lessor's Default: Lessor shall be in default of this Lease if it fails or refuses to perform any provision of this Lease that it is obligated to perform if the failure to perform is not cured within ten (10) days after notice of the default has been given by Lessee to Lessor. If the default cannot reasonably be cured within ten (10) days, Lessor shall not be in default of this Lease if Lessor commences to cure the default within the ten (10) day period and diligently and in good faith continues to cure the default. Lessee, at any time after Lessor commits a default, can cure the default at Lessor's cost. If Lessee at any time, by reason of Lessor's default, pays any sum or does any act that requires the payment of any sum, the sum paid by Lessee shall be due immediately from Lessor to Lessee at the time the sum is paid. If Lessor fails to reimburse Lessee as required by this Section, Lessee shall have the right to withhold from future rent due the sum Lessee has paid until Lessee is reimbursed in full for the sum.

## ARTICLE XIX

### BANKRUPTCY AND INSOLVENCY

If all or substantially all of Lessee's assets are placed in the hands of a trustee or a receiver, and such trusteeship or receivership continues for a period of sixty (60) days, or if Lessee makes an assignment for the benefit of creditors, or if Lessee is adjudicated a bankrupt, or if any proceedings are instituted by Lessee under the Bankruptcy Act as the same now exists or under any amendment thereof which may hereafter be enacted or under any other act relating to the subject of bankruptcy wherein Lessee seeks to be adjudicated a bankrupt, or seeks to be discharged of its debts, or to effect a plan of liquidation, or if any involuntary proceeding is filed against Lessee under any bankruptcy laws and Lessee consents thereto or acquiesces therein by pleading or default, then this Lease or any interest in and to the Premises shall not become an asset of any such proceeding and, in addition to any and all rights or remedies of Lessor hereunder or by law provided, Lessor may, at its option by written notice to Lessee, declare the Lease Term ended and re-enter the Premises and take possession thereof and remove all persons therefrom, and Lessee shall have no further claim thereon under this Lease.

## ARTICLE XX

### INDEMNIFICATION

Lessee agrees to indemnify and keep indemnified, and to save and hold Lessor harmless from any and all claims, losses, liabilities, demands, expenses or charges including those for personal injury, death or property damage sustained or suffered by any person or persons, including Lessee, employees, agents or business invitees, arising out of, resulting from or related or incident to the use or occupancy of the Premises by Lessee, or any of its agents, employees or business invitees, except for any willful or negligent act of Lessor, its agents and/or employees.

## ARTICLE XXI

### NOTICES AND PAYMENTS

Whenever in this Lease it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall be given or served in writing and delivered by personal delivery or by prepaid registered or certified mail or by reputable overnight courier service (eg. Federal Express or U.P.S.), addressed as follows:

To Lessor: City Manager  
City of Manhattan Beach  
1400 Highland Avenue  
Manhattan Beach, California 90266

To Lessee: 1334 Partners, L.P.  
c/o Manhattan Country Club  
1330 Park View Avenue  
Manhattan Beach, California 90266  
Attn: Mr. Keith Brackpool

For notices served personally, service shall be conclusively deemed made at the time of such personal service or refusal to accept service. For notices given by certified or registered mail, such shall conclusively be deemed made on the date of delivery shown of the receipt card, or if no delivery date is shown then the date of the postmark thereon, or on the date of refusal of receipt by the intended recipient. For notices given by reputable overnight courier service, such notices shall conclusively be deemed given on the business day next following the date of deposit of the notice with the courier service.

All payments to be made by either party to the other shall be made at the addresses set forth above.

Either party may change its address by written notice to the other, given in the manner aforesaid.

## ARTICLE XXII

### RIGHT TO ENCUMBER

22.1. Lessee's Right to Encumber Leasehold. Lessee may from time to time mortgage or otherwise encumber Lessee's leasehold estate to an institutional lender (as hereinafter defined) under one or more leasehold mortgages, and may assign this Lease as security for such mortgage or mortgages. In addition, Lessee may take back a so-called "purchase money mortgage" upon a sale and assignment of the leasehold estate and "leasehold mortgage" (hereinafter defined) shall be deemed to include such "purchase money mortgage".

22.2. Notice to Lessor.

22.2.1. If Lessee shall, on one or more occasions, mortgage Lessee's leasehold estate to an institutional lender, and if the proposed leasehold mortgagee shall provide Lessor with prior notice of such proposed leasehold mortgage, together with a true copy of the proposed leasehold mortgage instrument and the name and address of the leasehold mortgagee, Lessor and Lessee agree that following receipt of such notice by Lessor, the provisions of this Article XXII shall apply with respect to each such leasehold mortgage.

22.2.2. Lessor shall, promptly upon receipt of a communication purporting to constitute the notice provided for by Section 22.2.1 above, acknowledge in writing receipt of such communication as constituting the notice provided for by Section 22.2.1 or, in the alternative, notify Lessee and the leasehold mortgagee of the rejection of such communication as not conforming with the provisions of Section 22.2.1 and specify the specific basis for such rejection.

22.2.3. After Lessor has received the notice provided for by Section 22.2.1 above, Lessee, upon being requested to do so by Lessor, shall with reasonable promptness provide Lessor with copies of the note or other obligations secured by such leasehold mortgage and of any other documents pertinent to the leasehold mortgage as specified by Lessor. If requested to do so by Lessor, Lessee shall thereafter also provide Lessor from time to time copies of each amendment or other modification or supplement to such instrument. From time to time, upon being requested to do so by Lessor, Lessee shall also notify Lessor of the date and place of recording and other pertinent recording data with respect to such instruments as have been recorded.

22.2.4. In the event of any assignment of a leasehold mortgage, or in the event of a change of address of a leasehold mortgagee, or of an assignment of such mortgage, notice of the new name and address shall be provided to Lessor.

### 22.3 Definitions.

22.3.1. The term "institutional lender", as used in this Article XXII, shall refer to a commercial bank, savings and loan association, savings bank, trust company, credit union, insurance company, college, university, real estate investment trust, pension fund, so-called "conduit" lender whose loans (or fractionalized interests therein) are rated by any recognized bond or securities rating agency, or other lenders of substance who perform functions similar to any of the foregoing and who have a net worth (as set forth in such lender's most recent certified financial statement) in excess of \$20,000,000.00.

22.3.2. The term "leasehold mortgage", as used in this Article XXII, shall include a mortgage, deed of trust, or other security instrument by which Lessee's leasehold estate is mortgaged or otherwise hypothecated to secure a debt or other obligations collateral to such debt, and shall include a purchase money mortgage taken back by a leasehold mortgagee in connection with its sale or assignment of its leasehold estate.

22.3.3. The term "leasehold mortgagee", as used in this Article XXII, shall refer to a holder of a leasehold mortgage in respect to which the notice provided for by Section 22.2 above has been given and received and to which the provisions of this Article XXII are applicable.

22.4. Consent of Leasehold Mortgagee Required. No agreement by Lessor and Lessee to cancel, surrender or modify this Lease (including without limitation pursuant to Article XV or Section 17.1.2 above) shall be effective as to any leasehold mortgagee unless consented to in writing by such leasehold mortgagee.

22.5. Default Notice. Lessor, upon providing Lessee any notice of: (a) default under this Lease; (b) termination of this Lease; or (c) a matter on which Lessor may predicate a claim of default, shall at the same time provide a copy of such notice to every leasehold mortgagee. No such notice by Lessor to Lessee shall be deemed to have been duly given to Lessee unless and until a copy thereof has been so provided to such leasehold mortgagee. From and after the date such notice has been given to a leasehold mortgagee, such leasehold mortgagee shall have the same period, after the giving of such notice upon it, for remedying any default or acts or omissions which are the subject matter of such notice or causing the same to be remedied, as is given Lessee after the giving of such notice to Lessee, plus in each instance the additional periods of time specified in Sections 22.6 and 22.7 below, to remedy, commence remedying or cause to be remedied the defaults or acts or omissions which are specified in such notice. Lessor shall accept such performance by or at the instigation of such leasehold mortgagee as if the same had been done by Lessee. Lessee authorizes each leasehold mortgagee to take any such actions at such leasehold mortgagee's option and Lessee and Lessor hereby authorize entry upon the Premises by the leasehold mortgagee for such purpose.

22.6. Notice to Leasehold Mortgagee.

22.6.1. Anything contained in this Lease to the contrary notwithstanding, if any default shall occur which entitles Lessor to terminate this Lease, Lessor shall have no right to terminate this Lease unless, following the expiration of the period of time given Lessee to cure such default or the act or omission which gave rise to such default, Lessor shall notify every leasehold mortgagee of Lessor's intent to so terminate at least thirty (30) days in advance of the proposed effective date of such termination if such default is capable of being cured by the payment of money (a "monetary default"), and at least sixty (60) days in advance of the proposed effective date of such termination if such default is not capable of being cured by the payment of money (a "non-monetary default"). In the case of a monetary default, Lessor shall accept the payment in question from any leasehold mortgagee in full and final satisfaction of Lessee's obligation, whereupon this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease. In the case of a non-monetary default reasonably susceptible of being cured by any leasehold mortgagee, the provisions of Section 22.7 below shall apply if, during such sixty (60) day period, any leasehold mortgagee shall:

- (1) Notify Lessor of such leasehold mortgagee's desire to nullify such notice; and
- (2) Commence in good faith, with reasonable diligence and continuity, to comply with all non-monetary requirements of this Lease.

22.6.2. Any notice to be given by Lessor to a leasehold mortgagee pursuant to any provision of this Article shall be deemed properly addressed if sent to the leasehold mortgagee who served the notice referred to in Section 22.2.1 unless notice of a change in mortgage ownership has been given to Lessor pursuant to Section 22.2.4.



## 22.7. Procedure on Default.

22.7.1. If Lessor shall elect to terminate this Lease by reason of any default of Lessee, and a leasehold mortgagee shall have proceeded in the manner provided in Section 22.6 above, Lessor shall not terminate this Lease for such default provided that said leasehold mortgagee shall:

(1) Pay or cause to be paid the rent, additional rent or other monetary obligations of Lessee under this Lease as the same become due, and continue its good faith efforts to perform all of Lessee's non-monetary obligations under this Lease, excepting non-monetary defaults not reasonably susceptible of being cured by such leasehold mortgagee; and

(2) If not enjoined or stayed, take steps to acquire or sell Lessee's interest in this Lease by foreclosure of the leasehold mortgage or other appropriate means and prosecute the same to completion with due diligence; if the default shall be cured and the leasehold mortgagee shall discontinue such foreclosure proceedings, this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease.

22.7.2. If a leasehold mortgagee is complying with Section 22.7.1 above, the time for completion by such leasehold mortgagee of its cure of Lessee's defaults shall continue for so long as such leasehold mortgagee is enjoined or stayed from completing such cure and thereafter for so long as such leasehold mortgagee proceeds to complete steps to acquire or sell Lessee's interest in this Lease by foreclosure of the leasehold mortgage or by other appropriate means with reasonable diligence and continuity. Upon the acquisition of Lessee's estate herein by such leasehold mortgagee or its designee or any other purchaser at a foreclosure sale or otherwise, this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease.

22.7.3. No leasehold mortgagee shall be liable to perform Lessee's obligations under this Lease until such leasehold mortgagee acquires Lessee's rights by foreclosure or by assignment or transfer in lieu of foreclosure. After so acquiring Lessee's rights, such leasehold mortgagee shall be liable to perform Lessee's obligations only until such leasehold mortgagee assigns or transfers the leasehold as permitted by this Lease. If the buildings and improvements on the Premises shall have been or become materially damaged on, before or after the date of such purchase or transfer, the leasehold mortgagee shall be obligated to repair, replace or reconstruct the building or other improvements only to the extent of the net insurance proceeds received by the leasehold mortgagee by reason of such damage.

22.7.4. Nothing contained herein shall require any leasehold mortgagee or its designee, as a condition to exercising its rights to cure Lessee's defaults pursuant to Section 22.6 above and this Section 22.7, to cure any non-monetary default of Lessee not reasonably susceptible of being cured by a leasehold mortgagee or a purchaser at a foreclosure sale; nor shall any such leasehold mortgagee or its designee be required to discharge any lien, charge or encumbrance against Lessee's interest in this Lease or in the Premises which is junior in priority to the lien of the leasehold mortgage held by such leasehold mortgagee, excepting therefrom any claim of mechanic's lien which may attach to the reversionary rights of Lessor in the Premises.

22.7.5. Any leasehold mortgagee or other acquirer of the leasehold estate of Lessee pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings may, upon

acquiring Lessee's leasehold estate, without further consent of Lessor, sell and assign the leasehold estate on such terms and to such persons and organizations as are acceptable to such leasehold mortgagee or acquirer and thereafter be relieved of all obligations under this Lease; provided, however, that such assignee has delivered to Lessor its written agreement to be bound by all of the provisions of this Lease.

22.7.6. Notwithstanding any other provisions of this Lease, any sale of this Lease and of the leasehold estate hereby created in any proceedings for the foreclosure of any leasehold mortgage, or the assignment or transfer of this Lease and of the leasehold estate hereby created in lieu of the foreclosure of any leasehold mortgage shall be deemed to be a permitted sale, transfer or assignment of this Lease and of the leasehold estate hereby created.

22.8. No Merger. So long as any leasehold mortgage is in existence, unless all leasehold mortgagees shall otherwise expressly consent in writing, the fee title to the Premises and the leasehold estate of Lessee therein created by this Lease shall not merge, but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by Lessor or by Lessee or by any third party, by purchase or otherwise.

22.9. Future Amendment. In the event on any occasion hereafter Lessee seeks to mortgage its leasehold estate, Lessor agrees to amend this Lease from time to time to the extent reasonably requested by an institutional lender proposing to make Lessee a loan secured by a first lien upon Lessee's leasehold estate, providing that such proposed amendments do not materially and adversely affect the rights of Lessor in this Lease or its interest in the Premises. All reasonable expenses incurred by Lessor in connection with any such amendment shall be paid by Lessee

22.10. Advance Payments. If any leasehold mortgagee, its designee or other purchaser has acquired the leasehold estate of Lessee pursuant to foreclosure, conveyance in lieu of foreclosure, or other proceedings, such leasehold mortgagee, its designee or other purchaser shall succeed to the rights of Lessee, if any, in and to any payment, fee, deposit or charge, including, but not limited to, an advance payment of rent, paid by Lessee to Lessor pursuant to any provisions of this Lease. In such event, Lessee shall no longer have any rights to such advance payments, and Lessor shall hold such advance payments for and on behalf of such leasehold mortgagee, its designee or other purchaser, subject to the terms of this Lease.

22.11. Estoppel Certificate. Lessor shall, without charge, at any time and from time to time hereafter, within ten (10) days after written request of Lessee to do so, execute, acknowledge and deliver to any leasehold mortgagee or proposed leasehold mortgagee or proposed leasehold assignee, sublessee or purchaser, a statement certifying the following:

- (a) As to whether this Lease has been modified or amended, and if so, the substance and manner of such modification or amendment;
- (b) As to the validity, force and effect of this Lease;
- (c) As to the existence of any default hereunder;

(d) As to the existence of any offsets, counterclaims or defenses hereto on the part of Lessor;

(e) As to the commencement and expiration dates of the Lease Term;

(f) As to the current Basic Rental, Percentage Rental and other amounts payable to the date to which such have been paid; and

(g) As to any other matters as may be reasonably requested.

The statement shall be such that it can be relied upon by any auditor, creditor, commercial banker, investment banker and by any prospective encumbrancer or assignee, sublessee or purchaser of Lessee's interest under this Lease, and the contents of such certificate shall be binding upon Lessor.

22.12. Notices. Notices from Lessor to a leasehold mortgagee shall be mailed to the address furnished Lessor pursuant to Section 22.2 above, and those from a leasehold mortgagee to Lessor shall be mailed to the address designated pursuant to the provisions of Article XXI hereof. Such notices, demands and requests shall be given in the manner described in Article XXI and shall in all respects be governed by the provisions of that Article.

22.13. Erroneous Payment. A leasehold mortgagee having made any payment to Lessor pursuant to Lessor's wrongful, improper or mistaken notice or demand shall be entitled to the return of any such payment or portion thereof, provided such leasehold mortgagee shall have made demand therefor not later than one (1) year after the date of payment.

22.14. Right of First Refusal. Lessor hereby agrees that any leasehold mortgagee shall have the right to exercise the right of first refusal described in Section XXIX below, in Lessee's place and stead, should Lessee fail to timely exercise any such right, provided that the leasehold mortgagee exercises such right no later than twenty (20) days following Lessee's deadline for exercising Lessee's right.

22.15. New Lease.

22.15.1. In case of the termination of this Lease by reason of the happening of any event of default or in the event of rejection or disaffirmance of this Lease pursuant to bankruptcy law or other law affecting creditors' rights, Lessor shall give prompt notice thereof to any and all leasehold mortgagees. Lessor shall, on written request of any such leasehold mortgagee, made at any time within forty-five (45) days after the giving of such notice by Lessor, enter into a new lease of the Premises with such leasehold mortgagee within twenty (20) days after receipt of such request, which new lease shall be effective as of the date of such termination of this Lease for the remainder of the Lease Term, at the rent provided for herein, and upon the same terms, covenants, conditions and agreements as are herein contained; provided that such leasehold mortgagee shall: (i) pay to Lessor at the time of the execution and delivery of said new lease any and all sums for rent and other charges payable by Lessee hereunder which are then due, less the net amount of all sums received by Lessor from any sublessees in occupancy of any part or parts of any of the Premises up to the date of commencement of such new lease; and (ii) on or prior to the execution and delivery of said new lease, agree in writing that promptly

following the delivery of such new lease, such leasehold mortgagee will perform or cause to be performed all of the other covenants and agreements herein contained on Lessee's part to be performed to the extent that Lessee shall have failed to perform the same prior to the date of delivery of such new lease, except such covenants and agreements which are not reasonably susceptible of performance by such leasehold mortgagee.

22.15.2. Any new lease made pursuant to subsection 22.15.1 shall be prior to any mortgage or other lien, charge or encumbrance on the fee of the Premises, and the tenant under such new lease shall have the same right, title and interest in and to the Premises and any of the Improvements thereon as Lessee had under this Lease.

22.15.3. The provisions of this Section 22.15 shall survive the termination, rejection or disaffirmance of this Lease, and shall continue in full force and effect thereafter to the same extent as if Section 22.15 were a separate and independent contract made by Lessor, Lessee and such leasehold mortgagee and, from the effective date of such termination, rejection or disaffirmance of this Lease to the date of execution and delivery of such new lease, such leasehold mortgagee may use and enjoy said Premises without hindrance by Lessor or any person claiming by, through or under Lessor.

22.15.4. The tenant under any such new lease shall be liable to perform the obligations imposed on the Lessee by such new lease only during the period such person has ownership of such leasehold estate, subject to the possibility of exculpation set forth in subsection 22.15.1(ii) above.

22.15.5. After the termination of this Lease and during the period thereafter during which any leasehold mortgagee shall be entitled to enter into a new lease of the Premises, Lessor will not terminate any sublease, concession or license or the rights of any subtenant, concessionaire or licensee thereunder unless such subtenant, concessionaire or licensee shall be in default. During such period Lessor shall receive all base rent and other payments due from subtenants, concessionaires and licensees, including without limitation those whose attornment Lessor shall have agreed to accept pursuant to Article XXXI below, as agent of such leasehold mortgagee, and Lessor shall deposit such rents and payments in a separate and segregated account in trust for the leasehold mortgagee, but may withdraw such sums from time to time to pay necessary operating expenses of the Premises. Upon the execution and delivery of a new lease, Lessor shall account to the lessee under the said new lease for the balance, if any (after application as aforesaid), of the rents and other payments made under such subleases, concessions and licenses, and said lessee shall thereupon assign the rents and other payments due under said subleases, concessions and licenses to any leasehold mortgagees of the new lease in the same manner as such rents and other payments had been assigned to the leasehold mortgagees under this Lease. As used in this Section 22.15.5, "rents" includes all payments made under any sublease, concession or license.

22.16. Eminent Domain. Lessee's share, as provided by Article XVII of this Lease, of the proceeds arising from a Total Taking or a Partial Taking shall be disposed of as provided for by any leasehold mortgage.

22.17. Casualty Loss. A Standard Lender's Loss Payable Clause Form BFU438 (or successor form) naming each leasehold mortgagee shall be added to any and all insurance

policies required to be carried by Lessee hereunder. The insurance proceeds shall be applied in the manner specified in this Lease, subject to compliance with all conditions thereto contained in any leasehold mortgage.

### ARTICLE XXIII

#### AFFIRMATIVE ACTION

Lessee agrees to take affirmative action to improve employment opportunities of minorities and women. When applicable, Lessee agrees to abide by the Affirmative Action Program for Lessor's tenants as it now exists or is hereafter amended. A copy of the Program, effective as of the date of this Lease, is on file in the Office of the City Clerk as Document No. 0100 and by this reference is incorporated herein. Minorities are presently defined as Mexican-American, Black, Filipino, American Indian, and Asian/Oriental. The goal of this Program shall be the attainment of the employment of minorities and women in all areas of employment in a total percentage of employment approximately equal to the total level of minority and women employment as established by Lessor for its Affirmative Action Program each year.

### ARTICLE XXIV

#### NON-DISCRIMINATION

Lessee agrees not to discriminate in any manner against any person or persons on account of race, marital status, sex, religious creed, color, ancestry, national origin, physical handicap or medical condition in Lessee's use of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages and accommodations, and the obtaining and holding of employment, but the foregoing shall not be deemed to prevent Lessee from having separate men-only and women-only restrooms.

### ARTICLE XXV

#### LESSOR APPROVAL AND CONSENT

The approval or consent of Lessor, wherever required in this Lease, shall mean the approval or consent of the City Manager unless otherwise specified, without need for further resolution by the City Council.

### ARTICLE XXVI

#### RESERVATION OF OIL RIGHTS

Lessor hereby reserves all right, title and interest in any and all gas, oil, minerals and water beneath the Premises. Lessor shall have the right to enter the Premises for the purpose of making repairs to municipal services. Lessor hereby reserves the right to grant and use such

easements or establish and use such rights-of-way over, under, along and across the Premises for utilities; only provided, however, Lessor shall not unreasonably interfere with Lessee's use of the Premises and will reimburse Lessee for physical damages, if any, to the permanent improvements of Lessee located on the Premises resulting from Lessor's installation and maintenance of utilities. Such reimbursement shall include a reduction in the annual rent proportionate to the amount of said physical damage as reasonably determined by the parties. Lessor shall pay the costs of maintenance and repair of all utilities installed pursuant to the rights reserved herein.

## ARTICLE XXVII

### RIGHT OF INSPECTION

Lessor or its agents may, during normal business hours of said Lessee, enter in and upon the Premises or any part of the building or portions thereof to view same or to make an inspection of same.

## ARTICLE XXVIII

### Intentionally Deleted

## ARTICLE XXIX

### RIGHT OF FIRST REFUSAL

If, at any time during the Lease Term, Lessor shall receive a bona fide offer from any third person to purchase all or any part of the Premises, Lessor shall serve on Lessee and on any leasehold mortgagee a notice in writing of the price and terms of such offer from such third person and of the intention of Lessor to accept the same. Lessee shall have the right for thirty (30) days thereafter to purchase the Premises, for the purchase price and on the terms specified in said notice; and if Lessee shall not, within the said period of thirty (30) days, make a written offer to purchase the Premises upon the terms and conditions set forth in the notice hereinabove referred to, Lessor may then sell the Premises to said third person, provided the said sale is on the said terms and conditions and for the price set forth in the above-mentioned notice, and provided further that such sale shall be made subject to this Lease, including this Section, and this right of first refusal shall be applicable to any and all subsequent offers to purchase received by Lessor or by Lessor's successors and assigns.

If Lessee purchases all of the Premises, this Lease shall terminate on the date title vests in Lessee, and Lessor shall remit to Lessee all prepaid and unearned rent. If Lessee purchases a part of the Premises, this Lease as to the part purchased shall terminate on the date title vests in Lessee, and the minimum monthly rent shall be reduced in the same ratio that the value of the Premises before the purchase bears to the value of the Premises covered by the Lease immediately after the purchase. Notwithstanding the foregoing to the contrary, however, so long as any leasehold mortgage is in existence, unless all leasehold mortgagees shall otherwise

expressly consent in writing, the fee title to the Premises and the leasehold estate of Lessee therein created by this Lease shall not merge, but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by Lessee.

### ARTICLE XXX

#### RECORDATION OF MEMORANDUM

This Lease shall not be recorded; however, at Lessee's election the parties shall execute, acknowledge and record in the Office of the County Recorder of Los Angeles County, a Memorandum of Lease containing the essential terms of this Lease.

### ARTICLE XXXI

#### ATTORNMEN T AND NON-DISTURBANCE

Should any subtenant, concessionaire or licensee of the Premises or any portion thereof request that Lessor attorn to and recognize its sublease, concession or license in the event of a termination of this Lease for so long as such subtenant, concessionaire or licensee is not in default after notice and the expiration of applicable cure periods, Lessor shall execute and deliver, without cost to Lessee or the subtenant, concessionaire or licensee, such instrument as may be reasonably requested to effect such attornment and non-disturbance, within fifteen (15) days after Lessor's receipt of written notice so to do. This Article XXXI shall apply only to those subtenants, concessionaires and licensees which have been approved by Lessor.

### ARTICLE XXXII

#### GENERAL PROVISIONS

32.1. The captions of Articles in this Lease are for convenience only and are not a part of this Lease, and do not in any way limit or amplify the terms and provisions of this Lease.

32.2. The parties hereto agree that all the provisions hereof are to be construed as covenants and agreements as though the words imparting such covenants and agreements were used in each separate paragraph hereof; and that all the provisions hereof shall bind and inure to the benefit of the parties hereto, and their respective heirs, legal representatives, successors and assigns for the benefit of the Premises.

32.3. Should either party hereto institute any action or proceeding in court to enforce any provision hereof or for damages by reason of an alleged breach of any provision of this Lease, the prevailing party shall be entitled to receive from the losing party such amount as the court may adjudge to be reasonable attorneys' fees for the services rendered to the prevailing party in such action or proceeding.

32.4. The language in all parts of this Lease shall be in all cases construed simply according to its fair meaning, and not strictly for or against Lessor or Lessee.

32.5. Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between Lessor and Lessee.

32.6. The Lease and the new and separate ground lease pertaining to the Tennis Complex and the Declaration of Reciprocal Easement and Parking Agreement referred to in Recitals of the Lease constitute all of the agreements between Lessor and Lessee, and supersede and cancel all prior oral and written agreements and understandings between the parties, including without limitation the Ground Lease.

32.7. The Lease may not be modified or amended except by a way of a written instrument signed by Lessor and Lessee and any leasehold mortgagees.

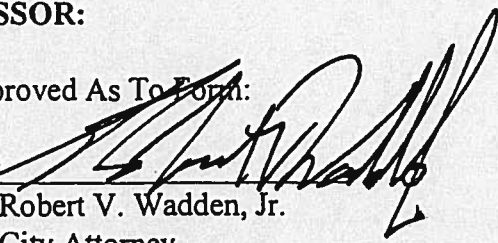
32.8. Anything in this Lease to the contrary notwithstanding, the partners comprising Lessee and their respective officers, directors, members, shareholders, agents and employees shall have no liability under this Lease, and no assets of Lessee or of the partners comprising Lessee or their respective officers, directors, members, shareholders, agents or employees, other than the leasehold estate of this Lease, shall be subject to levy, execution or other procedures for the satisfaction of Lessor's remedies.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Lease on the date first above written.

**LESSOR:**


Approved As To Form:

By:

  
Robert V. Wadden, Jr.  
City Attorney

CITY OF MANHATTAN BEACH

By:

  
Geoff Dolan  
City Manager

**LESSEE:**

1334 PARTNERS, L.P.,  
a California limited partnership

By its general partner:

  
Parkview Properties, Inc.,  
a California corporation

By:

Keith Brackpool  
President and Secretary



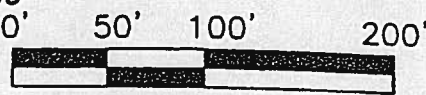
EXHIBIT "A"

SITE PLAN

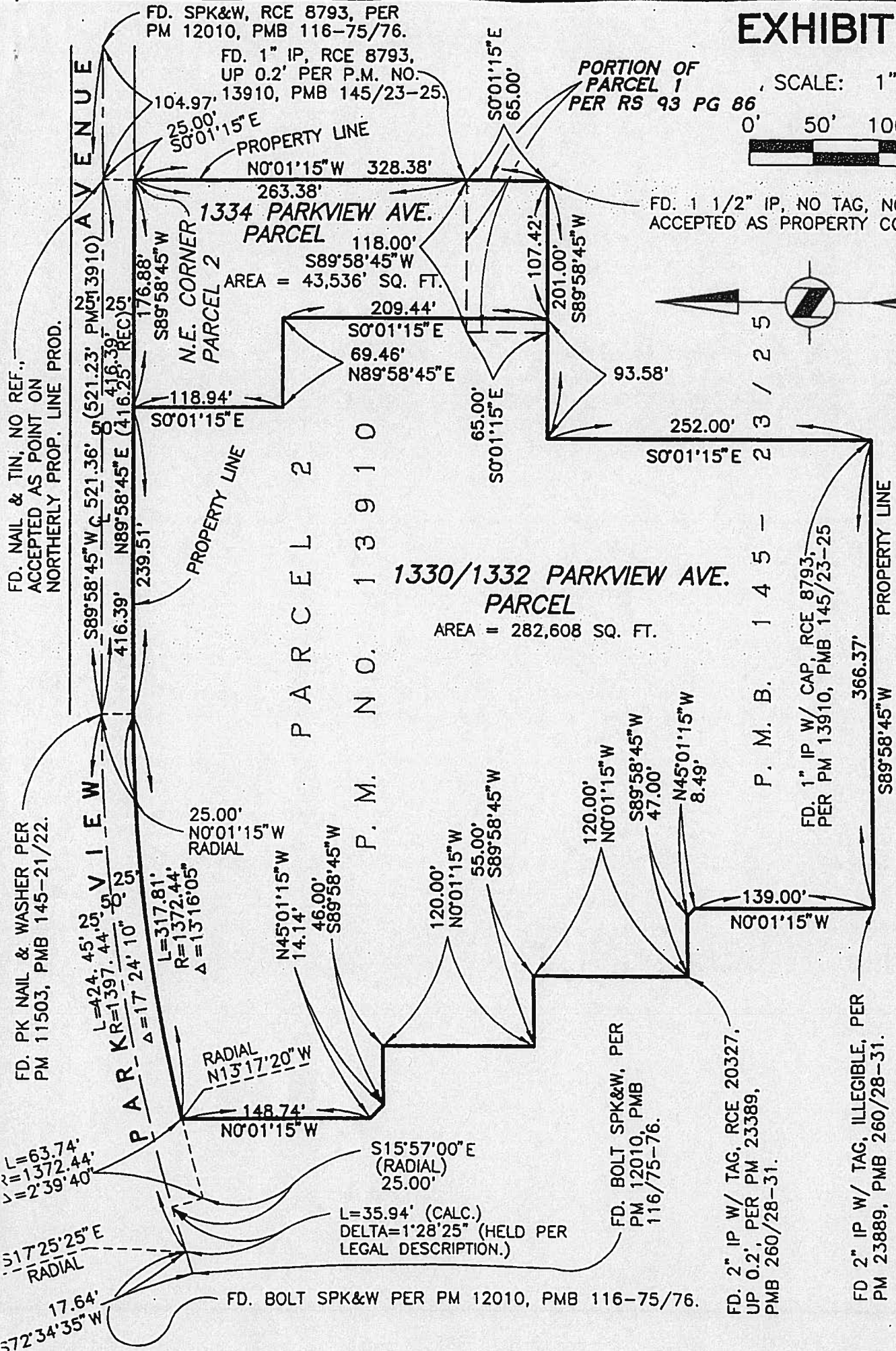
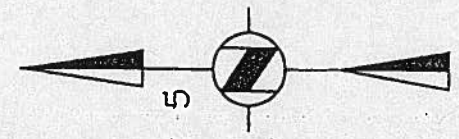
[Next Page]

EXHIBIT MAP

SCALE: 1"=100'



FD. 1 1/2" IP, NO TAG, NO REF., ACCEPTED AS PROPERTY CORNER.



FD. NAIL & TIN, NO REF., ACCEPTED AS POINT ON NORTHERLY PROP. LINE PROD.

FD. PK NAIL & WASHER PER PM 11503, PMB 145-21/22.

FD. SPK&W, RCE 8793, PER PM 12010, PMB 116-75/76.  
FD. 1" IP, RCE 8793, UP 0.2' PER P.M. NO. 13910, PMB 145/23-25.

1334 PARKVIEW AVE. PARCEL 2  
AREA = 43,536' SQ. FT.

1330/1332 PARKVIEW AVE. PARCEL  
AREA = 282,608 SQ. FT.

P. M. B. 1 4 5 - 2

PROPERTY LINE

1313 FOOTHILL BLVD., SUITE 2  
LA CANADA, CALIFORNIA 91011  
(818)790-0191 (323)664-2513  
FAX: (818)790-08084

**HENNON**  
Surveying & Mapping, Inc.

DATE: OCT. 1, 2003  
IOM. GDE: 732-13  
LE: 1411EX.DWG  
PROJECT NO: 1411

L=63.74'  
Δ=1372.44'  
Δ=2°39'40"

L=424.45'  
KR=1397.44'  
Δ=17°24'10"

L=317.81'  
R=1372.44'  
Δ=13°16'05"

RADIAL N13°17'20"W  
148.74'

S15°57'00"E (RADIAL)  
25.00'

L=35.94' (CALC.)  
DELTA=1°28'25" (HELD PER LEGAL DESCRIPTION.)

FD. BOLT SPK&W, PER PM 12010, PMB 116/75-76.

FD. 2" IP W/ TAG, RCE 20327, UP 0.2', PER PM 23389, PMB 260/28-31.

FD. 2" IP W/ TAG, ILLEGIBLE, PER PM 23889, PMB 260/28-31.

EXHIBIT "B"

LEGAL DESCRIPTION OF PREMISES

[Next Page]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53

**LEGAL DESCRIPTION**  
**1334 PARK VIEW AVENUE PARCEL**

THAT PORTION OF PARCEL 2 OF PARCEL MAP NO. 13910, IN THE CITY OF MANHATTAN BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 145 PAGES 23 TO 25 INCLUSIVE OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY TOGETHER WITH THAT 7670 SQUARE FOOT PORTION OF PARCEL 1 OF SAID PARCEL MAP NO. 13910 AS SHOWN ON MAP FILED IN BOOK 93 PAGE 86 OF RECORDS OF SURVEY IN THE OFFICE OF SAID COUNTY RECORDER, DESCRIBED AS FOLLOWS:

**BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 2, THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL 2, SOUTH 89°58'45" WEST 176.88 FEET; THENCE SOUTH 0°01'15" EAST 118.94 FEET; THENCE NORTH 89°58'45" EAST 69.46 FEET; THENCE SOUTH 0°01'15" EAST 209.44 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID 7670 SQUARE FOOT PORTION OF PARCEL 1, SAID POINT BEING SOUTH 89°58'45" WEST 107.42 FEET FROM THE SOUTHEAST CORNER OF SAID PORTION OF PARCEL 1; THENCE ALONG SAID SOUTHERLY LINE, NORTH 89°58'45" EAST 107.42 FEET TO THE SOUTHEAST CORNER OF SAID 7670 SQUARE FOOT PORTION OF PARCEL 1; THENCE ALONG THE EASTERLY LINE OF SAID 7670 SQUARE FOOT PORTION OF PARCEL 1 TO AND ALONG THE EASTERLY LINE OF SAID PARCEL 2, NORTH 0°01'15" WEST 328.38 FEET TO THE POINT OF BEGINNING.**

CONTAINING 43,536 SQUARE FEET, MORE OR LESS.

SEE ATTACHED EXHIBIT MAP FOR INFORMATIONAL PURPOSES.

THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE PROVISIONS OF THE LAND SURVEYORS' ACT OF THE STATE OF CALIFORNIA. THIS LEGAL DESCRIPTION IS NOT TO BE USED IN VIOLATION OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA.



ROBERT D. HENNON, PLS 5573 (LIC. EXPIRES 9-30-05)

**HENNON SURVEYING & MAPPING, INC.**  
1313 FOOTHILL BLVD., SUITE NO. 2  
LA CAÑADA, CA 91011  
818-790-0191 FAX 818-790-8084



FILE:1411LGL.DOC PROJECT:1411 DATE: OCTOBER 6, 2003